



The Boundary Dispute and Problems of Thai Nationalism

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Abstract

This article reviews the boundary dispute between Thailand and neighboring countries that led to the concept of nationalism in Thailand. The boundary dispute can be classified into four types: territorial dispute, positional dispute, functional dispute, and dispute over resource development. In the case of Thailand, there are more than ten disputes between Thailand and neighboring countries. In this amount, there is the boundary dispute that has been suspended by seven parties. Five boundary disputes that are still solving problems. And one case of the suspended boundary dispute, that has been brought into the judicial process of the International Court of Justice. This study found that the important factors leading to success or failure in resolving boundary dispute include the government of each country, domestic politics, nationalist ideology, public understanding about national historical context, international relations and foreign policy, negotiation techniques, and benefit area. Under three levels of mechanisms, including government mechanisms, regional mechanisms, and international mechanisms. In conclusion, this study also encourages the creation of knowledge and understanding of the people towards the common roots and the shared history, as well as the awareness of ASEAN citizenship. And promote the regional mechanisms especially ASEAN as an intermediary to resolve the boundary dispute between member countries.

Introduction

Southeast Asia has been known since ancient times as evidenced in the Claudius Ptolemy's 2nd-century Geography naming this region "Χρυσή Χερσόνησος, Chrysé Chersónēsos" (Golden Chersonese), which means the golden peninsula (Wheatley, 1961). As well as evidence from the eastern world that represents the interaction between ancient empires in East Asia and the ancient kingdoms of Southeast Asia. For example, as the Southeast Asia

region was known to India as Suvarnabhumi or Suvarnadvipa; China knew this region as Nanyang; Japan knew this region as Nampo; and Arab and Persia knew this region as "Qumr" or "Waq-waq" which means the lands below the winds (McCloud, 1995; Preecharush, 2011). The interaction that occurred in these ancient kingdoms was a matter of trade, religion, and the transmission of cultures in a manner that would integrate external cultures with traditional beliefs in the region.

Southeast Asia is a region rich in natural

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resources. As a result, after the Western industrial revolution that brought about the prosperity of commercialism, this region became a point of interest for Western countries to explore the abundance of resources to use as raw materials for entering into industrial systems. The trading system of Western countries have grown rapidly with the concept of nationalism. Nationalism is an important factor that influenced Western countries to change their policies regarding interactions between countries around the world, including Southeast Asia. From the original exploring, the purpose was to trade and exchange goods and raw materials that then transformed into a colony to expand power and greatness while seeking resources to enter the economy. The reason that it was considered “the white man’s burden” was due to the concept that Western countries had to enter developing countries because they were barbaric to prosper like a civilized country.

The era of colonialism was a major turning point in Southeast Asia. It transformed from ancient kingdoms into a modern state under the control of a colonial country. Almost all the lands in this region were colonized by Western powers, for example, Indonesia was colonized by the Netherlands; the Philippines was a colony of Spain and the United States; Brunei, Malaysia, Myanmar, and Singapore were British colonies; Cambodia, Laos, and Vietnam were colonized by France; and Timor-Leste was occupied by Portugal. The Western countries colonization changed the ancient kingdom from being borderless to becoming a modern state. The modern state has four essential elements which are sovereignty (or independence), government, population, and especially territories with clear boundaries (Marume, et al., 2016).

The boundary lines of various territories in Southeast Asia are the result of exploration and demarcation of the western colonies that demarcate the boundaries based on the interests and legitimacy of the Western colonies themselves. This led to the boundary disputes of countries in Southeast Asia that had been colonized by Western powers. After Southeast Asian countries gained their independence from the colonists during and after World War II, the boundary dispute problem is now considered as an important agenda of ASEAN.

For Thailand, although not fully colonized by Western countries like other countries in Southeast Asia but had to face problems in boundary disputes as well. Because in the colonial era, the government of Thailand

or Siam at that time lacked knowledge of cartography. Delimitation of boundary lines was therefore the duty of the western colonial countries to be carried out with the approval of the Thai government. However, later the issue was used as a tool by the political elite to create an ideology of patriotism, known as “Thai Nationalism”.

Thai Nationalism, which aims to create unity and reconciliation among the people in the nation, emphasizes the long history of Thailand, especially the great heroism of the former kings such as King Ram Khamhaeng the Great, King Naresuan the Great, King Narai the Great, King Taksin the Great, King Rama I and King Rama V (the Great Beloved King), etc. Moreover, the aforementioned ideology also tries to emphasize that in the past, Thailand used to have a vast territory gained from the sacrifices of ancestors, but lost its territory from the invasion of greater powers. The loss of Thailand’s territories in the past is therefore an important reminder for Thai people to be aware of their patriotism and to protect their existing land from being lost even one square inch. In many cases, this patriotic ideology has escalated into chauvinism and has led to disputes between Thailand and neighboring countries. Therefore, this article aims to study the boundary dispute and problems of Thai Nationalism in order to understand the problem and to find ways to resolve disputes by various mechanisms that will lead to mutual understanding between Thailand and neighboring countries.

