



# Selected CICP Publications 2013

The US Pivot to the Asia Pacific and Implication on Cambodia  
*James Clad*

Myanmar's Pivot toward the Shibboleth of Democracy  
*Robert Taylor*

Cambodia – Thailand Border Conflict: Approaches and Possible Solutions  
*Pou Sothirak*

Sensible Ways Toward and Acceptable Code of Conduct  
*Pou Sothirak*

Rethinking the Relevance of Preventive Diplomacy in Asia and Policy Response  
*Khoun Theara*

The Challenges of CLMV Countries and the Role of a Development Partner  
*Pou Sovachana*

Human Security in Cambodia and its Challenges  
*Pou Sovachana*

Cambodia: Breaking the Deadlock  
*Phoak Kung*

The Cambodian Monarchy Must Step Back from Politics  
*Phoak Kung*

## ACKNOWLEDGEMENT

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Two Thousand Thirteen has been an eventful year for the Cambodian Institute for Cooperation and Peace (CICP). We have been able to conduct a few interesting public lectures on topic relevant to the region and to Cambodia, such as: the US Pivot to the Asia Pacific and the Implication on Cambodia, Myanmar's "Pivot" Toward the Shibboleth of "Democracy", India's Enduring Presence in Indochina, Yingluck Shinawatra and Thai Foreign Policy: Opportunities and Challenges by distinguished personalities and scholars. We organized a book launch on "Preah Vihear: A Guide to the Thai-Cambodian Conflict and Its Solution" and a Regional Conference on "ASEAN and the South China Sea: Achievements, Challenges, and Future Direction". Furthermore, our research fellows have written many interesting articles and essays concerning matters that challenge the development of Cambodia.

This publication is a collection of selected papers and articles that CICP would like to disseminate to broader audience, stimulate wider debates and raise more awareness on the emerging trends and concerns that, if unattended, could destabilize peace, stability and prosperity of Cambodia and the region.

We would like to take this opportunity to thank, first, our contributors for giving CICP the authorization to publish their articles for the benefit of sharing their views on regional and national issues. Our sincere appreciation also goes to Dr. Wilhelm Hofmeister, Director, Konrad-Adenauer-Stiftung (KAS), Regional Programme Political Dialogue with Asia, for his generous financial support for making this publication possible and available for the general public.

Looking ahead for the year of 2014, CICP plans to compile and publish more articles and research papers on current and emerging issues that concern not only Cambodia and the region but also the world at large.

Ambassador Pou Sothiak  
Executive Director  
Cambodian Institute for Cooperation and Peace

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Executive Director of the Cambodian Institute for Cooperation and Peace

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## CONTRIBUTORS

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**Professor James Clad** consults for energy and investment firms, and is senior adviser at the Center for Naval Analyses and at IHS/Jane's and IHS/Cambridge Energy Research Associates-CERA). During 2002-10, he served as US deputy assistant secretary of defense for Asia, and as senior counselor at the Overseas Private Investment Corporation and the Agency for International Development. From 1995-2002 he was a Georgetown University Luce foundation professor of Asian Studies and, concurrently,

Director/Asia-Pacific Energy at CERA. Trained as New Zealand lawyer, his career has focused on Asian commercial and security affairs broadening after 2002 to include the Middle East. In the 1980s-90s, he wrote for the Far Eastern Economic Review, and had fellowships from St. Antony's College, Oxford, from the Carnegie Endowment, and from Harvard's Center for International Affairs. He also served in the New Zealand diplomatic service. His first book, *Business, Money & Power in Southeast Asia (1991)*, surveyed Asian capitalism while his next, *After the Crusade (1996)*, critiqued US foreign policy. His most recent book is a volume on political geography, *The Borderlands of Southeast Asia*. He received the Secretary of Defense Exceptional Public Service Award in 2009 and, in June 2011, became a Member of the New Zealand Order of Merit, a royal honor.



**Robert H. Taylor** is a Visiting Professorial Fellow at the Institute of South East Asian Studies, Singapore, where he is writing a biography of the late dictator Ne Win, dictator of Myanmar from 1962 to 1988. The author of numerous works on modern South East Asian politics and history, his books include *The State in Myanmar (2009)* and *The Politics of Elections in Southeast Asia (1995)*. An American by birth, and British by citizenship, he has taught in the United States, Australia, Hong Kong, Myanmar, and

England. His previous academic posts included Professor of Politics in the University of London, Pro-Director of the School of Oriental and African Studies, London, and Vice-Chancellor, University of Buckingham.



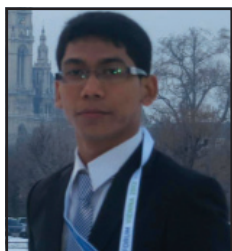
**Pou Sothirak** is the Executive Director of the Cambodian Institute for Peace and Cooperation (CICP) since June 2013. He was Visiting Senior Research Fellow at the Institute of Southeast Asian Studies (ISEAS) in Singapore from January 2009 to December 2012. He was appointed as Cambodian Ambassador to Japan from April 2005 to November 2008. He served as elected Cambodian Member of Parliament twice during the general election in 1993 and 2003. He was appointed as Minister of Industry Mines and Energy of the Royal Government of Cambodia from 1993 to 1998.

He joined the crusade to safeguard Cambodian from foreign occupation and internal conflict from 1986 – 1992, serving as Humanitarian Coordinator at one of the refugee camps on the border between Thailand and Cambodia. He worked as an engineer at the Boeing Company from 1981-1986 after obtaining a Bachelor Degree in Electrical and Computer Engineering from Oregon State University, USA, in 1981. Over the years, he has written books and published numerous articles on various aspects about Cambodia.



**Pou Sovachana** is a Deputy Director in Charge of Research and Publication, and a Senior Research Fellow at The Cambodian Institute for Peace and Cooperation (CICP). Prior to his current position, he taught Ethics and Political Science at Paññāssāstra University of Cambodia for five years. He holds a Master of Art degree majoring in Curriculum and Instruction and an Advanced TESOL degree (Teacher of English to Speakers of Other Languages) and has worked with Buddhism Education for Peace Center

and various NGOs in Cambodia in the fields of education and Theravada Buddhism. He has organized and coordinated many activities to promote volunteerism such as “Let’s Pick Up Trash and Clean the Environment Together”, “I Help You, You Help Others”, and “Drop Everything And Read (D.E.A.R)” with students, monks, parents and teachers. In 2012, he contributed a book chapter on “*Progress and Challenge of Education in Cambodia Today*” for the Institute of Southeast Asian Studies (ISEAS). He is the author of several articles on the Cambodian educational system and how to best work for Cambodia’s future.



**Theara Khoun** is a Research Fellow at the Cambodian Institute for Cooperation and Peace (CICP) and is currently serving as a Foreign Affairs and Political Reporter/Copy-editor for the Voice of America (VOA) Khmer Service. He is also a strategic member in charge of media and communication at the Working Group for Peace (WGP), an alliance of civil society and peace advocates, based in Cambodia. He earned his Bachelor Degree in International Studies in the honors program from the Department of International Studies, Royal University of Phnom Penh (RUPP) and in Law from the University of Cambodia (UC) in 2012. He was one of the three most outstanding students at college. He is the author and co-author of several articles on transitional justice and regional security including “Rethinking ASEAN Preventive Diplomacy and Policy Responses,” University Publication (2012); *In Pursuit of Transnational Justice in Cambodia: From Theoretical to Pragmatic Applications*.



**Phoak Kung** is a Harvard-Yenching Doctoral Scholar and a PhD candidate at the University of Warwick in the United Kingdom since 2010. Currently, he is Adjunct Senior Lecturer at the Paññāsāstra University of Cambodia and Senior Research Fellow at the Cambodian Institute for Cooperation and Peace. In the past, he was also a Visiting Researcher at Cornell University and the University of Oxford in 2012 and 2013 respectively. In 2006, he received the Australian Development Scholarship from the Australian government to do his Master of Economic Policy and Graduate Diploma in Public Administration at the Australian National University in Australia. Upon his return to Cambodia, he started working as an Adjunct Senior Lecturer at the Paññāsāstra University of Cambodia, and was appointed as Assistant Dean of the Faculty of Social Sciences and International Relations in 2010. And he was also an Adjunct Senior Lecturer at the University of Cambodia in 2008. His research works focus mainly on democratization in developing countries, authoritarian regimes, political parties and elections, foreign aid, anti-corruption strategies, natural resources, development issues, international organizations, and Cambodia-China relations. His writings and comments appear in the Institute of Southeast Asian Studies, the Diplomat Magazine, the East Asia Forum, and the Phnom Penh Post.





## **“THE US PIVOT TO THE ASIA PACIFIC AND THE IMPLICATION ON CAMBODIA”**

**Public Lecture by Professor James Clad,  
Former US Deputy Assistant Secretary of Defense for Asia Pacific Affairs 2007-09**

**At the Cambodian Institute for Cooperation and Peace  
Phnom Penh, Thursday 28 February 2013**

- Your Royal Highness Prince Norodom Sirivudh,
- Ambassador Pou Sothirak,
- Your Excellencies the Ambassadors of India, Indonesia, Philippines, Singapore and other countries, and Ladies and Gentlemen,

Thank you for the honor of speaking to you today about the rebalancing of American policy in the Asia Pacific region, as announced and implemented by the administration of President B.H. Obama. I have three points to make today:

- First, the widespread but inaccurate use of the term "pivot" to describe US policy.
- Second, the long duration of the strategic foundation of US interests in Asia; and
- Third, some troubling consequences that could flow from current trends involving Sino-American relations.

### **THE FIRST POINT CONCERNS THE WORD "PIVOT"**

Many of us see things that White House political handlers, keen to enhance their president's standing in world statecraft, picked the verb out of a hat. They choose for domestic purposes to make more of the president's Asia travels than, arguably, was warranted by the outcome.

As experienced practitioners know, the notion that the US is now embarking on some dramatic and/or novel course of action in Asia is belied by the strong US policy continuity in Asia since the end of the second world war and, as we shall see in a moment, even much earlier.

What has changed, and was undergoing change in the last part of the previous administration in which I served, was a redressing of a sense of senior level inattentiveness towards Asia. Beginning in 2006-07 and accelerating under former Defense Secretary Robert Gates, the United States began to lend new impetus to both bilateral and multilateral collaborative efforts within and between US security partners right across the broad pan-Asia environment.

Suggesting that the US has somehow imposed a grand design on Asia is bizarre. Many countries, large and small, had been indicating to us during the last decade their wish that we increase the frequency of our senior level defense and security consultations; as a defense minister from an ASEAN country with no formal US security arrangement told me, "we had

been dropping perfumed handkerchiefs for several years, signaling a readiness to interact more often with America."

Both in multilateral ways (e.g., the 5-nation sea exercise 'Malabar' in 2007 or the annual 'Cobra Gold' exercises) and in bilateral interaction (via annual senior defense dialogues or in accelerated tactical discussions between the US Pacific Command and South and Southeast Asian States), the United States had begun to restore a degree of senior level attentiveness admittedly deficient in the years after the 2001 punitive war in Afghanistan and the 2003 war in Iraq. I shall turn to the reasons for this Asian readiness for improved US attentiveness in a moment.

## **THE SECOND POINT -- AMERICA'S STRATEGIC FOUNDATION IN ASIA -- ARISES FROM THE FIRST**

Most policymakers and other insiders understand that the current administration had determined on a continuation of the previous G.W. Bush administration's senior level attentiveness towards Asia. To those who are less well informed, the choice of the word 'pivot' -- a term from which the US has quickly distanced itself -- has created a false impression of 'something new' -- exactly why the choice of that word wasn't helpful. However, word games cannot disguise realities - and the reality is that the current American administration both continued and (frankly) skillfully deepened the policy it inherited in 2009, especially in its step-by-step normalization with Myanmar.

Beyond these trends, the deeper truth is that American interests in Asia track back over two centuries to the infant American Republic's insistence on having equal access to trading opportunities in what was then called the 'Far East'. Few lines of continuity are so clear in American and Asian history; the 19th and 20th centuries reflect a trans-Pacific reach by the United States, each era augmented by major moves.

These included the surveying of the Pacific by the US Navy even before the US civil war; the Opening of Japan by Commodore Perry; the Open Door Policy of 1900; the physical positioning by the US in the western Pacific after 1898; the victory in the Pacific War against Japan, and the conflicts on the Asian mainland (Korea and Vietnam) after that.

To this historical progression and deepening bias towards Asia, we must also add in the enormous multiples of trade and migration. We acknowledge today the interest-based linkages, additional to formal security alliances with the Republic of Korea, Japan, Australia, Philippines, and Thailand, which have arisen with Indonesia, Malaysia, and Vietnam.

In short, and as Secretary Gates put it back in May 2008 at the pan-Asia defense ministers' meeting in Singapore (i.e., at the annual 'Shangri La' conference), "the United States is a resident power in Asia." On that occasion, Mr. Gates also raised explicitly the territorial differences in the South China Sea, the first time the US had officially done so since 1995. That was nearly five years ago. So where, exactly, is the sudden 'pivot' to which our friends (and those less friendly to us) speak so often and in such ignorance?

### **THE THIRD AND FINAL PART OF MY REMARKS NOW SWIVELS -- NOT 'PIVOTS' -- TO SOME RECENT TRENDS THAT DISTURB AND PERPLEX**

'Disturb' because some major amount of prestige and 'face' are being invested in rather minor issues substantively, notably in territorial differences over diminutive islands in the East and South China Sea, but also in a degree of what one might best call 'assertiveness' by China along much of its long periphery. The American position regarding contested sovereignty is well known, and I need not belabor it here. The US is a global power, for which access remains supremely important, as it did two centuries ago.

Specifically, this is why the cumbersomely described 'A2AD' (Anti-Area Access and Denial) strategy attributed to our Chinese friends engenders such bedrock opposition. American hostility to doctrines or policies positing denial-of-access runs as deeply as anything can run in our strategic ethos. Therefore, while we do not take positions on some maritime dispute, we do signal the applicability of America's security guarantee to our allies in the western Pacific. We do work to improve inter-operability and other forms of engagement with friendly countries. That is their choice and their wish, and it enmeshes with our interests in keeping the global commons open to all.

Beyond that, nearly all Asian states -- including China, at least until recently -- have welcomed the balancing effect within Asia of America's offshore maritime and air power. I remember hearing a senior Chinese diplomat speak ten years ago about how China 'could rest more easily knowing Japan remains tethered to an outside naval power', initially to Britain (1902-1922) and since the end of the second world war to the United States.

However, the benefit of offshore balancing goes further than this advantage and other (as in the Korean peninsula) Northeast Asian advantages. For the truth is that Asian states, large and small, choose to leverage American power in ways that assist their stability in a regional and even sub-regional area, as with Singapore's place in Southeast Asia, or with India's view of its place in the pan-Asian arc.

This brings me to Cambodia. HRH Prince Norodom Sirivudh had asked me to think aloud about what America's presence in East Asia 'provides' for the Kingdom that he has served so long. I would not be honest with you if I were to say that I think Cambodia is currently playing its best hand. I am aware that simplistic analysis in Asia often posits a 'zero-sum' world, one in which a Chinese advantage immediately becomes a detriment to American interests. I think that is a very simple-minded way of seeing things.

By way of example, I would look at the way in which Myanmar -- without jeopardizing its relationship with China -- has moved to give itself more bargaining space vis-a-vis its northern neighbor. And the move to widen the playing field in Myanmar reflects a history of 'balanced' strategic thinking apparent in Burma -- now called 'Myanmar' -- dating right back to its independence in 1948.

I grew up in a small country and am perhaps more attuned than some Americans to a small country's need for 'breathing room', or for 'room for manoeuvre' or for whatever you wish to call it this need for negotiating space. Do I think that Cambodia is optimizing its diplomatic space? Let me put it this way: Looking at the last year, I would be hard pressed to say that the Kingdom has played its best hand; a slight change need not require repudiating crucial

economic and diplomatic relationships. Any country, large or small, should avoid being seen as 'predictable'. That is what the Myanmar government is doing and it seems smart to me.

Unfairly perhaps, the Kingdom is now seen by many in the region, and beyond, as unwilling to play the ASEAN consensus game vis-a-vis the northern neighbors. For reasons we are all trying to figure out, that big near neighbor - China - which I have the honor to visit each year and where I do speak my mind - is following policies seemingly designed, perversely, to summon exactly the result (i.e. a de facto anti-China line-up from India to Southeast Asia and Australia and up to Japan) which China rightly says it fears.

I hope I have made my point in a way consistent with the courtesy that a guest should show to his hosts. Cambodia has suffered the dreadful experience of being caught between contending great, and middle, powers. No one in his or her right mind would want to revisit that history. Yet there is also a way to live with all big neighbors that signals independence and a lack of predictability.

The famous lament of a 19th century Mexican president applies to the predicament of all small countries uncomfortably adjacent to large and intrusive neighbors: "Pobrecito Mexico: tan lejo de Dios, tan cerca de los Estados Unidos." (Poor Mexico...so far from God, so close to the United States).

Thank you for your attention.

## **MYANMAR'S "PIVOT" TOWARD THE SHIBBOLETH OF "DEMOCRACY"**

**A Public Lecture by Professor Robert Taylor,  
Visiting Professorial Fellow, Institute of Southeast Asian Studies, Singapore**

**At the Cambodian Institute for Cooperation and Peace  
Phnom Penh, Friday, 10 May 2013**

- His Royal Highness Samdech Norodom Sirivudh, Chairman of CICP,
- Excellencies, Ladies and Gentlemen,

It is indeed an honour to have been invited to speak to such a distinguished audience at the Cambodian Institute for Cooperation and Peace.

My topic today is the development of politics in and around Myanmar since 2010 against the backdrop of how that country was treated by the so-called 'international community', meaning the United States and its European allies, during the previous 22 years and more. First, however, a word about the title which I have chosen: Myanmar's 'Pivot' Toward the Shibboleth of 'Democracy'.

The word 'Pivot' was chosen because when the Obama administration changed the United States policy toward Myanmar, it was described as part of an American 'pivot' toward Asia. This curious 'pivot', a neologism in American political jargon to the best of my knowledge, has now been rebranded as a 'rebalancing', we are told. Presumably the 'pivot' was to imply a shift in US concentration from the Middle East and a US re-engagement with Asia, particularly Japan and South East Asia, vis-à-vis China. This engagement, of course, for some governments in ASEAN has been encouraging for some time. This change in American stance toward Asia was not caused by the political changes in Myanmar since 2011, anymore than the changes in Myanmar were caused by American sanctions, now largely suspended, before, or American blessings today.

