

# Cambodia Verdicts Send a 'Warning to War Criminals'

*Amanda Bronstad, The National Law Journal*

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*Sophany Bay, a survivor of the Khmer Rouge Regime, left, and Nushin Sarkarati, right, staff attorney at San Francisco's Center for Justice & Accountability. (ASRIC).*

A United Nations-backed tribunal in Cambodia on Thursday convicted two former leaders of the Khmer Rouge for crimes against humanity.

Khieu Samphan and Nuon Chea, sentenced to life imprisonment, were the first senior Khmer Rouge officials to face prison for their roles in leader Pol Pot's regime, which killed nearly 2 million people between 1975 and 1979 through forced labor, evacuations, executions and starvation.

Nushin Sarkarati, a staff attorney at San Francisco's Center for Justice & Accountability, represents Khmer Rouge victims through the Applied Social Research Institute of Cambodia in Long Beach, Calif. Sarkarati

talked to The National Law Journal about the court's decision. Her comments have been lightly edited for style and clarity.

**NLJ:** What's your reaction to the ruling?

**Nushin Sarkarati:** I couldn't be happier with the verdict. I was blown away that the judges actually cited some of the victims who participated in the trial and relied so heavily on civil-party evidence. It proved that victims were really a central focus of this process. In fact, one of our clients, Sophany Bay, was named specifically when the judge was listing some of the historical crimes in the judgment.

**NLJ:** What happened to your client?

**Sarkarati:** On April 17, 1975, the Khmer Rouge announced that everybody needed to leave the city. Sophany was forced to walk for a week on the side roads, and she was with two small children and an 8-month old baby. As a result of the stress the family was put on while walking in the rain during day and night without any food or medicine, one of her children died during the walk and another child was killed by who she believes was a Khmer Rouge soldier. After that, Sophany was placed in a labor camp, where another one of her children was killed.

**NLJ:** What does this ruling mean for victims?

**Nushin Sarkarati:** The laws of the court only permit symbolic and moral reparations. One of the more significant reparations is the National Remembrance Day. It will be a national holiday that honors victims of the Khmer Rouge regime. Also, there will be construction of a memorial in Phnom Penh to honor the victims.

**NLJ:** This ruling was limited to crimes associated with evacuations, but another trial will focus on genocide. Why was this done, and what does that mean for victims?

**Sarkarati:** The decision to break the trial into many trials happened because the defendants and victims are aging quite rapidly. [The evacuations] were the first crimes committed by this regime. They also were able to determine some of the basic factual information that will be used in the next trial—these two senior leaders were part of a joint criminal enterprise, or conspiracy, to promote the Khmer Rouge ideals.

The next trial, which will focus on the remaining charges in the indictment, will cover crimes against humanity for forced labor, forced marriage, rape, torture, specific execution sites. But the genocide claims are limited to the Vietnamese ethnic group and the Cham ethnic group in Cambodia. This is because of the legal definition of genocide, which involves an intent to annihilate a population based on ethnicity and religion or nationality.

Because Cambodians were killing Cambodians for political reasons, political persecution doesn't fit within the definition of genocide. This will create confusion for our clients and a lot of the victims.

**NLJ:** Tell me more about this court, officially called the Extraordinary Chambers of the Courts of Cambodia.

**Sarkarati:** The idea of a hybrid tribunal is a wonderful idea, because it really helps a country transitioning from war. You're training a body of attorneys and human rights lawyers so they can effectively use a national court system to prosecute war criminals. In Cambodia, because all the intellectual class was wiped out during the war, they really had to recreate their legal system from scratch. There are a lot of allegations of continued corruption in the legal system, and the court, because it's based in Cambodia, needed the benefit of independence. The problem this court is facing is continued interference with the judges and Cambodian court staff. It's created a lot of mistrust of the public and the court's ability to provide true justice.

**NLJ:** Who are the judges?

**Sarkarati:** There's a panel of five judges, and three of them are Cambodian nationals and two are international judges.

**NLJ:** Both Samphan and Chea were sentenced to life imprisonment, although they're now in their 80s. Do these verdicts come too late?

**Sarkarati:** It's really because the situation in Cambodia was too tumultuous until at least 1998. But I think it's quite hopeful that, no matter how much time has passed, victims will still demand justice. It's a really good warning to war criminals around the world that they'll never be safe. No matter how much time has passed from their war crimes, they will still be prosecuted.

Read more: <http://www.nationallawjournal.com/id=1202666157665/Cambodia-Verdicts-Send-a-Warning-to-War-Criminals#ixzz39pFqCHQB>