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# The Thailand–Cambodia Armed Conflict and International Humanitarian Law: A Case Study on Principles and Cultural Heritage

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## ABSTRACT

*An example of challenges of implementing International Humanitarian Law (IHL) in localized interstate conflict is ongoing state-to-state hostilities that broke out between Thailand and Cambodia in 2011 over Preah Vihear temple and surrounding border areas. The actual mechanics of the conflict were brief, but they included significant ground action and heavy artillery shelling, which had humanitarian consequences like widespread civilian displacement, cultural property destruction, and civilian deaths. In order to promote the implementation of both treaty IHL as well as customary IHL, main goal of current study is to categorize these state-to-state conflicts as international armed conflict (IAC). The shelling of UNESCO World Heritage-listed Preah Vihear temple and civilian casualties were probably caused by violations of the relevant criteria, which include proportionality, distinction, prohibition of needless suffering. This study violates multiple international instruments, including the 1949 Fourth Geneva Convention, the 1977 AP (Additional Protocol) I, the 1954 Hague Convention for Protection of Cultural Property, and customary emerging international law, such as the ban on cluster munitions. A crucial element of the conflicts is shown to be cultural property. Research will focus on humanitarian and international legal responsibility of states to protect cultural property during war. The Rome Statute's restrictions on personal criminal liability, regional organizations like ASEAN, International Court of Justice (ICJ) are all taken into account when discussing accountability measures. The study recommends early warning systems, independent monitoring, cultural heritage preservation regulations, military training in IHL, and modern*

*technology to reduce civilian casualties. Such an initiative provides policymakers with a legal analysis as well as evidence-based, useful recommendations. It is clear that transient border disputes can affect the region's humanitarian and cultural problems for a long time. Crucially, it is hoped that proactive regional cooperation and widespread adherence to IHL rules can help protect cultural legacy, human life, and regional stability in Southeast Asia in the future.*

## **KEYWORDS**

*Thailand–Cambodia border dispute, Geneva Conventions, Preah Vihear temple, Hague Convention, International armed conflict, International Humanitarian Law (IHL).*

## **INTRODUCTION**

One of major state conflicts to occur in Southeast Asia in recent years was the 2011 conflict among Thailand and Cambodia over the Preah Vihear temple and the nearby area.<sup>1</sup> Along the border, thousands of civilians were displaced as a result of artillery exchanges and fighting on the ground that claimed lives on both sides. Therefore, to identify the relevant legal framework, the hostilities should be categorized from the perspective of IHL.

Regardless of intensity or duration of hostilities, any utilization of military force between 2 States will be considered IAC under Common Article 2 of the Geneva Conventions. To enhance humanitarian protection, the threshold is set low without technically declaring or acknowledging a state of war. "An armed conflict occurs whenever there is resort to armed force between States," ICTY ("International Criminal Tribunal for Former Yugoslavia") concurred.<sup>2</sup>

Through such a standard, this is evident that border conflicts among Thailand as well as Cambodia were covered by IAC. 2 states utilized regular armed forces, returned fire with heavy weapons, and injured and killed one another. There is no question that hostilities involving utilization of force among states occurred, regardless of the legal status of named territory or areas

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<sup>1</sup> Hikmahanto "Juwana, Jeffrey Thomas, Mohd Hazmi Mohd Rusli & Dhiana Puspitawati (eds.), *Culture and International Law: Proceedings of the International Conference of the Centre for International Law Studies (CILS 2018, October 2–3, 2018, Malang, Indonesia)* (1st ed. 2019).

<sup>2</sup> Prosecutor v. Tadić, Case No. IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 70 (Int'l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995).

unutilized, combining inherently valid battle. It is also irrelevant that fighting took place in context of a territorial claim.<sup>3</sup> IHL applicable to IAC included the 1949 Geneva Conventions or customary humanitarian law.