The change in American policy, however, has changed the way in which the world thinks and talks about Myanmar. It is a reminder of how powerful the United States President can be in terms of defining how the world configures political issues and problems through the American dominated media. And also, it is a reminder of how powerful money is in politics and how economic interests can shape events. US economic interests in South East Asia, of course, are larger than US economic interests in China. Personal interests, of course, can be ruled out. However, I am sure it is pure chance that the Obama administration's most recent Assistant Secretary of State for East Asian and Pacific Affairs is now representing a company seeking contracts with the Myanmar government.

'Shibboleth of Democracy' I use in my title in the sense of a principle or belief of a particular group of people which is not so much outdated, but rather empty of content. In the post-Cold War Age, especially since Samuel Huntington postulated the so-called 'Third War of

Democratization', democracy is held up as the end of historical process and the goal of all. However, as when the Buddha discussed how there is no such thing as an ox-cart, so no one has ever seen democracy. You cannot eat it, wear it, ride on it, make love to it, or agree on what it is. It has become an ideological shibboleth, along with socialism and communism.

Thomas Hobbes, the author of *The Leviathan*, a volume that helped shape modern political thought and principles, writing in the 1651 after the English Civil War, wrote as follows, words which too often are ignored:

*'Ignorance of the significance of words, which is want of understanding, disposeth men to take on trust, not only the truth they know not; but also the errors; and which is more, the nonsense of them they trust: for neither error nor nonsense, can without a perfect understanding of words, be detected.*

*'From the same it proceed, that men given different names, at one and the same time, for the difference of their own passions: As they that approve a private opinion call it opinion; but they that dislike it, heresy; and yet heresy signifies no more than private opinion; but has only a greater tincture of choler.'*

Following Hobbes, and noting the problem caused by the 'ignorance of the significance of words', I believe that too much talk about democracy clouds and obscures more than it illuminates. To my thinking, we would be better off discussing the question of liberty, rather than democracy. But as H. L. Mencken wrote in 1925, 'liberty and democracy are eternal enemies, and everyone knows it who has ever given any sober reflection on the matter.' If we must discuss democracy, we would do well to ponder this description of the crowd at the funeral procession of King Edward the VII of England in 1911 from *The Times*: 'The behaviour of the crowd was worthy of a democracy; it governed itself.'

But states and nations are not crowds, they are much more complex and difficult to govern, particular Myanmar, a country with 60 million people from a multiplicity of ethnic and linguistic communities. All of this is by way of preamble to what I want to say about Myanmar today. I am confident this audience is familiar with the many reforms introduced by the government since President Thein Sein came to power in March 2011. These have greatly liberalised the political atmosphere. Many previously referred to as 'political prisoners' have been released. Freedom of the press, some have argued, is now greater in Myanmar than in some neighbouring countries. As is the legislation on the right to demonstrate peacefully, organise labour unions, etc. There are still mainly problems, such as land rights, but these are now publicly addressed and seen as political and socio-economic issues and rights

The reforms have been planned for a long time and were not dependent upon contingent events like Cyclone Nargis or trips abroad to see air conditioned shopping malls, as some have suggested. Nor were the economic sanctions applied by the West, as I said above, the cause of the reforms. The idea of restoring the multi-party political system was first proposed by General Ne Win in July 1988 in his resignation speech as Chairman of the Burma Socialist Programme Party. He suggested even earlier, in 1987, that the single party, state dominance of the Burmese road to socialism had failed to strengthen the state and tie the nation together. It

was recognised at that time that a reversion to a more market-oriented, trade based, economy was essential.

Getting the ducks in order, that is to say creating the institutions requisite for a multi-party, market-oriented, state in place, for the big push took time, however. Also, natural caution made for the necessity of going slowly, as did opposition by groups inside and outside the country. But when the order came to change, it came in one dramatic and expected manner for those who thought the army had been lying for years. Like a military campaign, the sudden transition was well planned in advance, and drawing out the hard line opposition to deal with separately, hence the so-called Saffron Revolution of 2007, had to be co-ordinated. So that now, the constitution, which was called a sham and a farce by Western governments and the political opposition to the army, is now considered a worthy document, though in need of amendment, according to these some bodies.

My main theme, or hypothesis, today is that, for all the talk about change and democracy, there is more continuity than change in Myanmar's political system after more than two years of reforms. Much of what we are seeing as democracy is a consequence of shifting to a more open economy and society while preserving the basis of the structure of the state the army developed over the preceding half century. This hypothesis is denied by the current crop of Myanmar experts because continuity is boring, change is sexy, continuity is bad, change is good, the past was terrible, but the future, while fraught with challenges, contains great rewards. And besides, the United States needs to see change to justify the pivot to Asia. And to admit that the changes are not fundamental would imply that the previous criticisms were inept and exaggerated, which, of course, would be admitting error. Western government leaders and opposition politicians cannot afford to admit error.

The current political scene is one marked by the need to embed new political institutions and actors into an ongoing political system. The new institutions and actors want to change the ongoing political system to make it more open and responsive. At the same time, those who benefit from, and manage, the current system, fear two things: losing power and security, and the creation of disorder which they cannot control. Locking the new institutions and actors into the existing system is the preferred solution by those who created and manage the current system.

Whether that will satisfy the new institutions and actors remains to be seen. Whether that will be adequate to manage the existing tensions – ethnic, religious, class (usually forgotten) – and the rising expectations – for more participation, accountability, and transparency – also remains to be seen. The political system which was engineered by the previous military regime and encapsulated in the 2008 constitution is predicated on the assumption that there are two kinds of politics.

One kind of politics is NATIONAL POLITICS. This is the kinds of politics practiced by the army and the civil service. We were reminded of this as recently as Tatmadaw (army) Day, 27 March 2013, by the newly promoted Senior General Thaya Sithu Min Aung Hlaing, Commander in Chief of the Defence Services. This is 'selfless' politics which only takes account of the three national pledges: 1. Non-disintegration of the union; 2. Non-disintegration of national solidarity; and 3. Perpetuation of sovereignty. The other kind of politics is PARTISAN and divisive. This is the kind of politics we often think of as 'democracy'. It was the politics of the 1950s in Myanmar. It is the politics of party political struggles and elections. It is the politics of ethnically designated

political party struggles and demands for so-called group 'rights', a dubious legal but powerful political claim.

Those who practice National politics are obligated 'to hold the ring', as the Indian Civil Service and British Indian Army said during the colonial period, in order for partisan politics to take place. Of course, in reality, holding the ring and governing are often the same thing. The ring, the constitutional order, establishes what are considered to be legitimate or illegitimate political issues. It defines the game we all play. Just as the framers of the first constitutional order – the American constitution – understood when they ensured the 'rabble' could not have effective access to power. The myth of the constitutional bifurcation of politics is the contradiction built into the system which the old socialist order failed to resolve and it fell as a consequence. The post 1988 military regime resolved this contradiction by denying there were any lawful contentious politics.

Many, if not most, of those involved in what is called partisan politics believe that the ring has been drawn in such a way that it excludes them from the prize of 'real', but undefined, power which they seek. Hence, the call to revise the constitution and the criticism that the National League for Democracy (NLD) and its leader, Daw Aung San Suu Kyi, have sold out to the military. This is also the source of the demands by so-called ethnic leaders for a new constitutional settlement or a second Panglong agreement, referring to the controversial legacy of a conference to unite the two halves of colonial Burma in 1947.

The practitioners of national power – the army and the bureaucracy – dominate a system which has created political stability – some would say political stasis – in Myanmar for 50 years. This is the system that General Ne Win created and General Than Shwe perfected, ensuring stability in the core institutions of the state – the army and the bureaucracy. The army and the bureaucracy are tasked by the 2008 constitution to protect and preserve the constitution away from the mob, the rabble. Hence the new capital, built to allow uncontrolled partisan politics outside of its quiet centre. Naypyitaw may be criticised by foreign experts as badly planned but not from the point of view of the army which designed it, it is perfect.

This system is described and analysed in Yoshihiro Nakanishi's new and important book *STRONG SOLDIERS, FAILED REVOLUTION*. He describes a system which ensures the stability of the regime by ensuring safe career paths for soldiers up and out into safe jobs in the bureaucracy, and now, probably, the private economy. It also ensures that no group of commanders can coalesce to threaten via a coup the position of the top man, Ne Win or Than Shwe in the past, Thein Sein today. They created one of the most stable political systems in an unstable world. Little noticed in the commentary on Myanmar in late March this year was the announcement that as many as 65 civil servants -- Directors General and Directors -- were given notice that their appointments in the civil service were about to end with the usual allegations being made of cleaning out the corrupt.

Soon there will be a reshuffle of senior army personnel as pressure from below builds for promotion within the expanded officer ranks. Hence room must be made in the civil service for the army officers who are retired. This ensures continuity of the career expectations which the army has come to expect. Promotion to the civil service is always a disappointment because it ends the chance of further military promotion. However, anything which would disturb this system would probably encourage instability in the army and threaten the continuity of the current political order.



So what are the new actors and institutions which need to be accommodated without disturbing the constitutional order? Primarily it is the new legislature, the *hluttaw*, composed the *pyithu hluttaw* (People's Assembly) and the *amyotha hluttaw* (Nationalities' Assembly), meeting together as the *pyihtaungsu hluttaw* (the Union Assembly). It has made a start. There has been lots of talk and some legislation but many important issues still remain unresolved after two years of apparent consensus on things like the need for a private sector in higher education and for taxation reform. In many ways, the legislature seems to be captured by vested interests which are keen not to rock the boat. There is talk of constitutional revision that does not necessarily address the question of whether Daw Aung San Suu Kyi can become President. More of the talk centres on powers of regional and state legislatures and whether there should be a switch to a system of proportional representation. Given the record so far of the legislatures, they are good at defending themselves but relatively ineffective at moving the bureaucracy. And the bureaucracy remains as slow and ineffectual as ever

Aung San Suu Kyi is also a new actor in her own right and brings the NLD with her. She seems increasingly to be enthralled in and with the existing order. She is doing nothing to threaten stability. She is actually doing very little indeed. Her party seems largely moribund despite its presence throughout the country. It has announced no policies but mainly goes along with things proposed by others in the legislature. The picture of her at Tatmadaw (Army) Day ceremony looking old, isolated, and chatting with a deputy minister for border affairs in his military uniform, is better than a thousand words. There is no evidence yet of policy thinking by her or her party, hence my belief that she will be led by the bureaucracy even if she ever comes to power. Moreover, the big businessmen who have been created in the past two decades have found a way to work with her as in joining her in making donations to renovate Yangon General Hospital recently.

Bringing the cease fire groups, ethnically-designated former insurgent armies, into the political fold seems to have largely occurred without creating any political instability. Thirteen major groups have reached new agreements with the Thein Sein government ensuring stability in their areas. Others have become Border Guards under army command. Factionalism within them remains a problem but even the Karen National Union/Karen National Liberation Army now has offices in government controlled areas, happily coexisting with the Thein Sein government. Other groups remain remarkably quiet and revising the constitution might give them a little more say in state governments at no threat to the core constitutional structure.

Increasing freedom of expression and more media outlets, including private daily newspapers, really does not change things very much. They provide more entertainment but journalists know to stay away from super sensitive subjects as they are uncertain of the limits of freedom. Also, they have their own business interests to protect. Deep seated social cleavages over religion and ethnicity will not be solved by this system, and the media freedom merely serves to exaggerate them. Perhaps a thousand persons have died and 200,000 dislocated since Thein Sein government came to power, and the government has had to move warily in order to ensure the maintenance of civil order.

The new constitutional order was not expected to solve all of Myanmar's ills. It was created to change the public political and economic institutions while preserving the existing order and maintaining state security. The so-called Rohingya question and the government report on it two weeks ago changes nothing. Anti-Muslim riots growing out of a gold shop deal in Meiktila

are the kind of thing that has happened frequently in Myanmar in the past, but because Western media merely concentrated on the nature of the former military regime, these deep seated social cleavages were ignored.. The fighting in the Kachin State between the army and the Kachin Independence Army (KIA) is the kind of thing the army has lived with for years and until the KIA leadership is satiated, will have to continue to try to manage without giving way on core issues. At the end of 2012, the year of great expectations, not much had really changed. Five months into 2013, I see no reason to revise that view.

As long as the centre holds, Myanmar will hold together which is the important point for the army and almost all the other actors. There seem to be no effective spoilers on the horizon. The West may demand more but they will not get much. And the kind of social mobilisation of the poor that the communists used to champion is passé with the current generation of exiles who themselves have been drawn into the net of epiphenomena. Whether the country will develop such that the few now rich will share a greater wealth with the majority is an unknown question. Myanmar could as easily, perhaps more easily, become another Nigeria, not another South Korea.

Before I conclude, allow me say a word on the international politics which surround Myanmar. Myanmar will assume the chairmanship of ASEAN. Prior to 1988, Myanmar joined no regional grouping or body. No state could be more neutral than Myanmar under General Ne Win. But ASEAN was and is largely seen in Myanmar as an institution designed to protect independence, not undermine it, in the post-Cold War environment. Since 1988, Myanmar has become reliant on China, too much so for many. Therefore, balancing with India, ASEAN and now the West is seen as helpful in regaining the independence that Myanmar achieved during the Cold War. But geography rules, as does money. Myanmar's government, despite its current language of openness and 'democracy', has its national pride. Its seeking a balance to China is not an open invitation to the West to attempt to subvert the existing order. That will be the temptation and it was tried in the past. It failed and it will probably fail again, but not before making many mistakes and perhaps forcing history to once more repeat itself, but in new forms

In summation, to talk of Myanmar becoming a democracy is to obscure more than to reveal. There are indeed changes in the country. These changes are assisting the country's economic development and the exploitation of its resources. Whether the public at large will benefit remains a question. There is more freedom of expression and publishing. This is important for improving the skill levels of the society. But much of it is just entertainment, a form of bread and circuses perhaps, primarily concerning the urban population. The countryside is little changed. There is construction and development, often government lead or driven. And also a new middle class of producers and consumers has been created, but that is the result of the last 25 years, not the last two.

Underneath all of these changes on the surface, which are observable, there are continuities and these are lasting. We should not expect otherwise. The laws of history, as Baron de Tocqueville demonstrated in his famous *The Old Regime and the French Revolution*, are not to be ignored. As he wrote in 1856:

*There might be dynastic changes and alterations in the structure of the State machine, but the course of day-to-day affairs was neither interrupted nor deflected. Everyone kept to the*

*rules and customs with which he was familiar in coping with the situations, trivial in themselves but of much personal import, which so frequently recur in the life of the ordinary citizen. He had to deal with and take orders from the same subaltern authorities as in the past and often than not, the same officials. For though in each successive revolution the administration was, so to speak, decapitated, its body survived intact and active. The same duties were performed by the same civil servants, whose practical experience kept the nation on an even keel through the worst political storms. These men administered the country or rendered justice in the name of the King, then in that of the Republic, thereafter in the Emperor's. And when, with the changing tides of fortune, the cycle repeated itself in the present century, the same men continued administering and judging, first for the King, then for the Republic, then for the Emperor on exactly the same lines.*

## **“THE BORDER CONFLICT WITH THAILAND: THE CAMBODIAN APPROACH AND ITS POSSIBLE SOLUTION”**

**Pou Sothirak, Executive Director  
The Cambodian Institute for Cooperation and Peace**

**Comments made during a Seminar on Major Challenges in East Asian Regionalism, Regional  
Integration and Cooperation, and Regional Security and Geo-Politic:  
Implications for Cambodia**

**Organized by the Cambodian Development Research Institute  
Phnom Penh Hotel, Phnom Penh 20 August 2013**

Distinguished Participants,

I am delighted to be invited by the Cambodian Development Research Institute to take part in this important seminar.

My presentation covers the Cambodian’s Border Conflict with Thailand.

### **INTRODUCTION**

The border dispute between Cambodia and Thailand has been entrenched by the historical legacy of the past and the sentiment of nationalism of the present. The dispute has led to a border conflict and is seen as the direct result of the domestic politics of both countries.

On the Thai side, the dispute ignited from a charge of treason by the royalist People’s Alliance of Democrat (PAD), also known as the “Yellow Shirt”, and the Democrat Party of Thailand against the successive governments of pro-Thaksin by accusing the latter of losing Thai territory to Cambodia.

On the Cambodian side, the Thai military build up at the border was seen as a direct national security threat. As a result, Cambodia has mobilized national support to defend its sovereignty from what it considered as the deliberate acts of Thailand’s aggression.

The border dispute stirred up widespread nationalistic sentiment from both sides, provoking bitter hostility between the two sides. The Military standoff had flared up, to the brink of war, damaging not only the bilateral relations between the two countries, but also threatening ASEAN’s unity and affecting its credibility to form a community by 2015.

I will give some background information on the root cause and how the dispute has evolved since early 1990s until the present day and discuss the scope of the dispute. I will describe the different approaches each country has undertakes to manage the dispute and identify some possible solutions. I will conclude on factors that shape and influence the different positions taken by both Cambodia and Thailand and highlight some consequences that might ensue during the course of the dispute.

## **BACKGROUND**

The root of the border dispute between Cambodia and Thailand stemmed from not only historical legacy of the past but also the complications arising from the emergence of patriotism in a political game played by local politicians in recent times.

The dispute should be understood in two phases: the period between the early 1900 and the ICJ's Ruling in 1962, and that between the 2006 coup in Thailand until today. In the earlier period, the border tension between Cambodia and Thailand was rooted in the arbitration by the ICJ in The Hague, which ruled in 1962 that "the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia".

The ICJ's decision was based on its review of the 1904 and 1907 boundary treaties between France (then ruler of Cambodia) and Siam (Thailand), and the works of the Franco-Siamese Mixed Commissions of Delimitation, as well as the maps prepared by the commissions. Major evidence used to arrive at decision was the Annex I Map, which revealed that the whole of the Preah Vihear complex as being on the Cambodian side. At the time of the ICJ Ruling, the Siamese authorities did not raise any objection of the Annex I Map between themselves and France or Cambodia when it had many chances to do.