State Territory and Acquisition of State Territory

The state of the territory refers to the area within the state sovereignty, whereby the state is both the owner and has the power to rule over that area. State territory, including the land territory which includes freshwater sources trapped on the soil and things that are under the surface of the ground; the water which includes internal water, territorial water, sea-bed and subsoil; and the airspace or atmosphere above the land and water of the state, which by law does not provide a clear requirement on how much the state has of its airspace, therefore, it depends on the ability of each state to protect the sovereignty of this area under the international aviation agreement. The acquisition of state territory is a result of delimitation, demarcation, and delineation which the advent of international boundaries is often used as a reason for claiming territorial rights and leading to international boundary disputes, which can explain the form and method of acquiring the territory of the state as follows (Sinsuphruek, 2013):

1) Acquiring land by using sovereignty over the land consists of acquiring land by occupation and adverse possession or acquiring land by prescription. There are references to the action of a state in taking over territory to acquire sovereignty over that territory, at that time the land was not subject to the sovereignty of any state. Therefore, the land that will be occupied is the unoccupied territory (*terra nullius*), the land without sovereignty (*res nullius*), abandoned land from other states, or land that does not qualified to be a state. Occupation must be evidenced that the state has effectively occupied that land and use its sovereignty over that territory. The outstanding examples of the use of sovereignty over land may be the following actions, such as the construction of various buildings on that land, actions related to the use of legislative power, executive power, and judicial power over land, Providing concessions to foreign companies for drilling petroleum exploration, mineral exploration or fishing, treaties with other states which represent pick sovereignty over the territory, publishing, printing maps, which show that the state owns the land, etc. Disputes arising from the acquisition of territories in this term such as the Ligitan and Sipadan dispute, a territorial dispute between Indonesia and Malaysia over two islands in the Celebes Sea.

2) Acquiring land by acquiescence and no protest refers to when the state may obtain land from the actions or reactions of another state, especially the reaction of the state that claims sovereignty over that territory. For example, if State A asserts sovereignty over a territory and opposes State B, which has exercised sovereignty over that territory, such actions would greatly weaken the claim of territorial sovereignty of State B. On the other hand, State A does not oppose the use of sovereignty of State B, the law implies that State A has implicitly accepted the sovereignty of State B. As a result, State B has gained power over the said territory in accordance with the principle of acquiescence, recognition, and preclusion or principle of estoppel. Disputes arising from the acquisition of territories in this term such as the Cambodian–Thai border dispute involving the area surrounding the Preah Vihear Temple, Thailand did not oppose or protest the French-established border delimitation map between Thailand and Cambodia. Thus, in the law, Thailand has accepted the sovereignty of France over the territory as shown on the map, therefore, leading to conflicts later.

3) Acquiring land by the geographic contiguity

refers to the state claiming lands in a geographical location, such as claims over the islands, claiming that some islands and certain geographical features in the islands are located in the continental shelf and the specific economic zone of the state, so these islands should belong to the state claims according to the fairness, especially if the island or its geographic feature has not previously been owned or controlled effectively by any state. However, following international law, it is found that single geographic contiguity does not always constitute the legal basis for making a territorial claim. It must also be based on evidence of continued access to sovereignty over the territory, especially if the territory has other states claiming sovereignty at the same time.

4) Acquiring land by the use of force-conquest refers to the acquisition of land from the occupation by battle, winning, or using the power of one of the states over the territory of other states by being able to use sovereignty over that territory which in the past may have been seized by the battle, the use of force until being victorious and then annexing the land into a part of the state. However, the use of force to occupy is prohibited under the General Treaty for the Renunciation of War of 1928; The United Nations Charter; and Article 3 of the United Nations General Assembly Resolution on Aggression. Including the development of international law that has changed from the provisions relating to land occupation in the 1970 Declaration of Principles of International Law, accepted by the United Nations General Assembly, in summary, force-conquest of other states is an act that is not lawful to international law and will not guarantee the acquisition of land and the use of force is strictly prohibited.

5) Acquiring land by a cession means that the landowner state has transferred territorial sovereignty to the transferee state from historical events. The phenomenon of lifting or transferring land to other states may or may not be compensated; maybe in the form of sales or gratuity or may be caused by an agreement to settle disputes or may be part of some management or preparation. And the form of cession is often done through a formal treaty. For example, the Sino-British Joint Declaration in which the United Kingdom transferred sovereignty over Hong Kong Island to China.

Boundary Dispute

Prescott (1965) mentioned boundary disputes in *The Geography of Frontiers and Boundaries* which noted that the boundary disputes can be divided into 4

categories:

1) Territorial dispute is a dispute that results from certain properties of the borderland which makes it attractive to the state until a dispute arises.

2) Positional dispute is a dispute involving the actual location of the borderline. And is often associated with a dispute over the interpretation of the definition of the boundary line and as a dispute resulting from certain properties of the borderland which makes it attractive to the state until a dispute arises.

3) Functional dispute is a dispute that arises on the state's mission to operate on the border.

4) Dispute over resource development is a dispute about the use of some transboundary resources, such as rivers or sources of minerals, which are often intended to create organizations to manage the use of that resource.

Colonization in Southeast Asia, Independence, and Nationalism: A case study of Thailand

The Western colonization of Southeast Asian countries even though the country has changed into a more advanced modernization but it is undeniable that the arrival of the Western colonies is aimed at forcing benefits and resources. Persecution and exploitation of indigenous peoples, who are among the majority of the countries that have been placed in the lowest status in the social hierarchy as well as the import of colonial subject from China and India to work for the colonists by classifying the class to be higher than the indigenous people. Causing dissatisfaction among the indigenous people to the colonies which bring the consciousness of a nation that has gradually evolved into a sense of nationalism that brought those indigenous people together to liberate themselves to independence from the colonists. Therefore, nationalism is an important mechanism in assimilating various people, and may never feel the same as before, resulting in love and solidarity. Have a common goal in fighting for independence.

The concept of nationalism has been deeply rooted in the minds of people in each country to realize the love of their in the nation and the land of their country as "a motherland". Extreme nationalism has transformed into chauvinism. Chauvinism is emphasized by the discourse of loss that aims for people in the country to be jealous and cooperate to protect the nation and the land. The most empirical method for the patriotic process is to create national enemies. The

boundary dispute problem has been used as a reason for merging people to feel common in this process, such as the discourse on land waste, the discourse on the possession of national treasures, and the discourse on aggression by neighboring countries, etc. Therefore, it can be said that Western colonialism in Southeast Asian countries triggered one of the major causes of border disputes that affect international relations in this region.