### **PRINCIPLES VIOLATED DURING THE DISPUTE**

IHL was violated in the 2011 border disputes between Thailand and Cambodia. Fundamental concepts of humanitarian protection in armed conflict—proportionality, distinction, prevention of gratuitous suffering—are established in treaty law and customary international law<sup>4</sup>. These values, which seek to reduce the number of people killed in armed conflicts and shield civilians as well as different non-combatants from potential risks, are definitely required by law. It seems that both states participated in combat activities during the Thailand–Cambodia conflicts that may have disregarded their legal duties and caused civilian casualties, displacement, and historic or cultural loss<sup>5</sup>.

#### ***Principle of Distinction-***

According to the concept of distinction, parties to armed conflict must always differentiate between military targets and civilians.<sup>6</sup> Only military targets might be targets of military attacks; civilians' property has the right to be protected from harm. Geneva Convention IV (1949) or AP I encourages civilian life and infrastructure protection even in armed conflict.<sup>7</sup>

Thousands of Cambodian villagers were displaced, and civilians were killed when artillery fire impacted civilian areas close to the border, according to reports.<sup>8</sup>

Furthermore, the principle of distinction was violated during the armed conflict when attacks led to damage to Preah Vihear temple, a civilian or cultural object. This indiscriminate shelling also suggests that military targets were not appropriately identified before an attack, which is a crucial aspect of respect according to the concept of distinction. Furthermore, shelling has

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<sup>3</sup> Geneva Convention IV, Aug. 12, 1949, art. 2", 75 U.N.T.S. 31.

<sup>4</sup> Int'l Comm. of the Red Cross (ICRC), *Customary International Humanitarian Law*, Rule 1

<sup>5</sup> U.N. Office for the Coordination of Humanitarian Affairs, *Thailand–Cambodia Border Clashes: Humanitarian Impact* (2011).

<sup>6</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 48, June 8, 1977, 1125 U.N.T.S. 3.

<sup>7</sup> ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, art. 48.

<sup>8</sup> Human Rights Watch, *Thailand/Cambodia: Protect Civilians in Border Fighting* (Feb. 6, 2011).

destroyed the Preah Vihear temple, which violates the principle of distinction because it is a cultural and civilian object.<sup>9</sup> Although the illegal or careless destruction of cultural property is especially concerning when considering the targeting of civilians, the damage to the collective legacy of those citizens compounded the indirect injury to civilians. Pointing cultural property beneath IHL harms the community's individual and collective identities in addition to violating an appropriate target.<sup>10</sup>

The legal notion of "collateral damage" had significant significance beyond these infractions. Although incidental damage to civilians in lawful attacks is permitted under IHL, it should not be severe or out of proportion to expected military advantage. It implies a glaringly inadequate obligation to prepare thoroughly and create adequate protections in the Thailand-Cambodia situation, where it was not possible to differentiate between military objectives as well as civilian settlements.<sup>11</sup>

### ***Principle of Proportionality***

Attacks that are predicted to cause more civilian casualties or property damage than military advantages<sup>12</sup> are forbidden by the proportionality principle<sup>13</sup>. The idea is crucial to balancing humanitarian protection with military necessity. It asserts that the expected harm to civilians may not "exceed" expected strategic advantage, regardless of the existence of a valid military purpose.

The widespread deployment of artillery or suspected use of cluster munitions in civilian areas prompted significant concerns under this rule. Independent monitoring organizations noted that civilians were put in danger by the use of these indiscriminate weapons close to communities, and that, considering the small battlefield advantage obtained, this would appear to be an excessive use of military force.<sup>14</sup>

This principle is further supported by historical examples. Previous conflicts, such as the Israeli-Palestinian conflicts and NATO's 1999 operations in Kosovo, have employed proportionality evaluations to demonstrate compliance with IHL or demonstrate

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<sup>9</sup> UNESCO, *Preah Vihear Temple: Damage Assessment and Cultural Significance* (2011).

<sup>10</sup> Michael Bothe, *Principles of International Humanitarian Law* 65–70 (3d ed. 2011).

<sup>11</sup> "International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, Rule 14: Precautions in Attack (2005).

<sup>12</sup> Yutaka Iwasawa (ed.), *The Law of Occupation: International Law in Japanese Perspective* (Brill, 1st ed., 2018).