In the period following the military coup which brought down Thaksin from power in 2006, the border dispute occurred after the World Heritage Committee's decision to list the Preah Vihear Temple as a UNESCO's World Heritage Site. The dispute which erupted in July 2008 was intrinsically linked to Thai domestic politics and the stirring up of nationalism from both sides accentually leading to the use of military force to protect national sovereignty and a few border clashes.

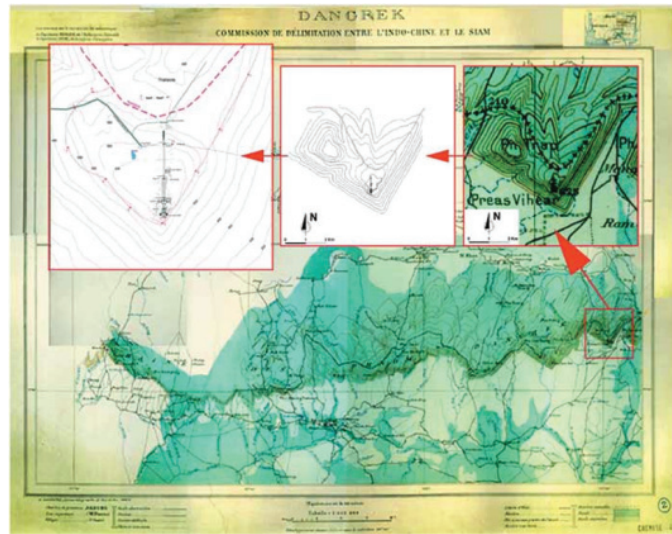
At the height of heavy military fighting in February and April 2011 the United Nations Security Council (UNSC) and the ICJ called on both Thailand and Cambodia to withdraw troops, refrain from military actions and resolve the dispute peacefully through dialogue with the help from ASEAN observers.

## **SCOPE OF DISPUTE**

The boundary dispute between Cambodia and Thailand concerned the shared land border which separates both countries and stretches approximately 499 miles.

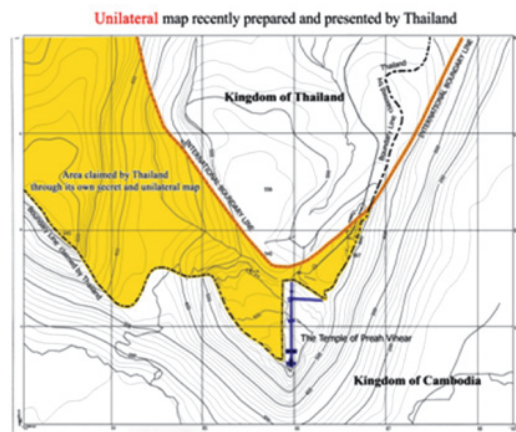
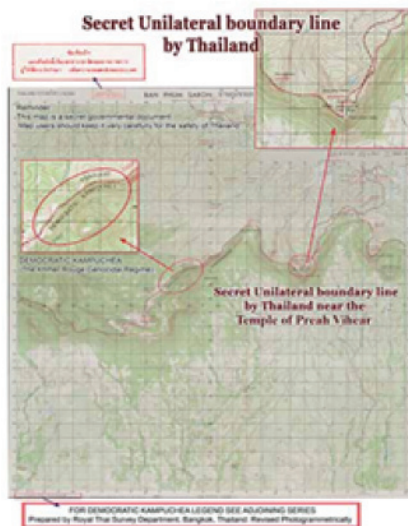
Although the land border dispute centred on the unfinished demarcation process of the border line by the Joint Border Commission (JBC) the most contentious area, however, is a piece of land of about 4.6 square kilometres surrounding the Preah Vihear Temple complex.

Cambodia only recognizes the ANNEX 1 Map, drawn up by France under the 1904 and 1907 Franco-Siam Treaties, which suggests a clear boundary line between the two countries.



ANNEX 1 Map: Area of the Temple of Phreah Vihear in the Dangrek range of mountains (Extrapolation from the map recognized by the International Court of Justice, 15 June 1962)  
 Source: A Challenge to Thailand’s Denunciation of UNESCO and the World Heritage Committee. A publication of The Cambodian National Commission for UNESCO, Phnom Penh 2009 (page 9)

Thailand relies on a unilaterally produced map, unveiled during the World Heritage Session in Christchurch, New Zealand in 2007, which shows the area of land claimed by Thailand.



Recent map for the same area unilaterally prepared and presented by the Kingdom of Thailand. The yellow colored area indicates the claim by Thailand

Source: A Challenge to Thailand’s Denunciation of UNESCO and the World Heritage Committee A publication of The Cambodian National Commission for UNESCO, Phnom Penh 2009 (page 16)

**BILATERAL APPROACH TO THE BORDER CONFLICT**

The border tensions have been easing substantially since the pro-Thaksin Pheu Thai Party won a landslide victory in the general election on 3 July 2011 with the coming into office by a new prime minister — Yingluck Shinawatra, Thaksin’s sister — in August of that year.

Despite the positive sign, both sides still could not agree on the correct approach to settle the border conflict.

At this point, I would like to highlight the different approaches taken by both countries, identify factors that have impinged on these approaches and discuss some of the possible outcomes.

There is a bilateral mechanism sanctioned by a Memorandum of Understanding (MOU), signed by both countries in June, 2000.

The MOU establishes a JBC to carry out a joint survey and demarcation of land boundary all along the Thai-Cambodian border and calls for a joint effort to demarcate the frontier line in accordance with important documents agreed upon between France and Siam in the 1900s. The JBC held its meeting several times to try to complete the survey and demarcation works. However, it encountered difficulties related to difficult terrain, complex survey operation problems and other serious factors related to mistrust between the two sides.

### **MULTILATERAL APPROACH TO THE BORDER CONFLICT**

Having lost confidence in the bilateral mechanisms and fearing that the dispute may escalate further, Cambodia looked to other multilateral approaches to settle the border dispute with Thailand.

Cambodia called for a meeting of the UNSC, mediation from ASEAN and a reinterpretation from the ICJ.

On 14 February 2011, the UNSC issued a statement expressing grave concerns and called on both sides to display maximum restraint. The UN Council members urged both sides to establish a permanent ceasefire and to resolve the situation peacefully through dialogue and asked for ASEAN's active role in this matter.

On 22 February 2011 Indonesia, as the chair of ASEAN in 2011, hosted an informal meeting to try to defuse the dispute. Indonesia was prepared to send observers to support Cambodia and Thailand in forwarding their commitment to avoid further armed clashes and to resume their bilateral negotiations as soon as possible.

### **MULTILATERAL APPROACH TO THE BORDER CONFLICT**

On 28 April 2011, Cambodia filed an application requesting interpretation of the Judgment rendered on 15 June 1962 by the ICJ in the case concerning the temple of Preah Vihear, together with an urgent request for the indication of provisional measures.

The Court has yet to give its ruling, but had given its decision on the indication of provisional measures on 18 July 2011 asking both sides to withdraw their troops from a temporary demilitarized zone, refrain from any armed activity directed at that zone, and allow Indonesian observers to have access to that zone.

More recently, the Court began its hearing on oral arguments in the dispute between Cambodia and Thailand over ownership of the land surrounding the Temple of Preah Vihear, from Monday 15 to Friday 19 April 2013 (<http://www.icj-ij.org/docket/files/151/17280.pdf>). The hearing was broadcast online.

I have observed the following:

- The Thai government has made striking efforts to publicize this event. The Thai public are encouraged to follow the hearing in French with English and Thai translations at [www.pravihearn.org](http://www.pravihearn.org).
- I was able to view some of the hearing on air on the afternoon of 18 April 2013 on a Thai TV station myself. I tried to switch to all the Khmer TV stations, but there was nothing reported. Later I learnt that there was no public coverage of the ICJ hearing on the Cambodian side.
- On 17 April, the Nation newspaper reported that there are about 1000 members of the Khon Thai Rak Chart (Thai Patriot) group gathered at Lam Takhong reservoir in Nakhon Rachasima's Sikhui district to express their objection to the on-going ICJ hearing. Similarly, the Nation reported that former PM Abhisit urged the Thai team to point out clearly the 1:200,000-scale map which Cambodia uses was not the work of the Joint Boundary Commission.
- On 16 April, the Nation reported that there are Thai Senators attending the court hearing. They are urging the Thai government not to accept the ICJ's decision, as the court tends to rule in favor of Cambodia.
- On 17 April, in an Editorial, the Bangkok Post reported that during the period of the military dictatorship of Gen. Thanom Kittikachorn in 1962 wanted to "fight to keep what is Thai". The Bangkok Post went on to report that 50 years on, government dissidents and noisy patriots are still with the Thai people. Gen. Paryuth Chan-ocha said two months ago that Thailand might not necessarily accept the ICJ's ruling. The force of Nationalism will protest and threaten Cambodians if the court decides in Cambodia's favor. The Bangkok Post Editorial concluded that "the well-prepared Thai legal team will fight for the country tonight at the proper venue - the ICJ."

## **POSSIBLE SOLUTIONS**

Up until now there are three approaches which have been pursued by Cambodia and Thailand involving the bilateral negotiation between the two countries, the regional mechanism centres on ASEAN to help mediate a settlement, and an international approach based on the ICJ to re-interpret its 1962 Judgment in the case concerning the temple of Preah Vihear and the urgent indication of provisional measures.

But the effectiveness of each mechanism to solve the border dispute remains unclear.

For the bilateral approach to succeed Thailand must appeal to Cambodia on the merit of this approach. Conducive atmosphere must prevail and the JBC must be able to resume its task under the framework of the 2000 MOU allowing genuine diplomatic efforts to take effect instead of using military means.

As for the achievement of the regional approach, both sides must be willing to accept ASEAN intervention for a durable solution. Without goodwill and concession by both Cambodia and Thailand, ASEAN is not equipped with any enforcement measures and can do little to settle the conflict.



For the multilateral approach to work, both sides must be prepared to accept the ICJ ruling. Cambodia appears willing but Thailand may not due to internal pressure. However, neglecting the Court decision may damage Thailand's international standing.

## **CONCLUSION**

Although the border situation has improved, a lasting solution still hinges on positive improvement in the internal politics of either or both countries.

The three approaches remain elusive and can take many more years, if there is no genuine compromise from both countries.

To achieve a desirable goal, the military threat must be removed and sincere dialogue must prevail.

Without a lasting solution to the border conflict between Cambodia and Thailand, the two countries cannot have good bilateral relations and conflicts may flair up again creating security concerns at the border and disturbing peace in the region as well as damaging the reputation of ASEAN.

With regard to the Court ruling at the end of the year, I do not think that the ICJ will issue a "straightforward decision" on the contested land adjacent to the temple of Preah Vihear. Cambodia should be prepared for this eventuality and have a back-up plan in place to deal with some of the unseen consequences that might prevail after the ruling of the ICJ. However, I believe in genuine diplomacy (bilateral and multilateral) as the way to solve this difficult issue.

## **“ASEAN-CHINA: SENSIBLE WAYS TOWARD AN ACCEPTABLE COC”**

**Pou Sothirak, Executive Director  
The Cambodian Institute for Cooperation and Peace**

**Delivered at the Regional Conference on ASEAN and the South China Sea:  
Achievements, Challenges and Future Direction  
20 September, 2013  
Raffles Hotel Le Royal, Phnom Penh, Cambodia**

- Your Royal Highness, Samdech Norodom Sirivudh, Chairman of CICP,
- H.E. Dr. Surakiart Sathirathai, Former Deputy Prime Minister and Former Minister of Foreign Affairs of the Kingdom of Thailand,
- H.E. Mr. Goerge Yeo, Former Minister of Foreign Affairs of the Republic of Singapore,
- H.E. Mr. Le Luong Minh, Secretary General of ASEAN,
- Your Excellencies, Distinguished Speakers, Ladies and Gentlemen,

I would like to extend a warm greeting and a very good morning to all of you. I am privileged to be with all of the eminent speakers and the distinguished participants to speak on the issues that have captured the attention of all of us yesterday and continue to be the center of our discussion again for today. In keeping with the central theme of this conference, I am hoping to contribute my views on how the Association of Southeast Asian Nations (ASEAN) and China could collaborate to achieve the much anticipated Code of Conduct (COC) amidst rising tension in the South China Sea.

I shall begin by describing the favorable progress we have seen so far and identifying some remaining challenges which still confront ASEAN in its efforts to try to implement the Declaration on the Conduct of Parties in the South China Sea (DOC) and move the process of drafting the Code of Conduct (COC) forward with China. I will, then, give my views on what could be considered the sensible ways to resolve the disputes over sovereignty claims in the South China Sea and suggest some policy options for ASEAN and China to cooperate in order to lower the risk of potential armed clashes arising from either miscalculation or unintended escalation of a dispute in the sea water. I will conclude my remarks on how ASEAN and China could resolve to achieve the binding and rules-based instrument that could ultimately serve the interest of both sides.

**Excellencies, distinguished participants, ladies and gentlemen,**

**Allow me to start by highlighting some progresses and remaining challenges on the disputes in the South China Sea as follows.**

ASEAN and China had just concluded its special China-ASEAN Foreign Ministers' Meeting to commemorate the 10<sup>th</sup> Anniversary of their strategic partnership in Beijing on 29 August 2013.

During the meeting, the discussions shifted around how to build a shared common strategic interest in the implementation of the China-ASEAN Comprehensive Strategic Cooperative Partnership by promoting cooperation in the fields of economy, trade and connectivity to the debates over the role of ASEAN in territorial and maritime disputes in the South China Sea between China and other claimant states.

The meeting also highlighted how have ASEAN and China been able to make substantive headway toward the implementation of the DOC and the starting up of the official consultation on the process of COC to prevent incidents in the South China Sea from escalating into bigger conflicts. These progresses include:

- 1- The signing of the DOC in Phnom Penh in November 2002, signaling a positive attitude from the part of China to allow ASEAN to play a constructive role in the South China Sea disputes. Since then, there had been numerous deliberations between the two sides on this contentious issue.
- 2- The Guidelines to implement the DOC had been agreed upon in 2011 between ASEAN and China which created more optimism in addressing the issues in the South China Sea.
- 3- Renewed commitments by ASEAN during the 45th ASEAN Foreign Minister Meeting held in Phnom Penh on 9<sup>th</sup> July 2012, expressing the necessity of implementing a DOC to finalize the COC in the South China Sea as the way to maintain regional peace and security.
- 4- The “ASEAN’s Six-Point Principles on the South China Sea” issued on 20<sup>th</sup> July 2012, calling for full implementation of the DOC and the commitment to the Guidelines for the implementation of the DOC with a desire to achieve an early conclusion of a Regional Code of Conduct by adhering to the full respect of the universally recognized principles of International Law, including UNCLO, self-restraint and the non-use of force, and peaceful resolution of disputes.
- 5- An agreement between ASEAN and China reached at the end of the Special China-ASEAN Foreign Ministers' Meeting in Beijing on 29 August this year, to start the formal consultation process of COC, to reaffirm their commitment to the full and effective implementation of the DOC, to carry out maritime cooperation and jointly maintain peace and stability in the South China Sea.
- 6- ASEAN and China have already agreed on the working process and modalities on how to move forward the COC as confirmed by the meeting in Suzhou, China on 13-14 September, 2013 of the Joint Working Group and SOM officials. This latest event provides more optimism for ASEAN and China to continue their consultation on the COC.

If both ASEAN and China can effectively maintain and vigorously pursue these promises, they will definitely enhance mutual trust and promote cooperation between themselves in the course of implementing the DOC, and work toward the final conclusion of the COC at the comfort level of all parties.

However, ASEAN has been confronted with the most divisive issue of maritime security and cooperation, while trying to maintain collective duty to manage one of the most difficult security relations not only among claimant states but between great powers by preventing the

emergence of regional hegemony – either US or China – and maintaining the independence of the smaller states in the region. The tensions created in the South China Sea have been considered as a serious regional flashpoint which could destabilize the region if not properly handled.

It is highly sensitive to China, the principle actor in the maritime and territorial disputes and the key party to the COC with ASEAN, who has taken a cautious position to move forward carefully so as not to jeopardize “its core interest”. China has been resisting the internationalization of the disputes in the South China Sea. It does not want the disputes to be settled through a third party or taking up arbitration or mediation but prefers, instead, bilateral negotiation.

As evident to this effect, Foreign Minister Wang Yi recently had revealed the Chinese attitude and proposed that a COC should proceed with four key elements as follows:

- 1- Each party should have a realistic expectation as the formulation of the COC will be a process of sophisticated and complex coordination. Therefore, it is neither realistic nor serious to talk about a “quick solution”.
- 2- To reach a consensus on a COC, the parties should draw inspiration from the DOC to push forward the consultation on a COC. Broader consensus can take care of the interests of all parties and ensure that no party imposes its will on others.
- 3- China and ASEAN should prevent non-regional countries from interfering in their disputes. Interference of external parties has let down the efforts to give shape to a COC. Both sides should make concerted efforts to build an atmosphere conducive to the formulation of a COC.
- 4- The two sides should take a step-by-step approach to formulate the COC as the disputes in the South China Sea are extremely sensitive and can not be resolved overnight. The COC must be done within the framework of the DOC, and the former is not intended to replace the latter.

The Chinese statement on no quick-fix to reach broader consensus without external involvement through a step-by-step process have distracted other claimant states’ expectations. This latest Chinese posture has also become a major challenge for ASEAN to move forward in the drafting of the binding code at a more desirable speed; hence the much anticipated COC remains far from being materialized any time soon.

**Distinguished participants, ladies and gentlemen,**

**Now, I would like to give my views on what I consider the sensible ways forward for ASEAN and China to deal with the contentious issues of the South China Sea as follows.**

Although ASEAN and China are still at odds over the approaches to the South China Sea disputes, there is good reason to believe that the two sides have endeavored to seek an appropriate action to move forward in good faith. Recently Beijing has signaled its strong interest in joining the ASEAN’s deliberation in the formal consultation process on the much anticipated COC.