In the case of Thailand these chauvinist discourses have been presented throughout history. There are many stories in which Thailand or Siam in the past faced difficult situations, including a lack of national unity and aggression from neighboring countries such as Cambodia, Laos, Vietnam, and especially Myanmar (Burma) which is recognized as a major national enemy in Thai history. The historical conflict between Siam and Burma was reflected through the history of the loss of the independence of the Ayutthaya kingdom to the Burmese kingdom twice. This included the burning of palaces, temples, and the theft of numerous valuables that were repeatedly believed to have been carried out by the Burmese Army. The history of this period marked the beginning of the nationalist ideology centered on the discourse of loss of territories, which was later reiterated from the history of the occupation of the western colonies which forced Thailand the loss of 14 territories, including (Dechabutr, 2009; Strate, 2015):

The 1st loss was Koh Mak or Penang to the British Empire, a total area of 375 square kilometers on 11 August 1786 (Reign of King Rama I).

The 2nd loss was Mergui, Thawai, and Tanaosri to Burma, a total area of 55,000 square kilometers on 16 January 1793 (Reign of King Rama I).

The 3rd loss was Bantamat or Ha Thien to France Empire in 1810 (Reign of King Rama II).

The 4th loss was Hsenwi, Muang Pong, and Chaing Tung to Burma, a total area of 62,000 square kilometers in 1825 (Reign of King Rama III).

The 5th loss was Perak to British Empire in 1825 (Reign of King Rama III).

The 6th loss was Xishuangbanna (Sipsong Panna) to China, a total area of 90,000 square kilometers on 1 May 1850 (Reign of King Rama IV).

The 7th loss was Khmer and 6 islands to the France Empire, a total area of 124,000 square kilometers on 15 July 1867 (Reign of King Rama IV).

The 8th loss was Sip Song Chau Tai or Muang Lai to the France Empire, a total area of 87,000 square kilometers on 22 December 1888 (Reign of King Rama V).

The 9th loss was the left bank of the Salween River to British Empire on 27 October 1892 (Reign of King Rama V).

The 10th loss was the left bank of the Mekong River (Lan Xang or Laos) to the France Empire, a total area of 143,000 square kilometers on 3 October 1893 (Reign of King Rama V).

The 11th loss was the right bank of the Mekong River (Laos) to the France Empire, a total area of 25,500 square kilometers on 12 May 1903 (Reign of King Rama V).

The 12th loss was Burapha County (Battambang, Siem Reap, Srisophon) to the France Empire, a total area of 51,000 square kilometers on 23 March 1906 (Reign of King Rama V).

The 13th loss was Kelantan, Terengganu, Sai Buri, and Pris to the British Empire, a total area of 80,000 square kilometers on 10 March 1908 (Reign of King Rama V).

And the 14th loss was Khao Phra Viharn to Cambodia, a total area of 2 square kilometers on 15 June 1962 (Reign of King Rama IX). This loss of territory is the first loss of territory in the period when Thailand had entered a fully modern era. It is also the first time since the political regime had changed from an absolute monarchy to a constitutional monarchy.

The 14th lost territory is only 2 square kilometers, which is less than any previous loss of territory. But this loss was very painful for the Thai people because it was the loss of territory under the reign of King Bhumibol, the most beloved king of the Thai people. The relationship between the king and the Thai people in this reign is different from the previous reign. In the past, it was a relationship between rulers and commoners. But in the reign of King Bhumibol, the relationship was in the form of a national family. Thais praised King Bhumibol and Queen Sirikit as the father and mother of the land and placed themselves in the status of their children as well as Princess Srinagarindra, the Princess mother of King Bhumibol. She was affectionately called "Somdet Ya" (the Royal Grandmother). To the various hill tribe people, Princess Srinagarindra was called "Mae Fah Luang" that means Royal Mother from the Sky or The Heavenly Royal Mother. The loyalty of the Thai people to the monarchy is not the fear of power, but the loyalty arising from the pure love in the heart of the Thai people towards the monarchy. The popularity of King Bhumibol has awakened the power of nationalism to be evident as never before in the previous reign. It can be said that the

formation of nationalism in this reign had evolved into the idea of the royal nationalist ideology. The most obvious example is the cultivation of Thai identity through the concept of three major national institutions: nation, religion, and monarchy. It is noteworthy that the word "nation" refers to the land which is under the sovereignty of Thailand, so the loss of territory is equivalent to the loss of the nation. And when the nation has been lost, the other major institutions which are the soul of the nation will also vanish. Therefore, it is the duty of the Thai people as the children to unite, reconcile, and together to protect the land of the father and mother from losing even just one square inch.

It is apparent that from the past until now, this discourse has been repeatedly stressed. This is the mechanism of nationalistic ideology that focuses on the people in the nation to realize the loss of many lands in the past to create love and cherish their country. However, even though modern nation-state mechanisms have played a role in resolving various disputes between states, it cannot be denied that boundary disputes are still difficult to solve easily that allows for satisfaction of all parties. This is because many nations are stuck in the trap of nationalism especially Southeast Asian countries like Thailand.

Boundary Dispute in Thailand

There are more than ten boundary disputes between Thailand and neighboring countries. Currently, there is the boundary dispute that has been suspended by seven parties. Five boundary disputes are still in the process of attempting to solve the problems. And one case of suspended boundary dispute that has been brought into the judicial process at the International Court of Justice as follows: (Khamkhun, 2015)

A: The boundary disputes that have been suspended there are 7 parties that include:

(1) The disputes on the boundary of the continental shelf from the northern part of the Malacca Strait to the Andaman Sea between Indonesia and Thailand on 17 December 1971.