<sup>13</sup> Art. 51(5)(b), Protocol I".

<sup>14</sup> Human Rights Watch, *Thailand: Cluster Munitions Used in Cambodia* (Apr. 5, 2011).

the exact nature of the proportionality principle in every form of armed conflict<sup>15</sup>. Thailand or Cambodia put civilians in unnecessary danger by failing to meet this criterion, which also highlights how difficult it is to operationalize proportionality in minor regional wars.

### ***Prohibition of Unnecessary Suffering-***

Furthermore, IHL restricts weapons and tactics that lead soldiers unnecessary pain or suffering.<sup>16</sup> In light of this, claims that Thai forces employed cluster munitions were particularly concerning. Although Thailand did not join the 2008 Convention on Cluster Munitions, customary international law requires the prevention of unnecessary suffering and the restriction on indiscriminate weapons.<sup>17</sup>

The principle's restriction is far more expansive than that of cluster munitions. It forbids the employment of weapons or strategies that would be considered inhumane or create suffering out of proportion to the military objective. Utilization of heavy weapons in Thailand-Cambodia conflicts in civilian-populated regions, having little military utility, increases concerns regarding principle.<sup>18</sup> Both sides had the obligation to eliminate suffering for everyone, including non-fighters who were impacted by the military activities indirectly, as well as combatants who were actively involved.

In general, the way that Thailand and Cambodia have conducted their wars constitutes grave transgressions of fundamental humanitarian norms. While Cambodia accused Thailand of putting citizens or cultural legacy in danger, Thailand countered that Cambodia had "blurred" the line between civilian and military operations by disguising military activity with civilian structures. Notwithstanding this accusation, both sides had an obligation to uphold IHL or protect civilian property as well as life.

## **CONVENTIONS VIOLATED**

The Thailand-Cambodia conflict featured international legal tools that govern war and protect cultural property as well as civilians. All countries are bound by global treaties like the 1949 Geneva

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<sup>15</sup> Prosecutor v. Milosevic, Case No. IT-02-54-T, Judgment" (ICTY 2002).

<sup>16</sup> "Hague Convention (IV) on the Laws and Customs of War on Land and its Annex, art. 23(e), Oct. 18, 1907, 36 Stat. 2277, 1 Bevans 631.

<sup>17</sup> International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, Rule 71: Weapons of a Nature Causing Superfluous Injury or Unnecessary Suffering.

<sup>18</sup> Louise Doswald-Beck, International Humanitarian Law and the Use of Force 112-15 (2005)".

Conventions and customary IHL, even if not every party approved them. Despite being "localized" in terms of hostilities, the conflict serves as a reminder that humanitarian responsibilities under international law were extremely broad.

### ***Geneva Conventions of 1949 -***

All IACs were administered through Common Article 2 of the Geneva Conventions<sup>19</sup>. It declares Conventions apply "to all cases of declared war or of any other armed conflict" among High Contracting Parties. Cambodia and Thailand's 2011 Preah Vihear temple wars were an IAC, making the Conventions applicable. 4<sup>th</sup> Geneva Convention's provisions affecting civilian protection were particularly noticeable through events of 2011. According to Article 27, civilian populations must receive decent treatment and be shielded from harm. Article 53 makes it clear that property destruction for either the state or individuals cannot take place unless it is absolutely required by military operations.<sup>20</sup> Bombing civilian towns and forcing thousands to flee to the border violates these promises.

The recorded shelling of civilian populations along the Thai-Cambodian border, which displaced thousands, violates these agreements. The ICJ had previously asserted that humanitarian law principles are applicable "in all circumstances" or emphasized their universal or binding nature.<sup>21</sup>

### ***1977 Additional Protocol I -***

Cambodia adopted AP I in 1998, but Thailand has not. Nevertheless, A substantial portion of its content, comprising distinction as well as proportionality, is currently customary international law and must be followed by both states.<sup>22</sup> Articles 51 and 52 protect civilian structures and prohibit indiscriminate attacks. Cluster and heavy artillery in populated areas violate these rules. ICTY called difference and proportionality "cardinal principles" of humanitarian law, which have been customary but not codified<sup>23</sup>.