In keeping up with this momentum and as ASEAN and China have been keen in focusing on developing norms, building mutual confidence and promoting cooperative behavior, as seen in the 2002 DOC, the sensible ways to move the COC process forward should proceed based on the following practical steps:

- 1- Bearing in mind that the progress is likely to be slow, ASEAN should pursue the objective in developing a set of guidelines which takes the Chinese concerns into consideration, such as how to proceed on a step-by-step process without external involvement, so as to encourage China to agree to resolve the dispute peacefully and ease tensions in the South China Sea.
- 2- ASEAN should prioritize its engagement with China on a code of conduct in the South China Sea by focusing on issues such as building trust, preventing incidents at sea, managing any crisis through diplomatic means, and encouraging joint development.
- 3- While keeping in mind that a broader consensus must be reached at the comfort level of all involved, ASEAN should move first on the implementation of confidence-building measures and promote further consultation with China. These measures should focus on increasing exchanges and discussions at all official levels aimed at reducing misperceptions and encouraging mutual confidence, establishing a hot line at the operational level between navies and coast guard units of regional states, agreeing on prior notification of military exercises in the South China Sea, and facilitating the rescue at sea of people and vessels in distress.
- 4- ASEAN and China should refrain from provocative actions. As such all claimant states should stay away from occupying uninhabited islands and land features in the South China Sea. The goal here is to strengthen crisis management capabilities and to lay the groundwork for agreement on rules and procedures aimed at defusing tensions.
- 5- ASEAN must manage its inherent differences quietly so as to foster stronger intra-ASEAN unity and strengthen its centrality which could provide opportunities for external actors to gain leverage with the regional grouping and strike a common purpose with all involved in keeping the region of Southeast Asia peaceful and prosperous.
- 6- The development of the COC must correspond with international legal norms, such as the 1982 UN Convention on the Law of the Sea. Though the dispute may not be resolved completely in the short term, such an approach will ease tensions with the international community, which relies on South China Sea trade route. In this way, ASEAN will not only play an important role in regional diplomacy, it will also help manage the economic interests of non-contending countries as well.

## **CONCLUSION**

There are countries within the region who express concerns over the assertive posture and the growth of China’s military power. Some nations even question the Chinese regional intention.

China has embarked on a substantial modernization of its naval forces as well as maritime capabilities to enforce its sovereignty and jurisdiction claims in the South China Sea, by force if necessary. China has engaged in a consistent strategy to deter any external influence and prefers to negotiate bilaterally with each of the claimant states.

It is therefore not an illusion to assume that the conflict in the South China Sea remains a possibility.

To subdue the tensions and prevent territorial maritime disputes from breaking out in the event of miscalculation, ASEAN and China must be able to manage the situations arising from competing territorial and jurisdictional claims, particularly over rights to exploit the region's possibly extensive reserves of oil and gas.

China has revealed to Southeast Asian countries its attitude toward the proposed COC that both sides should have realistic expectations, work together to eliminate disturbances by creating mutual trust, prevent interference from outside parties, and adopt an incremental approach before settling on a final accord.

China and ASEAN member countries have discussed the COC several times, agreed to work on the binding code within the framework of the implementation of the DOC, and stressed that all parties need to create the necessary conditions for the signing of the COC possible.

As the formal consultation has just started this month, ASEAN needs to show the unwavering unity so as to allow the “ASEAN way” of diplomacy, involving consensus-based decision-making which fits well with the direction of Chinese foreign policy to work out an effective solution.

A unified ASEAN will ensure that the grouping is in the driver's seat of the regionalism process, a platform that can help China assure the region that it has no hidden agenda behind its “peaceful rise”.

Therefore, it is in everyone's interest to solve the dispute peacefully in the South China Sea, permitting the free passage of shipping which account for as much as over one-third of the world's seaborne trade travel through this important sea-lane every year and allowing the eventual development of oil and natural gas investment in the area.

ASEAN and China must look carefully at the issues over which there have been contentions and let the goodwill between them outweigh any territorial and maritime claims to initiate a region-wide confidence building in order to promote trust and cooperation which will help to neutralize the harmful security environment and ease the tensions in the sea disputes.

The COC remains the most important binding regional agreement and if achieved, ASEAN will strike another landmark success and can continue to assume a central role in regional cooperation with China, which have vested interests in seeing the South China Sea as a zone of peace, stability and prosperity.

## RETHINKING THE RELEVANCE OF PREVENTIVE DIPLOMACY IN ASEAN AND POLICY RESPONSES

Khoun Theara\*

**This article has been condensed from his research paper as partial fulfillment of his honor Bachelor Degree in International Studies in 2012 at the Institute of Foreign Languages, Royal University of Phnom Penh**

*The Association of Southeast Asian Nations (ASEAN) Security Community which aims at harmonizing regional security cooperation and peaceful settlement of conflict will come into effect by 2015.*

*However, against this backdrop, its attempts to solve its remaining regional conflicts among its members become less relevant with the application of its traditional tool of preventive diplomacy such as non-interference, non-use of force, Musyawarah and Muafakat.*

*This research paper concludes that in the early stage of its formation, ASEAN could effectively and timely prevent the eruption of inter-state conflicts among its members with the application of its informal and non-legalistic preventive diplomacy mechanisms. However, changing dynamics of regional and global security environment including the détente of two super power polarities, the emergence of China as a regional hegemon and the US's pivot to Asia, and most prominent of which, the end of Cold War, has made ASEAN gradually lose its relevancy in the prevention of its intra-mural conflicts.*

*A deeper investigation into these ASEAN conflict management experiences provides three fundamental common grounds for this adverse development, that is, strict adherence to non-interference principle, deficiency of the sense of regionalism in conflict prevention, and available yet inapplicable regional conflict resolution measures. Therefore, fixing these fault lines will make a stronger and more secure ASEAN.*

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\*KhounTheara, Research Fellow at Cambodian Institute for Cooperation and Peace (CICP). Research fields: Transitional justice, Khmer Rouge, ASEAN and regional security

## INTRODUCTION

Fundamentally, the Association of Southeast Asian Nations (ASEAN) has been created in response to its members' security need with regard to effective intramural conflict management and avoidance, peaceful conflict resolution and external threat deterrence (Thearith, 2010 & Acharya, 2001). Against this background, to realize the aforesaid visionary objective, regional norms, institutions and various conflict management frameworks have been set forth collectively known as the ASEAN Way of conflict prevention. The ASEAN Way of 'consensus and consultation- based approach to conflict, non-threat of force in conflict resolution and its non-interference principle' have become the cornerstones of ASEAN-ized norm settings and identity building which have been institutionalized and codified into such documents as the Treaty of Amity and Cooperation in Southeast Asia (TAC), The Zone of Peace, Freedom and Neutrality (ZOPFAN), ASEAN Regional Forum (ARF), ASEAN Charter and so on. Historically, these core norms and principles constituted an integral component of the ASEAN **Preventive Diplomacy (PD)**<sup>1</sup>, so conflicts among its member have been managed and prevented from occurrence or escalation into intramural wars. For this reason, ASEAN thus has been acknowledged and raised its profile for its successful preventive diplomacy that has kept this region from inter-state war since its establishment (Areethamasirikul, 2011).<sup>2</sup> However, the effectiveness of ASEAN-ized preventive diplomacy has been questioned and challenged by the most recent border conflict between Cambodia and Thailand over Preah Vihear Temple in which a series of armed-clashes between the two countries have occurred since 2008. In addition, the disregard of the existing regional mechanism, that is, TAC High Council as a conflict settlement mechanism substituted by the decision of ICJ to which its members referred in the cases between Malaysia and Indonesia over Sipidan and Litigan (2002), and Singapore and Malaysia over Pedra Branca (2008) have been critical regarding the relevance of ASEAN preventive diplomacy to the security interest of its members.

Therefore, the critical review of ASEAN's experiences in conflict prevention by examining their efforts in addressing inter-state security issues in the region will be at the center of this research paper. More specifically, this research article will assess the relevance of ASEAN preventive diplomacy in solving conflicts arising amongst/between its members.

### I. DEVELOPMENT OF PREVENTIVE DIPLOMACY IN ASEAN

In his landmark 1992 report *An Agenda for Peace*, the former UN Secretary-General Boutros-Ghaliun ambiguously underlined the need for regional organizations to assume a more active role and responsibility with regard to their region-specific security issues or conflicts:

*[...] the Security Council has and will continue to have primary responsibility for maintaining regional peace and security, but regional action as a matter of decentralization, delegation and cooperation with the United Nations could not only*

<sup>1</sup> Preventive Diplomacy: measure to prevent disputes/conflicts between states from emerging, to prevent such disputes/conflicts from escalating into armed confrontation, and to prevent such disputes and conflicts from spreading (Acharya, 1996).

<sup>2</sup> Table 1 in Appendices shows that prior to Cambodia-Thailand border conflict, there is no armed clashes among ASEAN members since its inception in 1967.



*lighten the burden of the Council, but also contribute to a deeper sense of participation, consensus and democratization of international affairs (Boutros-Ghali, 1992).*

In this sense, shouldering a greater role and responsibility in its respective regional affairs has been proven to be one of ASEAN's political agenda which is rendered into its key priorities of conflict prevention, management and resolution in the Southeast Asia region. It is worth noticing that since its inception, ASEAN has undergone significant structural changes in the international political environment ranging from detente of the two superpower polarities, the emergence of China as a hegemon regional power, the U.S pivot to Asia and the most prominent of which, the end of the Cold War (Anthony, 1998).

Despite these swift changes and uncertainties, ASEAN has still remained resilient in managing and overcoming these changing dynamisms, having lasted for the past four decades. ASEAN has therefore been deemed as a successful regional organization given its ability to manage, to a great extent, the intra-mural threats to the political stability and security in what was once a war-torn region by employing its non-binding conflict resolution mechanisms. As cited in Anthony (1998), ASEAN has set an outstanding precedent of how a newly emerged regional coalition can, over the years, develop a "tangible set of informal but effective procedures [...] in policy behavior by the leaders of its respective member-states and has built up shared visions and expectations related to regional security".

Informalities in conflict prevention in such forms as consultation and consensus, non-interference, networking, and third party mediation are collectively known as the ASEAN Way (Acharya, 2001). Not only does ASEAN have these informal and traditional mechanisms of conflict prevention, ASEAN has also institutionalized its conflict management mechanisms through both rule-based documents and institutional buildings. These include the Bangkok Declaration, TAC, ZOPFAN, Declaration of Conduct (DOC), Code of Conduct (COC), ARF and so forth.<sup>3</sup>

Despite the fact that ASEAN has its own distinctive ways of thwarting the inter-state conflicts among its members, both informal and formal mechanisms which are key features of preventive diplomacy at UN level, prior to early 1990s, the term 'preventive diplomacy' had not been widely used and referred to in ASEAN context. However, due to the cumulative importance of preventive diplomacy for maintaining peace and security in the region, the discussion of preventive diplomacy in ASEAN materialized in 1993-94, firstly at an unofficial track-II level with a series of conferences and roundtable discussions on—ASEAN-UN Cooperation on Peace and Preventive Diplomacy (Hwee, et al., 2007). With the formal establishment of the ARF in 1994, discussions on preventive diplomacy were efficaciously moved beyond Track-II to Track-I. Moreover, the definitional issue and the scope of preventive diplomacy were proven to be even more controversial at the official level of ARF. Some ARF members such as China were discontented with the inclusion of intra-state disputes in the coverage of preventive diplomacy (Ibid.). As a consequence, despite weighty inputs from the Track-II discussions, it still took the ARF many years to unanimously conclude the ARF paper on preventive diplomacy. Eventually, at the 8<sup>th</sup> ARF in 2001, the concept of preventive diplomacy eventually was agreed upon by all the member states.

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<sup>3</sup> See **Section 2.3** for more detail description of formal and informal ASEAN'S PD mechanisms

The term is thus operationalized as “consensual diplomatic and political action taken by sovereign states with the consent of all directly involved parties to help prevent disputes and conflicts from arising between states [...], to help prevent such disputes and conflicts from escalating into armed confrontation, and to help minimize the impact of such disputes and conflicts on the region (ARF, 2001).” ARF operationalizes ASEAN preventive diplomacy measures as “confidence building efforts, norm buildings, enhancing channels of communication and role of the ARF Chair”. These measures should be in accordance with 8 principles, that is, ‘diplomacy, non-coercive, timely, trust and confidence, consultation and consensus, voluntary and in conformity with international laws’ (Ibid.).

## **II. MECHANISMS OF ASEAN PREVENTIVE DIPLOMACY**

In theory, a wide range of mechanisms are available for conflict prevention and management including, but not limited to, community building, deterrence, non-intervention, norm-building, conflict institutionalization, mediation, isolation, intermediation, intervention and internationalization of conflict resolution (Anthony, 1998). However, not all of these mechanisms have been used or are applicable in ASEAN due to historical, geographical, cultural and political considerations underneath its operations. Up to date, there is no comprehensive mechanism that ASEAN has documented as its preventive diplomacy approach in spite of using such vague and subjective terms as confidence building, norm-setting, institutional building and so on. The Attempt to investigate into the past experiences in which ASEAN was involved in regional conflicts emerged with two main aspects of the ASEAN approach to preventive diplomacy - first, by the formal mechanism as articulated in a variety of ASEAN declarations, treaties and institutional arrangements. Besides those binding legal instruments, the other formal mechanism includes those principles outlined in Treaty of Amity and Cooperation in 1976, especially the non-interference policy, and the non-use of force and peaceful dispute settlement are also strong bases for minimizing confrontations of conflicts among ASEAN members. However, historical narratives of this organization reveal that legal and institutionalized mechanisms of conflict termination are marginally materialized, but instead, to a great extent, on its “ASEAN Way” of “informality, compromise, consensus building, ambiguity, inclusiveness, avoidance of strict reciprocity, and denial of legally binding obligations” (Acharya, 2001). These informal mechanisms include, but not are limited to, diplomacy of accommodation (adherence to ground rules and self-restraint), *Musyawah* (consultation) and *Muafakat* (consensus), and third party mediation (Anthony, 1998).

## **III. RELEVANCE OF ASEAN PREVENTIVE DIPLOMACY**

To assess the relevance of ASEAN’s preventive diplomacy and to understand how it is applied in management of inter-state conflicts involving ASEAN members, the following three outstanding cases will be used as the bases of analysis.

### **A. SABAH ISSUE (1962-?)**

With regard to conflicting historical and political bases, Sabah, which is currently integrated into Malaysia, was once subject to a territorial dispute between the Philippines and Malaysia.

However, it is notwithstanding that despite occasional diplomatic severance and political resentment, the issue has never intensified to any armed clash or military encroachment. This positive result is extensively owed to the ongoing efforts of ASEAN in conflict prevention.

Although the Sabah crisis worried other ASEAN members (Thailand, Singapore and Indonesia) in terms of the future of the newly established ASEAN, initially, they cautiously avoided raising any opinions on the issue that might be interpreted by both disputing countries as an indication of partiality. They believed that their muted stances could deprive the Philippines of international support it required to commendably pursue its claim and deactivate further moves of President Marcos in exacerbating the problem (Jorgensen-Dahl, 1983).

Although Thailand and Indonesia provided their good offices in urging the two parties to reach a negotiated agreement, both attempted not to be directly involved in the dispute. However, their identical approach to limit repercussions of the dispute on the amateur organization proved to be unrealistic. As bilateral negotiations in June, 1967 between Manila and Kuala Lumpur failed, followed by the severance of their diplomatic relations and Malaysia's denial to participate in any further ASEAN meetings where the Philippines might raise the Sabah issue, the connection between ASEAN and the Sabah problem finally could no longer be sidelined (*Ibid.*).

Therefore, in its early attempt to contain the crisis, in the second ASEAN Foreign Ministers' meeting in Jakarta in August 1968, other ASEAN members urged both sides to exercise utmost restraint and to renormalize their relations for the sake of ASEAN. In response, the two parties expressed their mutual consent on a cooling-off period without reaching consent on what that really meant (Noble, 1973). Despite the agreement, their relations suffered a few months later when the Philippine Congress adopted a unilateral act delimiting Sabah in the Philippine boundaries (Weatherbee, 1987)<sup>4</sup>. Matters worsened when Manila sent a directive to its delegates attending international meetings to reserve their participation regarding Malaysia's legitimacy to represent the state of Sabah (Anthony, 1998). The reservation was firstly articulated at a meeting of the ASEAN Permanent Committee on Commerce and Industry in September 1968. In response, the Malaysian representatives stated that only if such a reservation ceased, could it participate in any further ASEAN meetings (*Ibid.*). However, the Philippines ignored this ultimatum, which in turn led to their bilateral diplomatic severance in the following month. The relations were restored on December 16, 1969, during ASEAN's third ministerial conference when both parties agreed to another cooling-off period, thereby effectively placing this contentious issue on the sidelines (Samad & Bakar, 1992). This re-engagement was greatly due to political instability brought about by the racial riots in Malaysia in May and the forthcoming presidential elections in the Philippines in November 1969 (Anthony, 1998).

Later on, there had been optimism for a breakthrough at the 1977 ASEAN Summit when President Marcos orally relinquished the claim. However, that rhetoric expression had never been rendered into concrete action due critically to the heightening in the Muslim rebellion in the southern Philippines hindering the government from nullifying Republic Act No. 5446 (Weatherbee, 1986; Samad & Bakar, 1992). The effort was also made in the Aquino

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<sup>4</sup>Philippine Base Line Act of 1968 (Republic Act. No. 5446) states specifically (Section 2) that the Republic of the Philippines has acquired "dominion and sovereignty" over Sabah.

administration, which endeavored to settle the issue and renounce the claim through revision of existing legal and constitutional provisions. The attempt was once again not successful as Sultan Jamalul Kiram III denounced the drafted amendments as arguing that these endorsements had no prior consultation with him, negating her diplomatic victory at the following 1987 ASEAN Summit (Samad & Bakar, 1992). As a result, in spite of the Philippines' inaction, there is no official renunciation of the claim, and occasionally the claim is revitalized for some reasons. For instance, in 2002, resentment with Malaysia's treatment of Filipino illegal immigration in Sabah, President Arroyo formed a functional committee to review the claims; however, it did not translate into real action (Weatherbee, 2008). It seems that both Malaysia and the Philippines are sensibly satisfied with the *status quo*, thereby allowing them to focus on economic development and enjoy substantial benefits from their membership in ASEAN, respectively.