(2) The disputes on the boundary of Tri-junction point in the Strait of Malacca between Indonesia, Malaysia, and Thailand on 21 December 1971.

(3) The disputes on the boundary of Tri-junction point in the Andaman Sea between India, Indonesia, and Thailand on 22 June 1978.

(4) The disputes on the boundary of the continental shelf boundary in the Gulf of Thailand between

Malaysia and Thailand on 21 February 1979.

(5) The disputes over the maritime boundary in the Andaman Sea between Myanmar and Thailand on 25 July 1980.

(6) The disputes on the boundary of Tri-junction point in the Andaman Sea between India, Myanmar, and Thailand on 27 October 1993.

(7) The disputes on the boundary of the continental shelf boundary in the Gulf of Thailand between Thailand and Vietnam on 9 August 1997.

B: The boundary disputes that are still in the process of solving the problems there are 5 parties including:

(1) The boundary dispute in the Mekong River between Laos and Thailand.

(2) The dispute over the land boundary over 2,400 kilometers that have not yet been completed survey and demarcation between Myanmar and Thailand.

(3) The boundary dispute of land and sea border, there are overlapping areas in the Gulf of Thailand between Cambodia and Thailand.

(4) The case of a short-lived land boundary dispute between Malaysia and Thailand.

(5) The dispute of maritime boundaries in the Gulf of Thailand between Malaysia, Thailand, and Vietnam.

C: The suspended boundary dispute which is only 1 dispute in the overlap area of Phanom Dong Rak mountain range, which is the location of the Temple of Preah Vihear (Khao Phra Viharn).

The overlap area of Khao Phra Viharn is like a time bomb from the colonial era. This is the result of the time when Cambodia was under the French protectorate in 1903-1908. France made the Franco-Siamese Treaty of 1904 with Siam, which agreed that the problematic boundary was considered a watershed as a basis for dividing the boundary and appointing a boundary committee to survey the area (International Court of Justice, 1962).

Later in 1907, the Siamese government asked the French government to map the territory according to the basic principles of the nation-state. France made a map that was later called "Annex 1 map", which defined the boundary line by taking the Preah Vihear area that was originally in Siam's possession on the French protectorate of Cambodia without adhering to the watershed. However, the demarcation board of Siam did not conduct any objections to France. Although Siam did not show acceptance but did not object to the issue that

this map was not correct as well. In addition, Prince Damrong Rajanubhab, the Chancellor of the Ministry of Interior at that time, also thanked the French ambassador, who sent the map. And the governor did not make any objections (International Court of Justice, 1962). And when there was a meeting of the demarcation committee in Bangkok in 1909 by using the Annex 1 map, this was essentially no objection. Likewise, when Siam made a treaty with France in 1925 and the treaty between Siam-France in Washington in 1947, the Thai government did not protest on that issue (International Court of Justice, 1962). Moreover, when Prince Damrong Rajanubhab went to Khao Phra Viharn in 1930, the French governor received a royal visit as a visit to a province of Cambodia (International Court of Justice, 1962). Or even when Siam continued to use and publish a map showing that Khao Phra Viharn was located in Cambodia, despite the years of exploration 1934-1935 found that there was a difference between the borderlines in the map and the real watershed line (International Court of Justice, 1962).

Therefore, when considering this case, it is clear that the Siamese government at that time acquiesce that France had sovereignty over the Preah Vihear area. Following the judgment of the International Court of Justice in the case of the boundary dispute on 15 June 1962, which judged the Temple of Preah Vihear belonged to Cambodia, with a vote of 9 to 3. The verdict also required Thailand to withdraw its personnel from the castle and nearby areas. This is because the International Court of Justice assumed that Thailand or Siam in the past had accepted French sovereignty over this area for more than 50 years by international law on estoppel principles. In addition, the decision by 7 to 5 votes required Thailand to return antiquities brought from the Temple of Preah Vihear since 1954, which is also the year that Thailand had taken over the area (International Court of Justice, 1962).

It is clear that after the International Court of Justice has issued such a verdict, the Thai government at that time had sent a letter to the United Nations Secretary-General to protest the judgment of the International Court of Justice, claiming that the judgment was against the law and justice. In addition, Thailand also reserved the right to claim the Temple of Preah Vihear in the future. However, the judgment of the International Court of Justice shall be binding on the party in connection with the case in question and are final without any appeal. And to bring the case back into consideration can be done if there is new evidence and

must be done within ten years. However, although the parties may not be able to appeal a judgment of the International Court of Justice. But the parties were able to ask the court to review the verdict when the facts which were the deciding factor were discovered, while the judgment was made, both the court and the parties requesting a review of the verdict were unaware.

This boundary dispute between Cambodia and Thailand seems to have been suppressed for more than 4 decades. Until 8 March 2005, Cambodia proposed to UNESCO to register the Temple of Preah Vihear as the official World Heritage Site. Later the UNESCO World Heritage Center in Paris, asked Cambodia to submit new documents about the buffer zone of the castle and advice to cooperate with Thailand. Cambodia submitted a request for registration of the Temple of Preah Vihear again. At this time, Thailand submitted a memo to the Cambodian Ambassador and proposed transboundary property. Finally, the World Heritage Committee resolved to postpone the registration by requesting Cambodia and Thailand to cooperate closely.