### ***1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict-***

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<sup>19</sup>Geneva Conventions, supra note 2, Common art. 2.

<sup>20</sup> Geneva Convention IV, arts. 27, 53

<sup>21</sup> Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶ 79 (July 8).

<sup>22</sup> Id.

<sup>23</sup> Prosecutor v. Kupreškić, Case No. IT-95-16-T, Judgment, ¶ 524 (ICTY, 2000)."

UNESCO World Heritage site Preah Vihear was destroyed by firefights. Questions surround Cambodia and Thailand's 1954 Hague Convention.<sup>24</sup> According to Article 4(1), parties shouldn't utilize cultural property for military objectives that can cause it to be destroyed or damaged during an armed conflict, nor should they take adverse measures against it. The destruction inflicted upon Preah Vihear exemplifies a violation of those obligations. The Director-General of UNESCO issued an appeal in 2011 amidst conflict, urging both parties to honor Preah Vihear and its cultural importance in accordance with applicable treaty obligations.<sup>25</sup> The ICJ emphasized that cultural heritage is "heritage of all humankind" and must be protected.<sup>26</sup>

### ***Convention on Cluster Munitions (2008)-***

Thailand is not a signatory to the 2008 Cluster Munitions Convention, although Cambodia is. Due to cluster munitions' indiscriminate nature, critics like the ICRC suggest a ban is becoming customary.<sup>27</sup> Thailand violated the Convention on Cluster Munitions' humanitarian requirements by deploying cluster munitions near villages in Cambodia in February 2011. ICRC has declared that the cluster munitions' disproportionate impact on civilians is a growing customary IHL norm<sup>28</sup>.

These crimes show that even minor cross-border disputes involve IHL. Customary standards, Treaty law cultural property safeguards show that states can't employ restricted hostilities to violate humanitarian duties.

## **CULTURAL PROPERTY AND THE PREAH VIHEAR TEMPLE**

The neighbouring 9<sup>th</sup>-century Hindu temple of Preah Vihear is a key feature of the Thailand–Cambodia dispute and a 2008 World Heritage site. Temple's cultural or symbolic relevance turned these territorial disputes into a clash with international law or cultural asset protection. The inclusion of Preah Vihear on UNESCO list, following prolonged negotiations between the two nations, exemplifies that cultural property is frequently subject to political contention and symbolism, as UNESCO designation typically reinforces state's cultural or legal entitlement to such

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<sup>24</sup> "Hague Convention for the Protection of Cultural Property, May 14, 1954, art. 4(1), 249 U.N.T.S. 240.

<sup>25</sup> UNESCO, Statement by the Director-General on Preah Vihear Temple (Feb. 7, 2011).

<sup>26</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, International Court of Justice, 2004 I.C.J. 136, ¶ 88 (July 9, 2004).*

<sup>27</sup> ICRC, *Customary International Humanitarian Law*, Rule 71: Restrictions on Use of Cluster Munitions

<sup>28</sup> *Id.*"



property.<sup>29</sup>

State parties like Thailand and Cambodia must safeguard cultural property throughout armed conflict under 1954 Hague Convention. Article 4(1) stipulates that states should refrain from utilizing cultural property in a manner that may lead to its destruction or harm, and must avoid hostile actions aimed at cultural property.<sup>30</sup> Researchers suggest compliance with these duties is sometimes limited, especially when the location is in contested territory or strategic.<sup>31</sup> Shelling that destroyed the temple of Preah Vihear is an illustration of a probable breach of such responsibilities.

Furthermore, UNESCO articulated significant concern in 2011 regarding the bombardment of temples and urged both parties to adhere to their responsibilities for safeguarding cultural property as outlined by the Hague Convention<sup>32</sup>. The present case illustrates that global community progressively perceives assaults on cultural property not as incidental damage, but as violations of common global heritage. UNESCO has previously engaged in other arguments with censorship, such as the safeguarding of Dubrovnik during the hostilities in the former Yugoslavia, demonstrating a consistent trend of institutional pressure to preserve heritage in contexts of armed conflict<sup>33</sup>. Cultural sites, protected by Article 53 of AP I and customary IHL, might be collaterally damaged or purposely targeted in territorial disputes<sup>34</sup>.