In short, although the Sabah issue has not completely ended under its leadership, ASEAN's role in conflict prevention in the case of Sabah undeniably has to be commended. By examining the ASEAN's experiences in dealing with the issue of Sabah, there emerged two prominent informal preventive diplomacy mechanisms. First, regarding 'third party mediation', the rest of ASEAN members, especially Thailand and Indonesia both were instrumental in bringing the Philippines and Indonesia to the subsequent track-I and track-II negotiation until confidence was firmly built between the two parties. Also, the norm of exercising utmost self-restraint contributes very much to this peaceful environment which might otherwise escalate into armed hostilities. As a result, these informal approaches in the absence of formal rules allowed both conflicting parties to manage the problem in a non-confrontational manner.

## **B. SOUTH CHINA SEA (SCS)**

Given the complexity of the claims, and the economic and geopolitical significance, the South China Sea issue has the potential to trigger an armed conflict, or even more disastrously, erupt into inter-state war in East and Southeast Asia, if not properly managed and resolved. In this regard, the role of ASEAN in conflict prevention and transformation, characterized by Confidence-Building Measures (CBMs) both formal and informal and agreements on fundamental principles and code of conduct will be examined to understand the extent of its effectiveness.

Early efforts to moderate tensions and Chinese aggressiveness in SCS dispute is manifested in the form of track-two and informal consultations which were introduced by Indonesia in 1990, which is known as the "Workshop on Managing Potential Disputes in the South China Sea." Since then until 1998, this Workshop was held annually as an informal dialogue on technical rather than political issues through which individual representative and specialists from outstanding claiming states exchanged their discussions and recommendations on aspects of maritime cooperation, security, and resource management and other confidence building measures regarding conflicting in the South China Sea (Snyder, 1996). The workshops extensively functioned as successful attempts to build mutual trust and confidence amongst the claimants in the absence of formal rules and multilateral dialogue which in turn contributed to a peaceful coexistence regarding SCS conflict at least in the short-run. As Swanstrom explained:

*Informal negotiations handle sensitive issues better than formal negotiations, since the parties can avoid concrete decisions and the discussion can continue with other questions if so needed. By using informalities, the states have effectively avoided addressing the nationalist sentiments in all countries.*

However, relative peace as a result of these informal confidence building conferences did not last long. In February 1992, just before the third workshop, held in June 1992, China's National People's congress adopted a "Law on Territorial Waters" that reasserted China's claims to "undisputed sovereignty" on Spratlys and Paracels and authorized the use of military force to prevent other states from occupying the islands (Hyer, 1995). The following May, Beijing contracted Creston Energy Corporation, an American company to explore for oil and natural gas in the Vanguard Bank on Vietnam's continental shelf, and pledged the use of its navy to protect the company (Ibid.). In response to this unilateral, abusive act, ASEAN came out with a resolution at the 23<sup>rd</sup> July 1992 known as "Declaration on the South China Sea" calling for the peaceful settlement of disputes and exercise of self-restraint among contending claiming states, and comply with principles enshrined in TAC (Valencia, 2002; Ghosal, 2003; *et al*). Underlying the idea behind the declaration was primarily the maintenance of the status quo through the introduction of CBMs following "no further creeping annexation, no further occupation of islets or features at sea, no illegal fishing, no additional troop deployment and no espionage or other intelligence gathering activities" (Ghosal 2003). China then also subscribed to the declaration's principles, although it was originally not a party to it.

In this regard, these workshops arranged by Indonesia were proven to have some limitations in building confidence among claimant states. The first limitation is reflective to China's extreme position not to engage in multilateral, formal or a binding framework with a strong pre-occupation with the concept of "unarguably sovereignty" (Thearith, 2009). Second is its failure to build China's confidence concerning the neutrality of Indonesia in the SCS conflict since Indonesia is also a claimant state. This was illustrated in the Mischief incident in 1995<sup>5</sup> in which China moved adjacent to Indonesia's claimed maritime territory triggered a strong reaction from Indonesia. China in turn reacted by canceling all the formal negotiations that were scheduled and insisted that it should be just an "academic exchange" (Swanstrom). Given the limitation of these organized workshops in confidence building measures, ASEAN then endeavored to institutionalize the issue by moving beyond just workshops to a multilateral framework. As a result, the ARF was formally convened in 1994 with its principle attempt to engage China in multilateral discussion on SCS issue (Ibid.). However, despite being an ARF consultative partner, China rejected to discuss SCS conflict on the agenda. The rejection was basically shaped by China's traditional "Three No" strategy to SCS dispute: 'No' to internationalization of the conflict, 'No' to multilateral negotiations, and 'No' to specification of China's territorial demands (Valencia, 1995). In this sense, engaging itself with ARF would potentially internationalize the issue with involvement of external powers particularly the U.S. and Japan (Thearith, 2009).

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<sup>5</sup> Mischief incident erupted in 1995 when China built infrastructure on a submerged reef that in the Spratly islands and well within the Philippines' Exclusive Economic Zone (EEZ) led to the first time that China and the Philippines engaged in hostile confrontation.

Along with its opposition to ARF, the 1995 Mischief Reef incident questioned the expansionist behavior of China by many ASEAN claimant states, particularly the Philippines and Indonesia which in turn pushed China to accept formal, multilateral dialogue. The first ASEAN-China Political Consultations were held formally in Hang Zhou in 1995 (Baviera, 2003). The meeting marked a significant move for China from bilateralism to multilateralism where ASEAN collectively engaged China in direct dialogue on the SCS dispute. This meeting then became the basis for subsequent ASEAN-China dialogues<sup>6</sup>. During the second annual ASEAN-China Political Consultations held in Indonesia in 1996, China indicated that it considered this forum appropriate and legitimate in addressing the SCS issue, but still refusing to address it in the ARF (Ibid.).

Surprisingly, however, in April 1997, Beijing agreed to place SCS issue on the ARF agenda for discussion and more plausibly recognized that there were overlapping claimed territories on the SCS, a move to which China have never consented before (Thearith, 2009). He (Thearith) then provided three fundamental justifications for this move. First, changing China's position was partly due to the increased confidence building during the meeting of ARF Inter-Sessional Support Group in Beijing on 6-8 March, 1997 as well as during various informal bilateral talks and negotiations between China and individual claimant states. Second, China might have believed that its repetitive boycotts to raise the SCS dispute on the ARF agenda could have negative implications on China's peaceful rise, and especially alienate itself from various discussions of its security interests such as those concerning the Korean peninsula and Taiwan. Last but not least, China might also contemplate that ARF was just a talk-shop to which consensus was strictly adhered in decision making; therefore, China could merely resist to respect decisions of other ARF participants if they conflicted with its national interests. The multilateralization of the SCS issue in ARF eventually allows the forum *per se* to minimize the scenario of accidental conflicts in the conflicting region by "promoting military confidence building and transparency measures, including prior notification of military exercises, invitations to observe military exercises, and clear declarations of military objectives and intent through the publication of defense white papers" (Snyder, Glosserman & Cossa, 2001).

However, just prior to the second ASEAN-China Summit in Hanoi in 1997, the tension between China and the Philippines revived following China's unilateral decision to expand the previous constructions on Mischief Reef into a more stable multi-floor building described by the Manila as "emerging military facility" (Baviera, 2003). To prevent further escalation of conflict and China's assertiveness, ASEAN Heads of State, especially the Philippines during the Summit expressed their desire of having a regional code of conduct on SCS (Ibid.). However, China still insisted on bilateral negotiations and was unwilling to abide by the binding code of conduct. China's firm stance made the Philippines understand the necessity for U.S. engagement in the region to counter-balance militarily with China (Thearith, 2009).

Upon ratification by the Philippines Senate in 1999, the RP-US Visiting Forces Agreement (VFA) became effective. This agreement is a mutual defense and alliance treaty, which authorizes the U.S. to use the Philippines military facilities and trained Filipino armed forces. This in turn was the alarming wake-up call for China to soften its position and accept a certain

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<sup>6</sup> These subsequent dialogues regarding SCS issue include ASEAN-PMC, ASEAN-China Summit, ASEAN+3, ARF and several other ASEAN-China official meetings.

degree of behavior; otherwise, with the presence of U.S. military, it would encounter enormous risks and repercussions not only in SCS but also over Taiwan (Thearith, 2012). This eventually led China and ASEAN members to the endorsement of the Declaration on the Code of Conduct of Parties in the South China Sea (DOC) on November 4<sup>th</sup>, 2002, indicating a remarkable shift of China's position towards the conflict settlement on SCS. However, so different from its precedent regional legal documents, DOC is just the expression of the political will of parties refraining from using force with no binding rules and vibrant defined territory of each claimant on SCS. Because of this impreciseness, ASEAN members attempted to develop DOC to a more binding legal instrument with the evolution to COC. However, up to date, the code still remains in the drafting and discussion due to conflicting position between China and ASEAN and among ASEAN members themselves regarding the extent to which the code shall be covered.

As discussed above, the ASEAN's efforts in conflict prevention on SCS lie primarily on CBMs. In this context, there are three fundamental CBMs used by ASEAN, that is, international agreements, formal and informal discussions. Their importance to confidence building shares in distinctive ways. Whereas international agreements such as the ASEAN Declaration on South China Sea and DOC are of high value in ensuring the predictability and regulating behavior of parties to the conflict, formal and informal meetings help to build trust and mutual understanding amongst parties concerned thereby, reducing tensions, misperceptions and the likelihood of going to war.

### **C. CAMBODIA-THAILAND BORDER CONFLICT**

The applications of ASEAN PD set forth in the previous two cases of Sabah and SCS were arguably effective in the sense that no armed hostilities erupted (Sabah), or at least the confrontation and scale of intensity was managed and minimized (SCS). On the contrary, in the case of Preah Vihear Temple, ASEAN evidentially failed to prevent the escalation of armed conflict. The following analysis seeks to investigate the key to this failure of ASEAN's approaches to conflict inhibition.

Between July 2008 and February 2011, when there were a series of deadly armed conflicts between Cambodia and Thailand, ASEAN had numerous opportunities to intervene to improve the situation, but it did not. The failure of timely intervention reflected the reluctance of other ASEAN members to get involved and, most importantly, Thailand resisted 'internationalization' of the conflict. The strict adherence to a 'non-interference principle' as a result made ASEAN lose the chance to prevent fatal violence.

Following several days of military standoff, at the 2008 ASEAN Summit, Cambodia formally sought the engagement of ASEAN for the first time by sending a letter to H.E. George Yeo, Singaporean Foreign Minister to propose the formation of an ASEAN Inter-Ministerial Group composing of Foreign Minister of Indonesia, Singapore, Vietnam and Laos in order to help find a peaceful solution to end the crisis and confrontation before it developed to a large-scale conflict (Vannarith, 2009). Then several ASEAN members, particularly Indonesia, expressed their willingness to play this mediation role in the conflict. However, after the consensus could not be reached following Thailand Deputy Prime Minister Sahas Banditkul's insistence for the dispute to be settled bilaterally (Thearith, 2009). This failed initiative upset the Cambodian government and doubted the role of ASEAN in this conflict.

The disappointment was expressed by the Cambodian Foreign Minister Hor Namhong, when he stated that the failed initiative to prevent the eruption of conflict made Cambodia have no better alternative than to seek intervention from the UNSC to prevent the *de facto* occupation over the disputing areas by Thai armed forces (Ibid.). However, the Cambodian government then deferred the complaint to UNSC upon realizing the consensus might not be reached at UNSC (Thearith, 2009) and taking into account the ASEAN's request with a statement of Singapore's Foreign Minister, George Yeo: "If the parties concerned are too quick to resort to the [Council], this would harm to ASEAN's standing and may actually make the resolution of the issue more difficult" (CGA, 2011).

The failure to engage ASEAN and UN, as a result, deteriorated the bilateral Cambodia-Thailand relations as cumulative number of troops from both countries were displaced and confronted each other in the contending borders after having subsequent fruitless bilateral negotiations. Consequently, the outbreak of the first armed clashes erupted on 3<sup>rd</sup> October 2008, and resulted in injuries of one Cambodian and two Thai soldiers (Reuter, 2008). It is worth noting that both countries kept blaming each other for spurring the conflict while other ASEAN members still remained silent. Following unsuccessful bilateral negotiations, ASEAN and UN inactions, and continuous infiltrations of Thai troops to the disputed areas, Cambodian Prime Minister Hun Sen, on 13 October 2008, issued an ultimatum to his Thailand counterpart: "Thailand must pull out its soldiers from Cambodian soil [referring to Veal Intry region] by tomorrow at the latest, or I'll turn this area into *the life-and-death zone* (cited in Thearith, 2009)."

Soon after, on 15 October, the armed clash reoccurred leaving three Cambodians and one Thai soldier dead. At this time, some ASEAN members such as Indonesia expressed their concerns and were willing to be the mediators in the conflict. Surprisingly, however, Cambodia rejected such a response as it might have been casted by its mistrust of ASEAN third party mediation and frustration with ASEAN's rejection of its early initiative of the ASEAN Inter-Ministerial Group (Ibid.).

In the absence of international involvement, the confrontation was still highly unmanageable and escalated into armed conflicts several times in April 3 and September 19, 2009, each leaving several deaths and injuries of troops and civilians, respectively. When Cambodia could no longer abide with the continuous incursions of Thailand's military, on 19 September, Cambodian premier Hun Sen issued another ultimatum by ordering his troops to shoot anyone from neighboring Thailand who crossed into areas around the Temple (The Telegraph, 2011). Nevertheless, the prospect of having the dispute solved peacefully was signaled in the following month by Thailand's Foreign Minister, Kasit Piromyaat the 15<sup>th</sup> ASEAN Summit in October 2009, as he suggested to establish an ASEAN dispute settlement mechanism to address this conflict which was suspiciously welcomed by Cambodian Foreign Minister, Hor Namhong (The Nation, 2009). However, successive heightened domestic political outcries at home made Thailand remained stick to the bilateral mechanism demand (Ibid.).

This equivocal stance even frustrated Cambodia and worsened their bilateral relations. As the conflict showed no sign of improvement, on 8<sup>th</sup> August 2010, Hun Sen wrote to the UNSC, saying that the bilateral mechanism no longer worked and called for multilateral mechanisms. However, in spite of urging both parties to exercise utmost restraint, the Council did not take any measure (CGA, 2011). The tensions reached its height with four days of consecutive heavy



fire from the 4<sup>th</sup> to the 7<sup>th</sup> of February 2011, reportedly leaving at least 20 dead, the displacement of thousands of refugees and severe damage to the temple (Quiano, 2011). Frustrated with the progress and costs of war, Cambodia on 28 April attempted to end the long-lasting conflict by unilaterally filing a complaint with ICJ for reinterpretation of 1962 judgment which was considered as a direct slap to ASEAN's face.

The Court decided on 28 July some 'provisional measures': "immediate withdrawal of both parties' military personnel from a 'provisional demilitarized zone (PDZ)', refraining from aggressive behavior and allowing observers entrusted by ASEAN" (ICJ, 2011). As a result this opened the gate for ASEAN under Indonesian chairmanship to show some relevancies to this conflict by engaging and sending its observers to the conflicting zones. However, again, this initiative was brushed away by Thailand and placed ASEAN's role to the sidelines. Therefore, this period was a series of missed opportunities for ASEAN application of its preventive diplomacy measures, a classical conflict between states in which timely negotiation, mediation and adjudication should have been undertaken but desperately, there was not any.

The above manifestations can be concluded that ASEAN's attempt in preventing and solving Cambodia-Thailand border conflict was explicitly a failure for three important reasons. First, strict adherence to non-interference value limits the ASEAN potentialities to preemptively engage both orally and physically to prevent the eruption of conflicts between the two countries. Second, in the process of its conflict management *per se*, ASEAN has a limited sense of regional engagement. Although Indonesia is an ASEAN representative as a rotating ASEAN chairman, its role appears to be more like a country's effort rather than ASEAN's effort. Last but not least, ASEAN is quite skillful preventive diplomacy or prior to the outbreak of conflict, but not when it comes to conflict resolution. Despite having a so-called 'High Council', it has never been referred to by its member states.

## CONCLUSION

The historical analyses of the aforesaid cases allows me to conclude that in the early stage of ASEAN formation, ASEAN PD was relevant and responsive to intra-mural conflicts. However, as the time evolved, its effectiveness was increasingly challenged. In the early case of Sabah, with the early deployment of such informal PD mechanisms as diplomacy of accommodation and third party mediation in the framework of ASEAN and other multilateral channels, ASEAN could effectively manage and prevent the outbreak of conflict. In the subsequent case of SCS, the relevance of ASEAN PD with the prominent application of CBMs was somewhat questionable. Although ASEAN can actively engage China into multilateral, ASEAN driven mechanisms, which in turn promote trust and confidence among the claimants, low-level intensity confrontations and accidental clashes still, once in a while, occurred. However, ASEAN's role in conflict management in SCS dispute cannot be disregarded despite some military standoffs thus far. Quite opposite to the two previous cases, ASEAN was proven a 'complete' failure in the Cambodia-Thailand border conflict as it strictly followed 'non-interference' principle making its involvement in the conflict to the sideline; as a result, conflicts erupted in 2008 and temporarily ended in February 2011 upon the issuance of 'provisional measures' of ICJ. The following **Table 3.2** summarizes the main conclusions of this chapter.

**Table 3.2: ASEAN PD and Its Effectiveness of Conflict Prevention**

	PD Mechanisms	Actors	Stages of Involvement	Military Encroachment	Timeframe
<b>Sabah Issue</b>	- Diplomacy of accommodation - Third party mediation	- Bilateral and multilateral - Participation of ASEAN	All stages	No	1968-?
<b>South China Sea Dispute</b>	- CBM	- Bilateral and multilateral - Participation of ASEAN	All stages	Yes (low; accidental)	1973-present
<b>Cambodia-Thailand Border Conflict</b>	- Non-interference	- Bilateral - Non-participation of ASEAN	After eruption of conflict	Yes (high; open conflict)	2008-present

A deeper investigation into these ASEAN conflict management experiences provides three essential common grounds for this adverse development—that is, strict adherence to non-interference principle, deficiency of the sense of regionalism in conflict prevention, and available yet inapplicable regional conflict resolution measures.