Later on 8 July 2008, UNESCO announced the registration of Cambodia's request for the Temple of Preah Vihear to be a World Heritage Site, by registering only the castle. However, during this same period, the situation in Thailand had intensified by the People's Alliance for Democracy (PAD), a nationalist political movement in Thailand that was operating during 2005-2009. The PAD leaders aroused the masses to protest against the Cambodian government for violating Thailand's sovereignty, which the PAD claimed (Connors, 2011). They also objected to the decision to support the registration of the Temple of Preah Vihear as a World Heritage Site of the Thai government at that time. Also, the PAD filed a complaint to prosecute the relevant ministers in the government; called on Thai investors to withdraw their investments from Cambodia; called on the closure of 40 Thai-Cambodian border checkpoints; called on the cancellation of all flights from Thailand to Phnom Penh and Siem Reap of Cambodia; called on the cancellation of a plan to build a naval base at Koh Kood near the border; called on the abolition of the committee which oversees the overlap of marine areas, and supporting the announcement of the map of the Thai Marines only. (Prachatai, 2008). Eventually, the demands and the protests of the PAD developed into a conflict between Thailand and Cambodia. There were allegations from the masses until the state-level accusations. The issues that both Thailand and Cambodia

used allegations between each other, mostly based on nationalism, such as land ownership in the past, ownership of cultural heritage, contempt, racism, and especially the accusation that the other party encroached on the sovereignty of the country. Repetition of nationalism discourse of both Thailand and Cambodia through various methods, whether through various media, the sedition of the masses, and the propaganda of government agencies leading to the forces of both countries to use the cannon to strike each other, blaming each other for being the first party. Cambodia has submitted a letter of complaint to the United Nations regarding the circumstances of the Thai military that had violated the Paris Peace Agreement 1991, the United Nations Charter, and the judgment of the International Court of Justice, 1962.

Subsequently, on 28 April 2011, Cambodia submitted a petition to the International Court of Justice to request the court to interpret the judgment of Khao Phra Viharn in 1962, and on the same day, Cambodia submitted a petition to the International Court of Justice requesting the court to specify protection measures as well as urgently requesting temporarily to maintain the rights of Cambodia (International Court of Justice, 2011). Cambodia submitted a 17-page petition in French to the International Court of Justice to request the court to interpret the sentence, which Cambodia states that Thailand has conflicts with the meaning and scope of the original judgment on the following issues (International Court of Justice, 2011):

Firstly, Cambodia considers that the original judgment relies on the boundary between the countries that already existed, which Thailand and Cambodia have accepted.

Secondly, Cambodia considers that the boundary is following the Annex 1 map which is attached to the Cambodian indictment which the court referred to on page 21 of the original judgment. And the court relied on this map to determine that Cambodia's sovereignty over the Temple of Preah Vihear was a direct result of the sovereignty over which the Temple of Preah Vihear was located.

Finally, the original judgment imposed that Thailand had an obligation to withdraw military force or other personnel from nearby the castle located on the border of Cambodia. Cambodia sees that such general and ongoing obligations are by the original court's verdict that Cambodia has sovereignty over the area.

Cambodia urged the International Court of Justice

to decide and ordered that Thailand had an obligation to withdraw any military force or police force or other guardians that Thailand had previously stationed at the castle or near the castle (according to the chapter Operating Article 2 of the Judgment in 1962). There is a particular result of the general and ongoing obligations that Thailand must respect the territorial integrity of Cambodia, where the area of the castle and nearby areas have been demarcated by the borderline as the map claims on page 21 of the original judgment, which the court relied on as the base of judgment. The Thai government has disputed the issue of Cambodia by raising the statute of the International Court of Justice, Article 60, claiming that the interpretation of the verdict must be a continuation of the main case of the Temple of Preah Vihear case. And if the court decides by using the Annex 1 map, it will be considered in matters relating to the territory which is not under the jurisdiction of the court (Ministry of Foreign Affairs, 2011).

In terms of requesting to set up a temporary method, Cambodia has submitted a 3-page French petition to the International Court of Justice which has the following importance (International Court of Justice, 2011):

Since 22 April 2011, there were serious incidents in the area of Khao Phra Viharn and other areas along the border between Thailand and Cambodia. Resulting in people in villages in the area to die, become injured, and having to evacuate. This serious situation had taken place until the time when Cambodia submitted a petition to the International Court of Justice, which Thailand is responsible for all events. Therefore, the court needed an urgent method to protect the rights of Cambodia and prevent the conflict from becoming more violent without the court's method and Thailand continued to proceed, causing damage to the Temple of Preah Vihear, including causing people to die and suffer from clashes by weapons that are more serious. Therefore, the Cambodian government asked the court to specify the following temporary methods:

Firstly, Thailand immediately withdraws from various points in the Temple of Preah Vihear area, which is Cambodia's free and unconditional territory.

Later, Thailand is prohibited from carrying out any military operations in the Temple of Preah Vihear area.

And lastly, the court has ordered Thailand to not take any action that may interfere with Cambodia's rights or make the conflict more violent.

In this case, the Thai government argues that the request is not qualified. The current situation is not urgent and there is no risk of irreparable damage. References to Prasat Ta Muen and Prasat Ta Kwai are not related to the Temple of Preah Vihear. And the general situation along the border of both countries is still normal. In addition, the main boundary between the two countries still has bilateral mechanisms (Ministry of Foreign Affairs, 2011).

Eventually, the International Court of Justice issued an order for the Cambodian petition requesting the court to set up a temporary method on 18 July 2011 as follows (International Court of Justice, 2011):

Firstly, the court unanimously refused to accept the request of Thailand requesting the court to withdraw the Cambodian petition which requested that the temporary method be removed from the court's directory.