In 1962, the ICJ adjudicated Preah Vihear temple, determining it had been territory under the judicial authority of Cambodia. In 2011, Cambodia submitted a request for an understanding of ruling, prompting the ICJ to revisit the issue. The 2013 ICJ interpretation verdict confirmed Cambodia's ownership of the temple and required Thailand to withdraw its troops and maintain its protected status.<sup>35</sup> The case's major implications and

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<sup>29</sup> “C. Forsyth, *Heritage, Politics and the UNESCO World Heritage Convention*, 19 *International Journal of Cultural Property* 345 (2012).

<sup>30</sup> Hague Convention, *supra* note 22, art. 4(1).

<sup>31</sup> Patty Gerstenblith, *The Destruction of Cultural Heritage: A Crime Against Property or a Crime Against People?*, 15 *John Marshall Rev. Intell. Prop. L.* 336 (2016).

<sup>32</sup> UNESCO, Press Release, *Director-General Irina Bokova Expresses Deep Concern over Damage to Preah Vihear Temple* (Feb. 7, 2011).

<sup>33</sup> Roger O’Keefe, *The Protection of Cultural Property in Armed Conflict* 172–188 (Cambridge University Press 2006).

<sup>34</sup> “Protocol I, *supra* note 5, art. 53; ICRC, *Customary International Humanitarian Law, Rule 38: Attacks Against Cultural Property* (2005).

<sup>35</sup> Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thai.), Judgment, ¶¶ 106–08 (Nov. 11, 2013).

applicability to cultural property protection during armed conflict made it important in reinforcing cultural property, even if the ICJ did not rule on IHL violations. ICJ's view of cultural property relating to territorial disputes represents a shift in its heritage jurisprudence from sovereign possession to shared and common human value, according to scholars<sup>36</sup>.

The Preah Vihear case demonstrates growing recognition within IHL that cultural property holds significance for all of humanity. Assaults on cultural property impact not only a state's heritage but also profoundly influence the cultural identity of the community, raising substantial humanitarian and ethical concerns. Some authors argue that this recognition makes these assaults international crimes, especially after the ICC's 2016 Al Mahdi case, that found the perpetrator convicted of deliberately harming Timbuktu's cultural monuments.

### **RESPONSIBILITY IN THE THAILAND-CAMBODIA CONFLICT**

The state-centric conflict nature, additionally, restricted means for global enforcement in specific situations of interstate conflict, complicates the accountability of parties for breaches of IHL during border clashes between Thailand and Cambodia.

#### ***International Court of Justice (ICJ) -***

Cambodia asked the ICJ to clarify its 1962 sovereignty judgment over the Preah Vihear temple in 2011. ICJ recognized Cambodia's sovereignty over temple in 2013, alongside forcing Thailand to withdraw its forces<sup>37</sup>. ICJ focused on territorial sovereignty but didn't adjudicate on violations of IHL or grant reparations for civilian injuries. The court's decision confirmed Cambodia's legal right to protect cultural property as well as emphasized potential efficacy of judicial systems in mitigating humanitarian repercussions of interstate conflicts.

#### ***ASEAN and Regional Diplomacy -***

As ASEAN members, Cambodia and Thailand participated in diplomatic efforts to facilitate de-escalation. ASEAN adopted a stance promoting peaceful resolution and restraint, prioritizing the protection of civilians or cultural treasures<sup>38</sup>. Although ASEAN

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<sup>36</sup> Francesco Francioni & Federico Lenzerini, The Obligation to Prevent and Avoid Destruction of Cultural Heritage: From Bamiyan to Iraq, 14 Eur. J. Int'l L. 619, 619–51 (2003).

<sup>37</sup>Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thai.), Judgment, ¶¶ 106–08 (Nov. 11, 2013)."