First and foremost, the non-interference principle is increasingly proven the primary constraint for ASEAN to timely and effectively prevent the armed hostilities among its members as exemplified in the case of the Cambodia-Thailand conflict. Therefore, to maintain its ‘centrality’ and ‘relevancy’ in conflict prevention, ASEAN should forge consensus to redefine this contesting concept from absolute to a more constructive manner. For essence, as suggested by Surin Pitsuwan in 1998, to a certain degree, intervention should be legitimate so-called, ‘constructive engagement’ in which ASEAN intervention into domestic or inter-state affairs should be regarded as legitimate on the ground that such conflict has adverse impacts and implications for ASEAN and other member states. However, this is definitely unwelcome by ASEAN members since it can potentially challenge their sovereignty and political leverage. It can be perhaps achievable in the long run if ASEAN evolves into a supra-regional organization like EU, the state in which trust and confidence are highly built among ASEAN members.

The Second challenge is the diminishing sense of regional engagement when it comes to conflict management. The Sabah Issue illustrated the strong common unity among non-disputant states (Indonesia, Thailand and Singapore) to bring the two parties to a series of negotiations and discussions until they agreed to renormalize their relations. However, the sense of regionalism was arguably lessened in the subsequent case of the SCS dispute as there was no unity among ASEAN members on how to deal with China.<sup>7</sup> More disastrously, in the case of the Cambodia-Thailand border conflict, all members felt hesitant to engage in the conflict. Even though, later on, Indonesia as the ASEAN Chair in 2011 was somewhat active in the

<sup>7</sup> Some ASEAN members such as the Philippines and Malaysia have bilaterally negotiated Joint Development Area with China while ASEAN in general insisted on multilateral mechanism.

conflict but it seemed to be Indonesia's rather than ASEAN's position. Lacking political will among ASEAN members, consequently, let the conflict erupt. In this sense, building a strong sense of regionalism by promoting common norms, interests, understanding and position will enhance ASEAN's role in conflict prevention and transformation.

Lastly yet most importantly, the absence of an applicable conflict resolution measure also potentially places ASEAN security relevance on the sidelines. Given its precedent involvements in regional conflicts, ASEAN is arguably very good at preventive diplomacy or conflict prevention, but not when it comes to conflict resolution. However, conflicts are not always prevented and avoided. Despite having the High Council agreed in TAC and Dispute Settlement Mechanism (DSM) adopted in 2010 as the regional conflict resolution or adjudication approaches, it is obviously infeasible and inapplicable as both of them have never been requested by any parties or tested for their effectiveness in resolving regional conflict as exemplified in their submission to ICJ of cases of Sipidan and Litigan (2002), Pedra Branca (2008) and the Preah Vihear Temple (reinterpretation of 1962 judgment, 2011). This is perhaps mainly because of their suspicion of neutrality and objectivity of the ASEAN High Council. This means that with its existing conflict management methods, ASEAN can only mitigate a simmering situation but cannot solve the problem, which potentially threaten ASEAN's role in conflict management. Therefore, enhancing and empowering existing regional conflict resolution measures, particularly the role of High Council and building confidence of its members to these regional dispute settlement mechanisms would make ASEAN relevance to security needs of its members much more resilient.

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## Appendices

Table 1: Disputes since the 1950s (or since independence) among countries with territorial claims in the South China Sea

Country	Disputes	Started after country was a member of	With ASEAN member	With forthcoming ASEAN member
Indonesia	3C, 17D	0C, 6D	0C, 0D	1C, 3D
Malaysia	1C, 10 D	0C, 8D**	0C, 6D*	1C, 3D
Philippines	2C, 12D	0C, 9D	0C, 5D (all with Malaysia)	1C, 5D
Thailand	14C, 46D	6C, 29D	0C, 0D	10C, 38D
Cambodia	22D, 8C	0D, 0C (data dates before Cambodia's own membership)	3D, 3C (data dates before Cambodia's own membership)	10D, 3C
China-PRC	96D, 19C	-	3D, 0C	10D, 5C
Taiwan	29D, 5C	-	1D, 0C	1D, 0C
Vietnam, Dem. Rep.	17D, 9C	0D, 0C (data dates before Vietnam's own membership)	4D, 1C (data dates before Vietnam's own membership)	6D, 2C
Vietnam, Rep.	15D, 4C	-	1D, 0C	11D, 3C

Key: D=Dispute without known casualties, C=Conflict with casualties

\* Malaysia has had militarized disputes with the Philippines, Indonesia and Singapore, The Philippines has had a militarized dispute with Singapore, and Vietnam with the Philippines, Malaysia and the PRC after the period of the MID-data (ends in 1994). None of these has produced any casualties. Furthermore, Taiwan and the PRC suffered casualties in their bilateral relations after the end of the MID-data period.

\*\* The MID-data dates the Sabah-related dispute between the Philippines and Malaysia in the 1960s–1968 and gives no data on the casualties. Yet the dispute certainly started and became militarized immediately after the independence of Malaysia in 1963, much before 1968.<sup>2</sup>

Source: Correlates of War Projects Militarized Inter-State Disputes Data-base, Jones *et al.* 1996.



**Table 2: Measures for Preventive Diplomacy*****Peace-time responses***

- a. Confidence-building: attempt to make clear to concerned states, through the use of a variety of measures, the true nature of potentially threatening military activities (Macintosh, 1990: 2). Typically, confidence-building measures include transparency and information exchanges, advanced notification of military exercises and deployments and monitoring of regional arms agreements.
- b. Institution-building refers to formal or informal ways of organizing interests or objectives. Institutions develop principle of conduct, generate regularized consultations and build trust. IN the long-term, institutions constrain unilateral preferences and actions of actors, and promote co-operation. Institution-building need not be an overtly formal affair, with a charter and bureaucratic apparatus. Regular consultative gatherings could be more desirable in certain circumstances where actors might wish a degree of informality and flexibility.

A key aspect of institution-building is 'norm-setting' or inducing rule-governed behavior among the actors. Such norms could include multilateralism, non-interference and non-intervention, and pacific settlement of disputes. In is broad sense, institution-building might be helped by consultations and dialogue initiated primarily by non-governmental actors, but attended by government officials (who may profess to participate in their 'private' capacity). Such 'Track II' processes could serve as testing grounds for ideas concerning more formal and inter-governmental norm-setting and co-operation.

- c. Early-warning involves monitoring of developments in political, military, ecological and other areas (such as natural disasters, refugee flows, threats of famine and the spread of disease) that may, unless mitigated lead to outbreaks of violence or major humanitarian disasters. In recent years, considerable international interest in early-warning has been developed in relation to human rights violations and refugee movements (Beyer, 1990: Gordonker, 1900).
- d. Preventive humanitarian action is concerned primarily with preventing and managing the humanitarian consequences of naturally-occurring phenomena. For emergencies 'which result from long-tern economic deterioration, or slow-moving natural disasters such as drought, early humanitarian preventive action can save thousands of lives and millions of dollars in subsequent remedial action' (Boutros-Ghali, 1993b, p. 101). This is an area in which NGOs, bilateral and multilateral development agencies and regional organizations could play an important role as agents of preventive diplomacy.

***Crisis-time responses***

- a. Fact-finding involves the collection and analysis of timely and reliable information on conflict situations (Knight and Yamashita, 1993). Fact-finding is clearly linked with the

notion of early-warning described earlier, and could be undertaken on a 'peace-time' basis, but it is more specific to a given crisis situation. Fact-finding must be comprehensive, covering domestic, regional and global aspects of a conflict and investigating the social, economic, strategic and political factors underlying it.

- b. Good offices and good will missions are usually undertaken before or at the onset of a crisis and involve the dispatch of a senior official or officials, such as the UN Secretary-General (Elabray, 1987) or his personal envoy or envoys. The aim of such missions is not necessarily to engage in serious mediation efforts, but rather to express the concern of the international community as well as to promote a climate of trust and to establish the areas of agreement between the parties to a conflict.
- c. Crisis-management aims at reducing the immediate possibility of violent action in a conflict situation and may require measures such as reconciliation, mediation and arbitration that would help in diffusing tensions.
- d. Preventive deployment illustrates the difference in orientation between preventive diplomacy and peace-keeping. Peace-keeping involves separation of rival forces who have mutually consented to such action following a settlement of their conflict. Preventive deployment involves dispatch of units to trouble-spots to prevent the widening or escalation of a conflict, with or without the mutual consent of the rivals. Thus, preventive deployment, unlike peace-keeping might not be a strictly neutral exercise. It could be undertaken with a view to support the likely victim by deterring the actions of the likely aggressor. Preventive deployment could also involve the establishment of demilitarized zones which would create a physical barrier between the antagonists.

*Source: Acharya, 1998*

## **“THE CHALLENGES OF THE CLMV COUNTRIES AND THE ROLE OF DEVELOPMENT PARTNER”**

**Pou Sovachana, Professor, Paññāsāstra University of Cambodia**

**Delivered during the opening remark  
International Conference on “Towards an Integrated ASEAN Economic Community:  
Strategies, Progress, and Prospects for Enhanced Taiwan-ASEAN Economic Collaboration”  
S.C. Tsiang Memorial Hall in CIER  
Taipei, 30<sup>th</sup> October 2013**

- Dr. Chung-Shu Wu, President, Chung-Hua Institution for Economic Research,
- Distinguished Speakers, Scholars, Participants, Ladies and Gentlemen,

I am delighted to be invited to speak at this prestigious international conference in the beautiful city of Taipei. I would like to extend my sincere appreciation to the organizing committee for the warm hospitality extended to me since my arrival.

I am happy to note that Taiwan ASEAN Studies Center, Chung-Hua Institution for Economic Research (CIER) has taken the initiative to organize this timely conference with a view to cultivate the solidarity of ASEAN and Taiwan for “an Integrated ASEAN Economic Community” and look at the prospect of how Taiwan can use its soft power to build a durable peace, prosperity and progress in this region. It is my hope that through this initiative at this international conference that Taiwan can “build a bridge” to reach the people of the CLMV countries.

For my part, to facilitate a better understanding of CLMV’s current stage of economic development, I will share my views on the present condition of the CLMV countries and discuss broadly the development challenges faced by those countries. Next, I plan to offer some thoughts on ASEAN’S policy measures that are needed to integrate the CLMV’s economy into a broader strategy of enhancing ASEAN’s process of regional economic integration and suggest some approaches to link the CLMV economic development strategy with regional economy as a whole. Finally, I intend to review the role of development partner, as described in the Greater Mekong Sub-region Economic Cooperation Program (GMS-ECP), to facilitate the narrowing of the development gap that still exist among countries in ASEAN. At the end I will conclude by suggesting generally how Taiwan can play a constructive role in promoting the economic development in the CLMV countries.

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Strategies, Progress, and Prospects for Enhanced Taiwan-ASEAN Economic Collaboration”  
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**Presentation**

**“THE CHALLENGES OF THE CLMV COUNTRIES AND THE ROLE OF DEVELOPMENT PARTNER”**

**Pou Sovachana**

**Professor Paññāsāstra University of Cambodia**

After the cold war ended in the late 1980s, ASEAN tried to strengthen itself by expanding its membership in the hope that an increase in population would translate into economic growth and strength. Vietnam joined ASEAN in July 1995, Laos and Myanmar in July 1997, and Cambodia in April 1999. The admission of the four new members noticeably widened the political, economical, and cultural diversity of ASEAN. The ten member states have agreed that political stability and long term economic growth could only be attained if they all cooperate (ASEAN Charter). However, with the expansion of Cambodia, Laos, Myanmar, and Vietnam (CLMV), political and economical disparities have ensued between the old and the new member states. Moreover, the development gap among the member states in the region has also persisted. The challenges of the CLMV countries and the role of a development partner will be discussed and examined.

#### **PRESENT SITUATION OF THE CLMV COUNTRIES**

Despite serious attempts at economic development throughout the South East Asian region, there remains a large gap between the CLMV countries and other nations within ASEAN. To achieve the ambitious goal of having an ASEAN Economic Community (AEC) by 2015, it is essential to reduce this development gap, which in turn necessitates further reforms in the CLMV countries.

I begin by describing the present economic condition of each of the four CLMV countries and discuss broadly their economic challenges as follows:

- 1- **CAMBODIA:** Since peace and national reconciliation returned after the 1991 Paris Accord, Cambodia has enjoyed a broad degree of macroeconomic stability and development. Starting from a very low base, Cambodia is now considered as one of the fastest-growing economies in the region, enjoying double-digit growth rates before the global economic down turn. Growth in 2013 has been estimated by the Ministry of Finance and Economy at 7.6 percent this year, driven by garment exports, agriculture, tourism and construction. The ministry said that the GDP volume would be around 15.19 billion U.S. dollars and GDP per capita would be 1,036 U.S. dollars in 2013. The industry sector is expected to go up by 9 percent this year, agriculture by 4 percent, the service sector by 9 percent, the hotel and restaurant sector by 14 percent, the financial sector by 12 percent, and the real estate

sector by 11 percent. However, the International Monetary Fund (IMF) predicted in April 2013 that Cambodia's GDP growth would be at 6.7 percent, while the Asian Development Bank (ADB) and the World Bank (WB) put the country's growth at 7.2 percent and 7 percent, respectively. Despite steady economic growth, the UN Economic and Social Commission for Asia and the Pacific (ESCAP) said in its annual report that Cambodia remains one of the least-developed countries in the Asia-Pacific region and faces challenges of diversifying its economy and moving up the production value chain. There are still widening income inequalities and depleting natural resources. The Government should tackle economic policies that are more inclusive and sustainable to stamp out the high poverty rate, large income gap and low production base, and inadequate human resources. Cambodia still experiences difficulty with its neighbors in terms of huge trade imbalances.

- 2- **LAO PDR:** Lao PDR is aiming to remove itself from the list of least developed countries (LDC) by 2020 and eradicate mass poverty by 2010. However, to achieve those goals, it must first deal with a number of constraints such as a low production base, lack of highly skilled human resources, poor infrastructure, and an unfavorable geographical position as a landlocked country. The government hopes that infrastructure development, tourism development, and promotion of natural resources-based industries will change the country from being a landlocked one to a land-linked one. It is also hoped that this will provide Lao PDR full access to the seaports of neighboring countries and other regional networks of roads and railways. These priority sectors are expected to significantly enhance the process of economic development and poverty reduction.
- 3- **MYANMAR:** Myanmar's huge and untapped potential for future economic development lies in its large local market, abundant natural resources, and young labor force. Although the country is dealing with a number of challenging domestic and international problems, it is committed to regional economic integration. Myanmar's four economic objectives (Basic Economic Guidelines towards Democratic State) are the following: 1) to develop agriculture as the base of the economy along with the other sectors; 2) to allow a market-oriented system to evolve properly; 3) to spur economic development with the technical assistance and investment of local and foreign partners; and 4) to maintain the initiative to shape the national economy in the hands of the state and the people of Myanmar. Myanmar's economic development will also be boosted by accelerating economic reforms, especially financial reforms, and realigning exchange rates; promoting small and medium enterprises (SMEs) and special economic zones (SEZs); and taking advantage of Myanmar's geographical location between China, India, and within ASEAN.
- 4- **VIETNAM:** Vietnam began its economic reform process in 1986 with a view to proactively engage in international economic integration. Due to its early head start, it is now in a relatively good place in its reform process. It has, in fact achieved important socioeconomic gains and laid a more concrete foundation for future economic development. Since joining ASEAN, the country has attracted more investment multinationals such as Intel and Nike invest heavily. Its share of trade in 1995 within ASEAN was at 2.8 percent; by 2010 that

share had moved up to 17 percent. However, it still faces many reform challenges, which makes realizing its development goals a difficult task.

## **THE CHALLENGES OF CLMV ECONOMIC INTEGRATION**

At this time, I would like to discuss the ASEAN economic integration and highlight some thoughts on policy measures that are required to integrate the CLMV's economy amidst serious concerns that ASEAN economic integration can be hampered by the development gap that exist between the older ASEAN-six and the four-newer members and offer some recommendations in order to improve the scope of the work plan.

On 8<sup>th</sup> August 1967, five Southeast Asian countries comprising of Indonesia, Malaysia, the Philippines, Singapore, and Thailand formed the Association of Southeast Asian Nations (ASEAN) to try to respond to the then fragile regional political situation and its function was aimed at for economic, social, and cultural cooperation.

The "Bangkok Declaration", the document upon which association was founded, displayed ASEAN solidarity against communist expansionism and insurgencies. This was described as being the common problem among countries of Southeast Asia, as well as emphasizing the grouping's determination to ensure their stability and security from external interference in any form.

In 1976, the ASEAN Secretariat was established to improve coordination among ASEAN members. In the same year, the grouping's first formal agreement, the Treaty of Amity and Cooperation (TAC) was signed to enshrine one of ASEAN's fundamental principles: non-interference.

Brunei joined ASEAN immediately upon achieving its independence from the United Kingdom in 1984. Vietnam was admitted in 1995, even though it was still under a communist system. Laos and Myanmar followed in 1997, and Cambodia in 1999.

Although in the early days ASEAN sought to stabilize the region politically, the grouping started out as a geo-political organization, set up in response to the fluid regional political situation at that time, but its dynamic has shifted towards economic cooperation during the 1970s, and later towards economic integration, especially from the 1990s onwards.

In February 1976 during the First ASEAN Summit in Bali, economic cooperation, not economic integration, moved onto the ASEAN agenda. The Declaration of ASEAN Concord called for economic cooperative action by member states, aiming at the promotion of their national and regional development programs. This would be best achieved by utilizing as far as possible the resources available in the ASEAN region to broaden the complementarity of their respective economies, while hoping that regional cooperation in large-scale industries in critical sectors could spur economic development via industrialization.

It was globalization and growing economic regionalism that forced ASEAN to make an economic turnaround toward enlarging their market, attracting investments, cutting costs, increasing efficiency, improving productivity, and thus generating jobs and raising people's incomes.

At the Fourth ASEAN Summit in 1992, member countries agreed to create the ASEAN Free Trade Area (AFTA), a step toward regional economic integration, in which tariff and non-tariff barriers to trade among the members would be reduced and eventually abolished. However,

ASEAN regional free trade alone was (and is) seen as inadequate for the regional grouping to be able to tap effectively into unprecedented opportunities as well as cope with challenges being unleashed by globalization, especially with the rise of China and India.

In December 1997, ASEAN leaders resolved to build an economic community to increase the region's economic potential. This resolution was followed through when the ASEAN leaders agreed during the Ninth ASEAN Summit in October 2003 in Bali to establish an ASEAN Economic Community by 2020, the end-goal of regional economic integration.

Now let me discuss how ASEAN ought to bridge the development gap, which exists within the CLMV.