Secondly, the court has established the following temporary methods:

(1) Temporary demilitarized zone and let both countries withdraw the military personnel stationed in that area immediately and to refrain from sending any soldiers to the area, including prohibiting any military activities in that area with a resolution of 11 to 5 votes.

(2) Prohibiting Thailand from interrupting Cambodia from accessing the Temple of Preah Vihear freely or from delivering supplies without military personnel entering that castle with a resolution of 15 to 1 vote.

(3) Allowing both countries to cooperate to allow observers from ASEAN to access the temporary demilitarized zone with a resolution of 15 to 1 vote.

(4) Prohibiting both countries to perform any acts that will cause disputes to deteriorate or become more aggressive or suppressed with a resolution of 15 to 1 vote.

Third, require both countries to report to the court from time to time regarding the implementation of the above temporary measures with a resolution of 15 to 1 vote.

And lastly, for all cases which cause this order to remain in the court's control until the court has a judgment in the request for interpretation with a resolution of 15 to 1 vote.

Subsequently, on 11 November 2013, the judges of the International Court of Justice read the verdict on the case concerning the request for interpretation of the judgment of 15 June 1962 in the case concerning the Temple of Preah Vihear, which Cambodia had requested

for the court to interpret again. The judges unanimously resolved to authorize the courts to accept Cambodia's request for interpretation, and there was a verdict that concluded that the promontory of Preah Vihear above the Annex I map was subject to Cambodian sovereignty. And the court considered the pivotal to this conflict, which both parties must perform their obligations with respect. Cambodia has sovereignty over the Temple of Preah Vihear area, so Thailand should withdraw all troops, police, and other forces from the area (International Court of Justice, 2013).

Considering the International Court of Justice's verdicts in such case, it can be seen that the court only ruled that it had the power to interpret the Cambodian petition but did not decide on the boundaries. Therefore, Cambodia does not acquire 4.6 square kilometers of land, also known as "Phu Makhuea" as desired. Moreover, the point to consider in this verdict is the verdict did not specify that the 1-per-200,000-square-kilometer map was part of the 1962 ruling. The International Court of Justice has recommended that both Cambodia and Thailand jointly oversee the Temple of Preah Vihear as a World Heritage Site. However, since the last verdict, the author believes there are not enough efforts on both sides to collaborate to develop such overlapping areas under the recommendations of the International Court of Justice. As can be seen from the present, the Cambodian government has ordered to block the entrance to the Temple of Preah Vihear from the Thai side. Likewise, the Thai government does not pursue this issue as much as it deserves due to fears about the relationship between governments. In this case, the author views are that if both countries are not able to completely demarcate the boundaries or cannot reach an agreement then it will cause wounds in the relations between the two countries, like a time bomb that is ready to explode at any time. So, it is necessary to rely on the boundary dispute resolution mechanism to solve the boundary dispute to be suppressed based on the diplomatic principles leading the military, as well as the reserved attitude that will cause the clashes or use the violence as much as possible. In particular, the discourse on the loss of territories or the loss of national heritage to the enemy is often caused by the media of both countries.

Moreover, the boundary dispute between Thailand and Cambodia also reflects the use of nationalist ideology as a tool to support the political popularity of the politicians of both countries. Like Cambodia's Prime Minister Hun Sen, who has often relied on the issue to

build political support during elections as well as many Thai politicians who campaign with the discourse to reclaim the land of the Thai nation. Therefore, if both countries can strengthen bilateral relations and are able to push forward the negotiations together, it will affect the settlement of this case. The key factors in solving the disputes effectively requires the sincerity of the governments of both countries that focuses on the use of negotiation mechanisms and seeking ways to build cooperation between Thailand and Cambodia. As well as promoting cooperation in the management and development of overlapping areas together, which will truly benefit both countries and especially the people who live in the areas.

The Boundary Dispute Settlement Mechanisms

The boundary dispute settlement mechanisms are an important tool in resolving international disputes about territories that will lead to the reconciliation of various countries, especially those with a common territory, often called "The neighboring countries". Boundary dispute resolution mechanisms can be divided into government mechanisms, regional mechanisms, and international mechanisms as follows:

In terms of government mechanisms, it is divided into bilateral mechanisms that the parties will negotiate to get a satisfactory resolution of all parties. Concrete results obtained after bilateral negotiations, mostly in the form of Treaty, Agreement, Memorandum of Understanding (MOU), and Joint Development Area (JDA), which is a joint development and exploitation on an international overlapping area arising from overlapping claims in the continental shelf. For example, Malaysia-Thailand Joint Development Area: MTJDA, to exploit petroleum resources which the governments of both countries signed a memorandum of understanding to establish the Malaysia-Thailand. This is a joint organization to manage the overlapping claim area since 1979 with a total area of approximately 7,250 square kilometers. In addition, the operation of the Joint Border Commission, Ministerial Level Committees, and Technical Level Committees is also part of the government dispute resolution mechanism (The Strategic Studies Center, 2013).

In terms of regional mechanisms, it is the process of the settlement boundary dispute in the form of multilateral cooperation under the terms or agreements that are mutually accepted by defining a meeting agenda for members to discuss and consider solving problems.

In the case of the boundary dispute between Cambodia and Thailand, the author strongly supports the use of regional mechanisms to solve problems by presenting them as a discussion point in the ASEAN regional forum for the ASEAN Member States to jointly consider proposals for the settlement of mutually acceptable disputes, especially Cambodia and Thailand under the principles established in the ASEAN Charter as follows (The ASEAN Charter, 2007):

The provisions of Chapter 1 regarding purposes and principles in Article 2 (Principles) provided that ASEAN and its Member States shall act by the following Principles: (d) reliance on peaceful settlement of disputes.