<sup>38</sup> Chairman's Statement of the 19th ASEAN Summit, Jakarta, Indon., Nov. 20, 2011.

has been inclined to promote action, this lacks the capacity to impose required or binding results, as demonstrated by its inability to compel adherence to the ASEAN Way via an engagement action plan. It underscores constraints of regional accountability systems in situations where existing structures are ineffective due to the lack of voluntary decision-making by the parties involved.

### ***The United Nations and International Organizations -***

UN (United Nations) recognized the humanitarian consequences of conflict, as well as the possible threats to cultural heritage. UN did not approve any Security Council Resolutions expressly targeting Thailand or Cambodia; nonetheless, UN agencies reaffirmed the imperative of protecting people and upholding IHL standards.<sup>39</sup>.

### ***Individual Accountability-***

Although disagreement involved states, the issue of one's criminal liability has been restricted. Neither Cambodia nor Thailand is a signatory to the Rome Statute, indicating that ICC lacked jurisdiction. Furthermore, within such an intricate situation, the dispute didn't qualify as a prosecutable offense under judicial authority due to either a time assessment (it did not meet the threshold for justice as defined by the criteria established in the ICC Statute) or a territorial evaluation of jurisdiction. Nonetheless, the absence of responsibility for persons involved in short-term interstate wars appears to be deficiency, as small armed conflicts characterized by violations of humanitarian law impacting civilians exhibit minimal occurrences of criminal punishment. These discrepancies persist in the conflicts of 2011 and 2025.

The responsibility for the conflicts that transpired in 2011 lay with the legal framework, encompassing both individual accountability for minor breaches of IHL and utilization of regional diplomacy (ASEAN), state-backed local tribunals (ICJ), relatively as compared to through the implementation of effective and enforced IHL or through individual criminal liability in a judicial setting. This indicates that obstacles persist in securing accountability from nations and people for humanitarian violations inflicted by various parties in these confined armed conflicts.

## **CONCLUSION**

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<sup>39</sup> “UN OCHA, Thailand–Cambodia Border Clashes: Situation Report (Feb. 2011)”.

Border issues between Thailand and Cambodia, particularly when contrasted to the 2011 conflicts and the resurgence of tensions in 2025, demonstrate the susceptibility of civilian population, along with cultural heritage, to interpersonal conflict. ASEAN might implement an early-warning system for border conflicts based on real-time surveillance, rapid reaction coordination, and humanitarian corridors for civilian usage that have been agreed upon so as to prevent future violations of IHL. Additionally, Thailand and Cambodia should implement measures to safeguard cultural assets in collaboration with UNESCO, a partner organization for textile heritage sites. These measures should include developing demilitarized zones across landmarks like the Preah Vihear temple and outlawing the usage of cultural property for military objectives.

Additionally, these two nations ought to improve their accountability and compliance systems. This can involve compensation remediation for impacted communities, public reporting of incidents, and independent monitoring from regional or intergovernmental organizations. Principles like distinction, proportionality, along with the prohibition of unnecessary suffering might be further reinforced by regular IHL training for military personnel as well as exercises conducted close to civilian regions and/or cultural sites. Additionally, emerging technologies like drones and satellite imagery can assist in making sure that humanitarian commitments are upheld and collateral harm is minimized.

Even small-scale border conflicts can generate profound humanitarian and cultural repercussions. The suggested measures, if adopted, would allow Thailand, Cambodia, and regional organizations such as ASEAN to lessen harm to civilian populations, protect cultural heritage, and establish clearer mechanisms for accountability. They would also help align international humanitarian law with Norway's professional and legal commitments, ensuring that such norms remain relevant to contemporary forms of conflict by blending legal responsibilities with practical, technology-driven safeguards. Furthermore, fostering cross-border dialogue amongst local communities could act as a valuable confidence-building initiative, easing tensions, nurturing trust, and reminding all parties of the shared human cost of armed confrontations. The primary objective is to address upcoming boundary concerns in a manner that protects human life, maintains a shared legacy, and fosters enduring regional stability.