When the CLMV countries became members of ASEAN from the mid-1990s, there had already existed economic disparities between the six older members. Economic disparity, perceived to be a hindrance to economic integration, grew larger with the admission of the CLMV countries, raising concerns about difficulties out of transitioning from a two-tiered to a three-tier regional structure that included high, middle, and low incomes countries.

Because of the regional economic divide and the effect of unevenly distributed benefits with globalization, ASEAN may not be able to effectively successfully forge forward with its economic integration and fear looms large that the grouping may become irrelevant in the global economy.

The CLMV countries have also realized that they must progressively and steadily integrate their economies with those of the older members if they do not want to be left behind. If the development divide persists and widens, ASEAN member states are certain to face more difficulty to advance together.

As such, ASEAN has resolved to assist its less developed newer members to achieve their economic potential, with a view to ensuring effective economic integration. This will in turn better equip ASEAN to face the increasingly stiff economic global competition. In the process, the less developed members will also be able to reap the benefits of ASEAN's economic integration process more equally as compared to the more developed members, and therefore ensure that prosperity is shared among the grouping's more than 600 million inhabitants.

Notwithstanding the existence of much international development assistance programs since the early 1990s, including ASEAN initiatives, to assist the Mekong Delta countries, the CLMV face grim prospects in catching up with the six more developed ones. To improve the situation and effectively assist the CLMV countries, various international forums and cooperative efforts, using a variety of approaches to promote wider economic development in the region should be deployed. Some of these development assistance initiatives should be placed in the following ways:

- 1- Attention toward the CLMV countries should focus on development projects including programs to promote transport, energy, telecommunications, environment, human resource development, tourism, trade, and agriculture. To this end, the Asian Development Bank (ADB) sponsored Economic Cooperation Program within the Greater Mekong Sub-region (GMS) should be vigorously pursued in facilitating greater private sector involvement in the GMS program.

- 2- Emphasis should also be geared toward the promotion of economic growth in the Southeast Asian region as a whole by strengthening the economic linkages between CLMV countries with other ASEAN countries. The strategy here is to pursue the enhancement of the competitiveness among the CLMV countries, the redirection of agriculture and manufacturing growth centers to the place where comparative economic potential exists, and the reduction of the income disparity to create employment. It would be beneficial if the model of this type of economic integration which has been well documented in the “Ayeyawady – Chao Phraya – Mekong Economic Cooperation Strategy” (ACMECS) could be vigorously pursued. As such, ACMECS focuses on six areas of cooperation namely, trade and investment facilitation, agricultural and industrial cooperation, transport linkages, tourism cooperation, human resource development, and public health.
- 3- It would help the CLMV countries tremendously if other suitable approaches could be targeted. Efforts should be concentrated to enhance economically sound and sustainable development of the Mekong Basin, encourage a process of dialogue and common project identification which can result in firm economic partnerships for mutual benefit, and to strengthen the interconnections and economic linkages between the ASEAN member countries and the Mekong riparian countries. This method of development can also be found in the ASEAN Mekong Basin Development Cooperation (AMBDC), established between ASEAN and China since 1996 to tackle development issues and challenges in the Mekong regions.

### **THE ROLE OF DEVELOPMENT PARTNER**

Before my conclusion, I would like to give my assessment on the initiatives as described in the Greater Mekong Sub-region Economic Cooperation Program (GMS-ECP) as part of the ‘development partners’ approaches to mitigate the development gap within the CLMV.

The effort to reduce regional gaps have been at the forefront of the Greater Mekong Sub-region Economic Cooperation Program (GMS-ECP), which was inaugurated in 1992 by six countries and provinces, namely, Cambodia, Laos, Myanmar, Vietnam, Thailand, and Yunnan (and in 2005, Guangxi Zhuang autonomous region of China also became a member of the GMS-ECP) Province of China through the initiative of Asian Development Bank (ADB).

The GMS-ECP is expected to play an important role in narrowing the existing gap and reducing poverty while expanding and deepening the regional integration. It started with six development sectors, and now it is now composed of nine sectors, namely: 1) Transportation; 2) Telecommunication; 3) Energy; 4) Human Resource; 5) Environment; 6) Trade; 7) Investment; 8) Tourism; and 9) Agriculture.

The key feature of the GMS-ECP has been the focus in the development of transport infrastructure to effectively allow goods that have been produced by remote villages among the CLMV countries to reach major markets in the region as well as overseas. This effort includes the improvement of the functional transportation networks, lowering of cross-border barriers through an effective Cross Border Trade Agreement (CBTA), improving export capability, creating marketing demands for the remote areas, and developing special economic regions at



the borders between relatively developed countries, like Thailand and underdeveloped countries.

### **CONCLUSION: THE ROLE OF TAIWAN**

ASEAN has done much to contribute to peace, stability and prosperity in the CLMV countries by promoting initiatives to improve the development gaps and reducing poverty in the lesser-developed countries. However the effect of the Asia financial crisis coupled with the global slowdown has left many nations in Asia lagging behind in their economic development. In the Southeast Asian region, the CLMV is still witnessing profound disparity between the 'haves' and the 'have-nots'. Well-off countries need to help lesser ones from economic leadership so as to promote prosperity for the region as a whole. To achieve greater stride in this endeavor, ASEAN and other development partners should continue to work together to achieve even more positive outcomes.

While I am sure countries such as the China, Japan, South Korea and the international organization such as the ADB continue to have an important role to play in assisting the CLMV countries, Taiwan can also join these development partners in thinking creatively how to contribute to the alleviation of poverty and lessening the burden of development gap in Cambodia, Laos, Myanmar and Vietnam by bringing the level of the economic development in those countries to be at par with the other six nations within ASEAN in the foreseeable future.

Well-off country needs to help lesser one from poverty so as to promote prosperity for the region as whole. There is a common responsibility to create a community of peace, prosperity and progress with equitable development among nations, which can make peace and prosperity more enduring and ensure that livelihoods of the people in the region are better-off.

Being the 12<sup>th</sup> most competitive nation (Global Competitive Report 2013-2014 by the World Economic Forum) among 148 nations and ranking 4<sup>th</sup> behind only Singapore, Hong Kong and Japan, Taiwan could use its soft power to lift CLMV nations through its strength in technological advancement, financial market development, macroeconomic environment, business sophistication, health and primary education, higher education and training, and innovation to stimulate and boost the economic development and limit the staggering disparity that still exists within and among the CLMV countries. The following are my thoughts and perspectives on how Taiwan can contribute to equitable and sustainable development in CLMV countries.

- First and foremost, understanding the region's diversity is a key for Taiwan to play a constructive role in promoting the economic development and engaging in ASEAN economic community building. ASEAN looks powerful because it is able to unite 10 politically, economically, and culturally diverse members states toward common development goals. After all, ASEAN, among the leaders and the elite group, is about personal relationships and trust.
- Taiwan must help reduce the development gap by addressing the root cause of development disparity and removing the stumbling blocks to economic growth in the CLMV countries. Otherwise inequality among nations could jeopardize the integrity of the regional integration as a whole. One of the most effective ways is to extend assistance in

human resource development to up-grade the capacity of CLMV officials in good governance and other related training programs as well as assisting with the improvement of the investment climate.

- Taiwan, with its buying power, can be a propelling force to break economic stagnation in the CLMV countries. Taiwan should identify consumable products, especially agricultural goods, which are abundantly produced in the CLMV countries, such as rice and other cash crops and consider importing them in large quantities. This would allow goods produced in CLMV to have greater market access, which can potentially expand trade and commerce between the two sides.
- Taiwan can help less-developed CLMV countries to improve their technological capabilities in the agricultural and manufacturing industries, by providing technical assistance to upgrade best practices and transferring managerial know how. This effort will promote concrete measure to institutionalize regional economic cooperation between the two sides.
- Taiwan could come up with possible measures to enhance the free movement of tourists by removing restrictive immigration regulations and provide freer opportunities to visit each country, to learn about the history, culture and society of the CLMV countries. This people-to-people through cultural exchange is a key to develop and build relationships.
- Taiwan could also strengthen educational cooperation with the CLMV countries through the creation of appropriate study programs that focus on increasing the knowledge on regional's history, languages, politics, economic, culture, and society as these curricular would deepen mutual understanding and build a stronger bond between Taiwan and CLMV.

I believe that Taiwan has a vital role to play by using its soft power in supporting and promoting a durable peace, prosperity and progress across the region and especially among the CLMV countries. This economic partnership will yield extensive benefits in term of job creation and long-term growth for Taiwan and ASEAN. A shared commitment to economic prosperity is the key to this endeavor. While the CLMV are on the road to economic growth and sustainability in terms of more training, better education, and practice, I am sure that we (at least from the Cambodian perspective) would like to walk that road together with Taiwan.

Lastly, since the current government of Cambodia has close ties with China (PRC) and has adopted the One China policy, the political link with Taiwan is not presently possible. However, Taiwan investments are welcome and both countries can jointly explore possibilities through which this relationship can be developed in the areas of humanitarian and technical assistance, education, agriculture and science & technology.

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## HUMAN SECURITY IN CAMBODIA AND ITS CHALLENGES

Pou Sovachana

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*“The concept of security has for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of a nuclear holocaust. It has been related more to nation-states than to people ... who sought security in their daily lives. For many of them, security symbolizes protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression and environmental hazards.”*

- UNDP 1994: 22

### INTRODUCTION

The concept of human security is based on the fundamental principles of “freedom from fear” and “freedom from want” through the 1994 Human Development Report of the United Nations Development Programme (UNDP)<sup>1</sup>. It argues for a shift from a state centric view of security to one that focuses on the security of every individual (people oriented or people centered view). Human Security is about the protection of individuals (most often the victims) and the promotion of human development (empowerment). It addresses general threats to human existence and finds ways to overcome these threats.

Providing protection to citizens is a fundamental responsibility of the state and the international response to address large-scale natural disasters or other threats to personal safety due to the inability of the state to take collective action to provide security as a global public good.

The concept of empowerment refers to people’s ability to act on their own behalf, and on behalf of others; people empowered can demand respect for their dignity when it is violated and to hold their governments more accountable for implementing rights to food, to safe water, to health and education, and for doing so without discrimination.

Human security has three interconnected freedoms: freedom from fear, freedom from want and freedom to live in dignity. Freedom of fear seeks to protect individuals from violent conflicts (from the threat of direct physical violence)<sup>2</sup>. Freedom from want (from the threat of indirect non-physical violence)<sup>3</sup> advocates a holistic approach to include hunger, disease, homelessness and those policies that deny people from freedom to exercise political rights and

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<sup>1</sup>[http://en.wikipedia.org/wiki/Human\\_security](http://en.wikipedia.org/wiki/Human_security)

<sup>2</sup>Peou, Sorpong. 2013. *Chapter 7: Human Security in Post-Cold War Cambodia*.

<sup>3</sup>Peou, Sorpong. 2013. *Chapter 7: Human Security in Post-Cold War Cambodia*.

enjoy civil liberties. Freedom to live in dignity means equal access rights, as well as services and privileges, which should be provided by the government to its people.

The Millennium Development Goals (MDG)<sup>4</sup>, adopted in 2000 and signed by 147 States, contextualized for example in Cambodia so that the country would not only focus on economic growth, but also on important social development indicators that would ensure clear improvements for the well being of the Cambodian people. These goals are: 1) Eradicate extreme poverty and hunger (in Cambodia, poverty has been decreasing but inequality has increased) 2) Achieve universal primary education (primary completion rate at 83.2% according to UNDP report 2010), 3) promote gender equality and empower women, 4) Reduce child mortality (on target, but still the highest in the region besides Myanmar), 5) Improve maternal health, 6) Combat HIV/AIDS, malaria and other disease (on target), 7) Ensure environmental sustainability, 8) Develop a global partnership for development, 9) De-mining, ERW (Explosive Remnants of War) and provide victim assistance. These goals intend to give the Cambodian people the full opportunity to develop their human potential. In this context, human security is really an important concept of providing protection and empowerment for the individual.

#### **HUMAN SECURITY CHALLENGES IN CAMBODIA: HOW SAFE AND FREE ARE CAMBODIAN PEOPLE AS INDIVIDUALS?**

After experiencing almost three decades of wars, conflicts, and instability, Cambodia has undergone a significant political and economical transformation. After the 1998 election violence, the Cambodian people have become more secure than ever before if their security is assessed in terms of freedom from fear, aside from the Thai Border conflict (since June 2008). There is little chance of civil war or revolution. Furthermore, the country has made notable progress in nation building and in becoming a productive member of the ASEAN family for securing peace and stability in the region. Furthermore in the past decade, the country has achieved a remarkable economic growth of almost 10 percent per year. And after the global economic crisis in 2008 to 2009, Cambodia's gross domestic product (GDP) reached a four-year high of 7.2 percent in 2012, driven mainly by strong consumption, tourism, agriculture, and higher inflows of direct investment (Asian Development Bank, 2013). The outlook for 2013 is forecast at 7.2 percent and picking up to 7.5 percent next year as recovery in Europe and the US takes hold.

In light of this commendable growth and development, not everyone is experiencing the benefits; poverty persists and the country is still considered a third world country by the World Bank and the UN and a fourth world country by some. According to Christine Lagarde, International Monetary Fund Managing Director, too many people are still living in extreme poverty, earning less than \$1.25 per day, despite the incidence of poverty falling from over 50 percent in 2004 to 20 percent in 2011<sup>5</sup>. Hence, the issues of human security issues remain and it is becoming harder to disguise under the veil of economic advancement. These issues of human security as defined by The UNDP in 1994 include "...safety from such chronic threats as

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<sup>4</sup> UNDP. *Current Status of Cambodian Millennium Development Goals (CMDG)*. Draft September 19, 2010

<sup>5</sup> Lagarde, Christine. *Cambodia at the New Frontier: an Address to the Royal School of Administration*. Phnom-Penh, December 3, 2013.

hunger, disease and repression, and protection from sudden and hurtful disruptions in the patterns of daily lives, whether in homes, jobs or communities.”<sup>6</sup>

Cambodians remain insecure in terms of freedom from want. Dire poverty caused by economic factors continues undiminished due to the weakness of an effective and formal institutional capacity for human protection and empowerment. The ultimate objective of any meaningful development is to raise the standard of living of the people and end poverty and inequality, which are adverse for sustained growth. For ordinary Cambodians, this high growth has brought hope and a sense of optimism, but for the most part there has been not any real change in their personal security and safety. While the government promises inclusive growth, the benefits have not been evenly distributed and widening inequalities of wealth distribution are sweeping, which has resulted in sizeable disparities between the rich and the poor, and between urban and rural areas. According to the report from the UN Capital Fund in 2010 on local development, 3.7 million people were estimated to live below the poverty threshold. This includes 92 percent of the poor who are residing in the countryside, of which only 10 percent own a title to their land. It is clear that the level of poverty remains a source of threat to personal security. The benefits of direct government support should go to the people as a whole rather than to the few elites.

The fact that the Cambodian people have courts doesn't necessarily mean they have justice and egalitarian law. The fact that Cambodia has a functioning government doesn't automatically mean people have real democracy, especially in regards to freedom of expression and the freedom to gather. In Cambodia, it is typical for the high-ranking government officials to use their power to punish political opponents and secure impunity for political allies. Also the “money is everything” philosophy can be seen and felt everywhere in Cambodia, and corruption remains a way of life. In Cambodia, too many leaders and most influential government officials remain unaccountable to the people. The ruling elites are more preoccupied with their own security rather than the security of others. Extreme corruption at all levels undermines any attempt to meaningfully improve the security of the most vulnerable. For years, this corruption has greased the wheels of the economy and the political landscape in Cambodia. Cambodia faces a daunting task in challenging a deeply embedded culture of “Money Politics.” According to investors and the Foreign Business Leaders, 55 percent of businesses felt that the anti corruption law, which was implemented since 2010, showed no effect in stamping out bribery. Most businesses are threatened with corruption in all walks of life from the custom office to the court system. This shows the country still experiences incompetent institutional protection and a lack of individual empowerment.

In Cambodia, there is certainly no evidence of any significant improvement in governance, and if anything the evidence suggests deterioration, at the very least, in key dimensions such as regulatory quality, rule of law, and control of corruption. For years, Transparency International has placed Cambodia as one of the most corrupted nations in the world. Recently in 2013, Cambodia was ranked 160 out of 177 of the most corrupt countries<sup>7</sup>.Corruption costs, erodes

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<sup>6</sup>[http://en.wikipedia.org/wiki/Human\\_security](http://en.wikipedia.org/wiki/Human_security)

<sup>7</sup><http://www.transparency.org/country#KHM>

revenues and reflects the country's weak economic foundation and the government's incompetence. Cambodia's judicial system is generally recognized to lack legal know-how and political independence. According to the report issued by UN Human Rights envoy Surya Subedy, the judiciary of Cambodia is corrupt and incompetent. Courts and mechanism for dispute settlement remain ineffective and almost always take sides with powerful and wealthy individuals. The present system doesn't provide equal treatment and basic needs to the people. In Cambodia, all individuals, in particular the vulnerable, don't have an equal opportunity to enjoy their rights and develop their human potential.

There comes a point where one has to accept that the system is not working. The government continues to face a daily challenge that includes poverty eradication, land grabbing issues, judicial reform, youth employment, cracking down on corruption and transforming a political culture based on violence and impunity. Cambodia needs more than wealth to be prosperous. It needs a change in direction. It needs effective political reform, an end to corruption and the culture of impunity. It needs to provide better public services ranging from hospitals to schools to roads and other essentials. It needs to empower its citizens with human rights and freedom of expression. It needs to hold all politicians accountable for the people's wellbeing and security. It needs decent health care for all the people. It needs better schools to educate all of its children. It needs to develop a society in which people trust one another. It needs to foster a climate of know-how entrepreneurship. It needs business opportunities not only for the wealthy but also for the majority. It needs meaningful development that will benefit the masses instead of the few. The government has failed to provide the right of people to live in freedom and dignity, free from poverty and despair.

Human security calls for people-centered (or people oriented) and prevention-oriented responses. None of these elements are achievable without the rule of law and effective democratic governments who put their people first. The laws are there. They are quite detailed and good. And there are significant penalties for breaking the provisions. But there is little implementation and poor enforcement. The constitution of Cambodia states everyone is subject to the law and no one, no matter how powerful and important, is above the law. To better protect people, the formal institutional capacity for human protection and empowerment must be strengthened. There is also a need for members of the global community, especially from donor countries (bilateral and multilateral, intergovernmental and non-governmental), to help improve the human security situation.