In addition, Chapter 8 on “Settlement of Disputes”, also provides “General Principles” in Article 22 that the Member States shall endeavor to resolve peacefully all disputes promptly through dialogue, consultation, and negotiation. And ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation.

In Article 23 on “Good offices, Conciliation and Mediation”, it was stated that the Member States which are parties to a dispute may at any time agree to resort to good offices, conciliation, or mediation in order to resolve the dispute within an agreed time limit. And parties to the dispute may request the chairman of ASEAN or the Secretary-General of ASEAN, acting in an ex-officio capacity, to provide good offices, conciliation, or mediation.

In Article 24 on “Dispute Settlement Mechanisms in Specific Instruments”, it was stated that disputes relating to specific ASEAN instruments shall be settled through the mechanisms and procedures provided for in such instruments. And disputes which do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure. Include, where not otherwise specifically provided, disputes which concern the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.

In Article 25 on “Establishment of Dispute Settlement Mechanisms”, it was stated that where not otherwise specifically provided, appropriate dispute settlement mechanisms, including arbitration, shall be established for disputes which concern the interpretation or application of this Charter and other ASEAN

instruments.

In Article 26 on “Unresolved Disputes”, it was stated that when a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.

In Article 27 on “Compliance”, it was stated that the Secretary-General of ASEAN, assisted by the ASEAN Secretariat or any other designated ASEAN body, shall monitor the compliance with the findings, recommendations, or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit. And any Member State affected by non-compliance with the findings, recommendations, or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.

In Article 28 on “United Nations Charter Provisions and Other Relevant International Procedures”, it was stated that unless otherwise provided for in this Charter, Member States have the right of recourse to the modes of peaceful settlement contained in Article 33(1) of the Charter of the United Nations or any other international legal instruments to which the disputing Member States are parties. Article 33 of the Charter of the United Nations has provided that the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. And the Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means (The United Nations, 1945).

In terms of international mechanisms, the United Nations mechanism is used to settle disputes, including The United Nations Security Council (UNSC), The International Tribunal for the Law of the Sea (ITLOS), The International Court of Justice (ICJ), and The Permanent Court of Arbitration (PCA), etc. For these mechanisms, the author wishes to use the least international mechanisms as much as possible because the process of resolving to settle the boundary dispute that requires international mechanisms would show that the disputes were complicated and could escalate until the parties were unable to find cooperation.

Therefore, in order to successfully resolve the boundary disputes and achieve results, it is necessary to

use the following factors to succeed: First, there are the governments of each country that must be sincere in resolving disputes on the basis of mutual benefit rather than seeking political popularity by relying on nationalist ideology as a tool that leads to conflicts or disputes. Together with often used international relations mechanisms or relying on diplomatic tools in the manner of seeking cooperation between the parties as much as possible. If the governments of each country can sincerely cooperate, it would inevitably support the resolution of boundary disputes and tend to cause success in the settlement of disputes or international conflicts.

In addition, the success of disputes settlement in international boundaries also depends on how much of the overlapping area is a beneficial area, such as an important strategic area, an important resource area, a remote area, a dangerous area, a war area, and so on. These various areas, especially important strategic areas, including political areas, military areas, economics areas, and natural resources areas, all require diplomatic negotiation techniques as well as techniques for demarcation in order to provide satisfactory benefits to all parties. For example, the boundary dispute between Thailand and Cambodia in the Phnom Dong Rak mountain range, which is the location of the Temple of Preah Vihear (Khao Phra Viharn). Before the dispute in 2013, the way up to the Temple of Preah Vihear was on the Thai side of Kantharalak District, Sisaket Province. As a result, Thailand has always benefited from being a tourist attraction. However, after the dispute, Cambodia closed the way up to the Temple of Preah Vihear from the Thai side causing Thailand to lose areas of interest in both economic and international politics from such dispute. Therefore, the management of overlapping areas or the resolution of boundary disputes must focus on the negotiation approach to find a way to develop into a common interest area.

In the case of the boundary dispute between Cambodia and Thailand, the same type of dispute occurs in many other countries. There is a need for public understanding about national historical context which is related to nationalist ideology. National history should be examined and rearranged without the myth of nationalism along with understanding of what happened in the past, both cooperation and conflict. It is especially necessary to understand the relationship between ancient states in the past before the emergence of modern states was a relationship without clear state boundaries. Therefore, the demarcation of boundaries according to

modern state concepts and the claims of the loss of territories that occurred during the ancient state, cannot be used as a reason for claiming the overlapping area. Thus, public understanding about national historical context is a factor that will lead to the successful settlement of boundary dispute.

Although the government of each country, domestic political situation, nationalist concentration, public understanding about national historical context, international relations policy, negotiation techniques, and interest areas are the factors that contribute to success in resolving boundary dispute, the above factors may lead to failure to resolve the boundary dispute. If the implementation of government policies, dissemination of information, as well as expressing ideas and opinions of the public in a manner that provokes international conflicts.

Therefore, to ensure that the boundary dispute between ASEAN countries can be managed to achieve the goal of peace, the author strongly supports the use of regional mechanisms that are defined in the ASEAN Charter. The ASEAN Charter has important principles requiring the Member States to settle disputes by peaceful means. As well as the use of multilateral mechanisms between ASEAN countries as a method to resolve disputes between countries. Moreover, it is the people's awareness of ASEAN citizenship, stepping through the traps of nationalist ideology.

Finally, the author is very confident that if ASEAN countries cooperate and have sincerity in resolving disputes in the model of "Make love, not war with the ASEAN neighbors" then the boundary disputes can be suspended or terminated, and the ASEAN community will have a true peace community with the aim of establishing an ASEAN Political-Security Community.

Conclusion

The boundary dispute is a time bomb from the colonial era that has made the ancient states of Southeast Asia transition to modern states as a model from Western powers. Those ancient states became countries with a clearly defined territory on the map, but those territories were defined by Western powers. Later, when the countries that had been colonized had established independence, there was a dispute over international boundaries. There is a fragile problem that has a great impact on international relations with neighboring countries. Moreover, the ideological struggle with the efforts of bringing nationalism to explain the boundary

disputes, such as claims of ownership, invasions, and national treasure and resource hijackings, etc. are also a great fuel that causes serious disputes and expands rapidly at the mass level.

It is undeniable that Thai society today is dominated by the conservative ideals of the powerful and the political elite rather than allowing liberal ideals to flourish. In addition, the ideology of nationalism (and/or “Royal-Nationalism Ideology”) are constantly emphasized as the duty of Thai people to be aware and loyal to the nation, religion, and monarchy as the key pillar that the kingdom. Often, we have seen ideological conflicts arising from the functioning of nationalist ideology and leading to violence in Thai society, both domestic conflicts and international conflicts, especially with neighboring countries. Nationalism is therefore both a tool for building solidarity among the people of the nation and at the same time can be a tool in causing conflicts. The author therefore aims to raise Thailand as a case study of the use of nationalist ideology as a political tool to remind and point out that modern society should transcend national borders to global citizenship, where people live on the basis of indivisible humanism rather than nationalism.

The boundary disputes that escalate and widen to the masses are essential to the ability of governments in each country to manage conflicts, both domestic and international issues. The implementation of government policies should be for the preservation of national interests under the needs of the public as well as maintaining the level of international cooperation with the parties to the dispute as much as possible. In addition, the government will have to choose the method that requires the use of armament as a last resort or if possible, never to use armaments.

Lastly, all of this requires the effective government to administer the country together with a bias-free understanding of the people in the country. It also requires love and understanding of neighboring countries, creating a sense of common roots and a shared history when the lands were still without boundaries, as well as the awareness of ASEAN citizenship. And the use of the mechanisms of the ASEAN community that have provisions in the ASEAN Charter such as multilateral mechanisms that allow dialogue to find a solution to the dispute that will bring peace within the region, or the model of “Make love, not war with the ASEAN neighbors”.

References

- Connors, M.K. (2011). *Thailand's Emergency State: Struggles and Transformations*. Retrieved July 5, 2019, from <http://www.zenjournalist.com/wp-content/uploads/2012/01/Connors2011.pdf>
- Dechabutr, S. (2009). *Losing territories to colonial imperialism: from Koh Mak to Preah Vihear Mountain History of Thai losing territory 14 times in the Rattanakosin era*. Bangkok: Rak Kaew Publishing.
- Khamkhun, A. (2015). *Boundary Dispute Management in ASEAN*. Bangkok: The Thailand Research Fund.
- International Court of Justice. (June 15, 1962). *International Court of Justice Case of Temple of Preah Vihear Cambodia v. Thailand Judgement*. Retrieved July 2, 2019, from http://www.worldcourts.com/icj/eng/decisions/1962.06.15_preah_vihhear.htm
- International Court of Justice. (April 28, 2011). *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)* Retrieved July 6, 2019, from <https://www.icj-cij.org/en/case/151>
- International Court of Justice. (November 11, 2013). *International Court of Justice Case of Request for Interpretation of the Judgment of 15 June 1962 in the case concerning the Temple of Preah Vihear (Cambodia v. Thailand)*. Retrieved Oct 6, 2019, from <https://www.icj-cij.org/files/case-related/151/17714.pdf>
- Marume, S.B., Jubenkanda, R.R., Namusi, C.W., Madziyire, N.C. (2016). An analysis of essential elements of the State. *International Journal of Engineering Science Invention*, 5(3), 24-28.
- McCloud, D.G. (1995). *Southeast Asia: Tradition and Modernity in the Contemporary World*. Boulder, US: Westview Press.
- Ministry of Foreign Affairs. (February 14, 2011). *Statement by His Excellency Mr. Kasit Piromya, Minister of Foreign Affairs of Thailand, at the United Nations Security Council, New York, 14 February 2011*. Retrieved July 6, 2019, from <http://mfa.go.th/main/contents/files/media-center-information-26561.pdf>
- Prachatai. (August 2, 2008). *Sondhi Limthongkul's solution to the Preah Vihear dispute*. Retrieved July 5, 2019, from <https://prachatai.com/english/node/732>
- Preecharush, D. (2011). Southeast Asian Studies: Evolution and Change. *Journal of Liberal Arts*, 11(2), 1-14.
- Prescott, J.R. (1965). *The Geography of Frontiers and Boundaries*. London, GB: Hutchinson University Library.
- Sinsuphruak, J. (2013). The Spratly Islands Dispute: Legal and Political Perspectives. *Monographs of Security Studies*, (127-128), 13-22.
- Strate, S. (2015). *The Lost Territories: Thailand's History of National Humiliation*. Honolulu: University of Hawai'i Press The Strategic Studies Center, National Defence Studies Institute. (2013). ASEAN boundary dispute resolution mechanism. *SSC Weekly Focus*, 24(56), 1-2.

- The Association of Southeast Asian Nations. (2007). *The ASEAN Charter*. Retrieved July 9, 2019, from <https://www.asean.org/uploads/archive/21069.pdf>
- The United Nations. (1945). *Charter of the United Nations and Statute of the International Court of Justice*. Retrieved July 9, 2019, from <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>
- Wheatley, P. (1961). *The Golden Khersonese: Studies in the Historical Geography of the Malay Peninsula before A.D. 1500*. Kuala Lumpur, MY: Oxford University Press.