The government must pay attention more to the needs and welfare of its citizens. The current emphasis on economic development shouldn't override democratization and human rights. In recent years, there has been a surge in forced displacement of rural and indigenous communities resulting from large scale land concessions granted by the government for agrobusinesses. According to data from rights group Licadho, local and foreign firms now control 3.9 million hectares of land concession, or more than 22 percent of Cambodia's total surface. The land grabbing issue is the latest example of the state failing to meet the needs of its most vulnerable citizens, needs as basic as providing clean water, decent housing, health care, social justice and education. In his September 2012 report, the Special Rapporteur on the situation of

human rights in Cambodia, Surya Subedi concluded that there are “well documented serious and widespread human rights violations associated with land concessions.”<sup>8</sup>

On an encouraging note, I must add that lawmakers have identified many of the steps necessary to advance the cause of improving human security in Cambodia. Land reform, labor issues, and corruption are but a few of the areas targeted. Education and health care are also seen as being necessary reforms for the welfare of the people. One problem facing implementation of these reforms is ignorance on the part of a generally fearful public. People are afraid to ask for their rights and ignorant in knowing what applies to them. Citizens have lived so long in a non-civil society that many have no basis on which to judge what good governance is. However, it is right to commend the government for recognizing that change and reform must occur for Cambodia to move beyond the current environment of human security crisis.

I believe if there is any real progress and prosperity, it will come through being, not having. Real change may only come when people get more and better educated and learn to speak their own mind openly without fear of oppression. If today all the children of Cambodia are provided with primary health care, good nutrition, quality basic education, access to safe drinking water and sanitation, and the protection from neglect, abuse, and violence, 10 years down the road, Cambodian society will be completely different from the direction it is heading today<sup>9</sup>.

What I have laid out seems like a blueprint for a human security crisis, but I believe if we study and learn from our past mistakes, we can change course and move towards universal human security, to have freedom from fear, freedom from want, and freedom to live with dignity for all individuals. It will not be easy and it will not be cheap. It will hurt to look at ourselves and realize what our society has become. A fortune has been spent studying and identifying problems but the solutions have, for the most part, not been implemented. In order to ensure that human security is realized, a people-centered approach must be adopted and reinforced.

Good governance is the key to implementing positive change. Aid and direct foreign investments can help but they alone cannot fully change or improve the human security or governance situation. The disconnection between the government and the ordinary people is immense. It is also apparent that donor nations seem content with the current situation as long as political violence is kept at a minimum. The governance at the local level does not contribute to the local welfare and the governance at the top ignores this.

## CONCLUSION

In this brief paper, I have identified many of the human security challenges that face Cambodia today and what I believe to be the root causes of the problems are corruption and poor governance. The solutions are in place in term of policies; the question is how to implement positive change. Perhaps, most importantly is how to start and who to start with. A

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<sup>8</sup>Surya Subedi. *Report of the Special Rapporteur on the situation of human rights in Cambodia*. United Nations General Assembly. October 11, 2012.

<sup>9</sup>Pou, Sovachana. *Cambodia is Ingrained with Corruption, Political Patronage*. The Cambodia Daily, July 26, 2013.



comprehensive approach is needed to assess and examine how the concept of human security is understood in Cambodia from multiple stakeholders (government, international organizations, civil society, donor communities, media, and others). Until awareness and attitudes are identified no strategy can be formulated to educate people to the need for reforms.

Further research and studies need to be done to analyze why this situation exists and what can be done to improve the living condition of the Cambodians. As I stated before the laws are there, it is a matter of implementation, but the question is how? What are the steps to change a culture of corruption and greed? Until that change can occur there will be no significant improvement in human security for the poor citizens of Cambodia. The research should focus on identifying people's attitudes and awareness toward changes that would improve human security.

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## **CAMBODIA: BREAKING THE DEADLOCK**

**Phoak Kong**

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The July election was a historic moment in Cambodian politics. For the first time since the 1993 election arranged by the United Nations, the ruling party, the Cambodian People's Party (CPP), looked vulnerable. But what is even more astonishing is that voters are not afraid to express their political beliefs and to criticize political parties in public. The sheer number of people who turned up in support of their preferred candidates was also unprecedented, and clearly shows the extent to which democratic values have taken root in the Kingdom.

Despite grabbing 55 out of 123 seats, the opposition, the Cambodian National Rescue Party (CNRP), vehemently rejects the election results, unless its charge of widespread irregularities are properly addressed by an independent investigating body. But the CPP has flatly ruled out that option, arguing that the National Election Committee (NEC) is the only legitimate institution to resolve any electoral disputes.

Talks have been on and off between the CPP and the CNRP, but thus far there's been no progress. According to the CPP's source, the CNRP wants the post of National Assembly president as a condition of the deal, but the CPP's leaders are only willing to offer the post of the vice president and four chairmanships of the parliamentary commissions. At the same time, both parties have issued multiple threats against each other. The CNRP vows that it will hold mass protests nationwide, while the CPP warns of possible violent clashes and legal consequences.

Without a deal in sight, the CPP asked King Sihamoni to convene the first parliamentary meeting on September 23, which the opposition boycotted. In response, Sam Rainsy, the CNRP's president, rolled up his sleeves and visited Western capitals to urge their leaders not to recognize the CPP-led government and to cut off all foreign aid to the country. He left his deputy, Kem Sokha, to rally support for mass demonstrations across the country. However, Rainsy's foreign trips might not provide much leverage, given that both the U.S. and the European Union have maintained very diplomatic tones since the July 28 election.

There's no easy answer to the current political stalemate. The CPP cannot afford to give more than what it has already offered the CNRP. As Prime Minister Hun Sen clearly says, giving the position of the National Assembly president to the CNRP would only lead to dysfunctional government, and the CPP doesn't want its fifth mandate to be preoccupied with one deadlock after another. Further, the CPP also needs to make enough positions available to its senior officials in the National Assembly, especially at a time when factional rivalries could bring the party to the brink of complete disarray.

Another concern is that a very generous deal could be seen as a victory for the opposition and, more importantly, could imply that the ruling elites have something to hide in terms of election irregularities. The CPP wants people to see its concession as an act of reconciliation for the sake of the country, not as a sign of weakness. The CPP is also very cautious about the

prospect that its opponents might become a potential threat to its survival in the future if given too much power in the decision-making process in parliament.

The CNRP is also under tremendous pressure not to make a quick deal. The downfall of the royalist party, the National United Front for Independent, Neutral, Peaceful, and Cooperative Cambodia (FUNCINPEC), is a constant reminder to opposition leaders that they cannot recklessly rush a deal. They are also concerned that if the CPP reneges on its promises, there's almost nothing they can do to hold the ruling elites accountable. The implications of a failed deal could potentially be damaging to the CNRP, and many voters won't be willing to listen to the opposition complaints again, as they've had enough of the FUNCINPEC party since the 1993 election.

In addition, the CNRP's top brass hope to build on their current gains to challenge the CPP in the 2018 election. Thus, they will relentlessly fight for a deal that would provide enough posts for their senior officials and give them the authority to shape and influence the policy agenda in the National Assembly. Another factor is that they have a lot to explain to their supporters, especially the hardliners, in terms of why such a deal would make the party and the people better off. If they don't do it properly, they might be accused of selling out to the CPP, and that's precisely what the CNRP has been trying to avoid. Complicating the negotiations further, the CPP and the CNRP have a long and antagonistic history. Each side is always ready to destroy the other, given the opportunity. Political parties in Cambodia are suffering from a severe deficit of trust.

Despite all the constraints, the CPP and the CNRP clearly understand the consequences of the no-deal situation. The CPP cannot rule the country alone without risking its legitimacy in the eyes of the international community. Taking away the CNRP's parliamentary seats would only be met with a political storm at home and diplomatic headaches with Western countries. The use of armed forces to quell protesters is extremely dangerous, and it could plunge the country into chaos. Worse still, if the crackdown results in mass casualties, and the government loses its legitimacy and credibility with the people, a breakdown in the party rank and file could be imminent.

It would be surprising if Sam Rainsy and his party members really believed that they could use mass demonstrations to force the CPP to relinquish power. Popular pressure won't be enough to divide the ruling elites, because they deeply understand that disunity is political suicide. Therefore, if they find themselves with their backs against the wall, they will sink and swim with the regime. The consequences could be catastrophic. It is possible that the CNRP's leaders could use the threat of mass demonstrations as leverage in negotiating a deal with the CPP, but they cannot change the election outcome. More importantly, if the deadlock drags on for too long, and it hurts the economy, people will surely blame both parties for their inability to end the political impasse.

An attitude of "my way or the highway" is impossible in Cambodian politics. Both parties need to take steps to reconcile their differences and compromise. Moreover, they need to tone down their rhetoric. The CPP's threat to leak information about its talks with the CNRP is counterproductive, and it doesn't serve any purpose that could benefit the ruling elites. Moreover, the CPP's top brass must refrain from attacking the opposition in public, for that would only sour the already strained relationship and hinder the possibility of reaching a deal.

On the other hand, the CNRP's leaders shouldn't pledge to their supporters that they won't make a deal with the CPP, for they might just find themselves in a crisis of credibility if they end up doing otherwise. Although they might wish to use such rhetoric to assure their supporters that they will be tough on their demands for a thorough investigation of election irregularities by an independent body before considering other options to end the deadlock, but making such a pledge is unnecessary and dangerous, especially when they have not even been asked to do so.

To kick-start negotiations again, the CPP and the CNRP need to move away from their no-deal position. The CNRP might have to back down on its demand for the post of National Assembly president, and accept in principle the positions offered by the CPP. And the ruling party needs to consider addressing the problems of election irregularities in a way that would be acceptable to voters. More importantly, a concession will allow opposition leaders to make a case to their supporters that since the truth will finally come to light, they can now return to the negotiating table. But the purpose of the investigation should be about fact-finding, which can be used to reform the election process, not to change the results.

Both parties should begin negotiations by finding their common ground. Tellingly, there is a wide range of policy issues on which both parties can work together. In his marathon address on September 25, Hun Sen outlined several key reforms that his government would introduce in the fifth mandate, most notably corruption, judicial independence and the rule of law. These are the kinds of reform that Sam Rainsy has been advocating for years. Now both parties can sit down and work out how the opposition can play a role in helping to implement these reforms.

An agreement will be a very important step for the CPP and the CNRP to tackle other, much tougher issues such as reforming the NEC and the Constitutional Council, election laws, the internal rules and regulations of parliament and the traditional media outlets. There are also signs that the CPP might commit to deeper and broader reforms in the fifth mandate, as Cheam Yeap, senior CPP lawmaker, has hinted that the reforms, whether to the NEC or electoral laws, will start when the CNRP's members agree to take up their parliamentary posts. It is legitimate for the CNRP's leaders to voice their concerns over the authenticity of the promises given the past record of the CPP, but outright refusing the offer would be a missed opportunity. They should instead work with the CPP and other relevant stakeholders on the mechanisms that would allow these reforms to proceed.

There is reason to hope that the CNRP will have more power to call in members of government, and to question them on a wide range of policy issues. However, opposition members can't effectively perform their roles without knowledge and information about government affairs. Thus, the CNRP needs to propose to establish a research unit within parliament to assist it in collecting data and analysing government policies. The CNRP's members can hold the ruling elites more accountable only when they are well informed. Moreover, this research unit can also help the CNRP's leaders develop more comprehensive policies to address the problems facing voters and to offer alternative solutions.

The CNRP should also take this opportunity to address the inherent problem of the opposition, namely the lack of authority and resources to implement the policies that it promised to voters during the election campaign. The CNRP's leaders might need to consider attaching some of their popular policies to the deal, for example, a salary increase for public servants benefits for the elderly and more social programs. They should consult the CPP on how

these policies can be carried out in a fiscally sustainable manner. It would be electoral suicide for the CPP to completely reject policies that benefit millions of voters, especially the poor. And if the CPP agrees, opposition leaders can still take the credit. However, the ruling elites are not necessarily worse off: if they are able to deliver positive results, they can also enjoy more public support. All sides will benefit, including the voters.

The ruling elites and the opposition leaders should make the negotiation process transparent and accountable. Since the 1993 election, all political deadlocks were concluded with a deal between the winning parties, the CPP and the FUNCINPEC, but the talks usually took place behind closed doors, and the public was usually kept out of the process. Only when the CPP didn't fully comply with its promises did the FUNCINPEC come out and in desperation explain to voters that it had been treated unfairly.

Thus, the CNRP's leaders should demand that some parts of the deal be disclosed to the public. First, they can avoid accusations of having a hidden agenda with the CPP. Second, they can hold the ruling elites more accountable, because voters will also know what's inside the deal. Disclosure isn't a bad thing for the CPP either. When the FUNCINPEC accused it of not faithfully honouring the power-sharing deal, the ruling elites took pains to explain to voters that they had fulfilled all their promises. But they struggled to convince, for most people knew nothing about the deal. More importantly, those in power can also use their policy pledges in the deal to increase public awareness of their commitment to reforming government and improving the plight of the poor, and those voters can judge them based on real achievements.

Although the deal is not what some opposition supporters are hoping for, Sam Rainsy and his senior officials might have reckoned that it is the second-best option. At least the deal is able to achieve three important objectives for the opposition: levelling the playing field, delivering certain promises to voters and strengthening the party for the next election. However, the CNRP shouldn't assume that its supporters would eventually understand its decision to cut a deal with the CPP. It needs to engage its supporters, leading them step-by-step to the conclusion of the deal, so that they can feel that they are also part of the decision-making process.

For the CPP, the deal might also disappoint some party members, especially those who could subsequently lose their jobs. However, the ruling elites cannot end this game of brinkmanship without making some concessions to the opposition. Despite their strengths, they will try to end the current political stalemate through dialogue, and if possible, avoid using violent measures to crack down on protestors. What's happening in other parts of the world has clearly shown that the presence of the armed forces in the streets doesn't scare people, but may instead make them more determined to sacrifice everything for their causes. Even if the ruling elites do manage to cling to power, that would be at the cost of inflicting substantial damage to the country, and surely that's not what they want to see either.

## **THE CAMBODIAN MONARCHY MUST STEP BACK FROM POLITICS**

**Phoak Kung**

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The death of King Norodom Sihanouk in October last year was a great loss to Cambodia. To the royal family, the King's tremendous popularity is a double-edged sword. For many years, the monarchy has enjoyed overwhelming support and loyalty from the people without having to establish a new identity or produce any significant achievements. Now, King Sihanouk is gone, and no member of the royal family has anywhere near his stature.

The current King, Norodom Sihamoni, might not even be able to ensure the survival of the monarchy beyond his reign. There are problems he cannot control.

First, some prominent members of the royal family are actively involved in politics — at the expense of the monarchy's reputation. They form political parties to compete for power and often use their royal connections to mobilise public support, as in the case of the Funcinpec Party. This diminishes respect for the monarchy. Politicians break promises, and the people distrust them for it. When people feel betrayed by royalist political parties, they can blame not only individual members of the royal family but the whole institution of the monarchy, including the King.

Second, some members of the Privy Council, which advises the King, want the new King to follow his father and exert control over government affairs. But they expect too much. King Sihamoni needs to establish his own identity as a monarch. In any case, the King does not have the kind of power and privileges that his father enjoyed when he ruled the country in the 1950s and 1960s, and the constraints facing the monarchy are enormous. Worse still, when the King refuses to intervene, some Privy Councillors publicly complain that he lacks the courage to confront the government. It is time for the council to revise its strategy. Instead of picking fights with political parties, the King should focus on the ordinary people. The people, not political parties, will protect the monarchy.

Moreover, some provisions of the Cambodian Constitution make the future of the monarchy uncertain. There is no royal hierarchy in Cambodia; instead, political parties select the new king from a pool of candidates. The Constitution effectively allows the ruling party to choose its preferred candidate. The candidate must be from three royal bloodlines — the descendants of King Ang Duong, King Norodom and King Sisowath. This does not mean there is a large pool of potential candidates, however. And infighting between the three royal families further undermines the monarchy. The Constitution makes it almost impossible to know who will be first in line to the throne.

The decline or collapse of the monarchy is not good for anyone, including the ruling party. For over 20 years, Cambodian politics has been characterised by fierce and often violent competition between government and opposition. Political deadlock is constant. But Cambodia

has muddled through, mainly because King Sihanouk — the ‘Father of National Reconciliation’ — helped mediate.

What will happen now that he is gone? For example both the Cambodian People’s Party (CPP) and the Cambodian National Rescue Party (CNRP) claimed victory in parliamentary elections in July 2013. In protest against the electoral result, the CNRP vowed to hold massive demonstrations nationwide, while the CPP deployed troops and heavily armoured vehicles into the capital city to prevent possible clashes. A peaceful solution remains elusive. Both parties and the people still expect King Sihamoni to intervene. It is clear that the monarchy remains an integral part of Cambodia’s conflict resolution mechanism.

Cambodian politics has become a zero-sum game; the public, too, is politically divided. Conflict and stalemate will be the reality of Cambodian politics for years to come. It is almost impossible to assume that these problems can be sorted out smoothly and peacefully without the help of a strong, popular monarchy. Government institutions are not ready to arbitrate electoral conflicts independently.

The monarchy can help ensure stability, security and peace in Cambodia, but only if the King remains neutral. If he is seen to side with either the CPP or the CNRP, he will lose credibility and legitimacy in the public eyes. Both political parties must refrain from politicising the monarchy. It is possible to convince the people to accept a more passive and ceremonial monarchy as stipulated in the Constitution. Moreover, the King and members of the royal family must reach out to as many people as possible through both traditional media outlets and social media like Facebook and Twitter. The modern monarchy must be more engaging, adaptive and innovative if it wants to survive Cambodia’s tumultuous politics. The era of the God King is well and truly over.







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**CAMBODIAN INSTITUTE FOR COOPERATION AND PEACE**

Street 1966, Pum Paung Peay, Sangkat Phnom Penh Thmey, Khan Sen Sok,  
P.O.Box 1007, Phnom Penh, Cambodia

Phone : (855)12 81 99 53  
Tel: (855)16 98 25 58

Email: [cicp01@online.com.kh](mailto:cicp01@online.com.kh)  
Web : [www.cicp.org.kh](http://www.cicp.org.kh)