

# **Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia**

This exciting new collection reinvigorates prison studies and feminist criminology, by widening the analytical and geographical lens of both. It also offers a critical analysis of the reach and limits of international human rights law. Integrating activist voices with early career and more established scholars, these essays offer a sobering glimpse into the lived reality of prisons in Southeast Asia, while also mapping out possible routes for challenge. In so doing, it reminds us of the salience of gender in understanding incarceration and the urgent need for action.

Mary Bosworth, Centre for Criminology, University of Oxford

As a criminologist and social activist, someone who toils to decolonize both criminal justice and criminology, it is always pleasing to encounter work that privileges the experiences of individuals and communities that are too often silenced within the “wall of noise” that surrounds crime control policy and practice throughout the world. *Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia*, edited by Andrew Jefferson and Samantha Jeffries, is one such book. The collection of essays included in the book cover an impressive range of issues facing cisgender women, transgender persons and sexual minorities, as they encounter criminal justice systems and practice in Southeast Asia. The breadth of issues covered, along with the expressed intent of the editors to give voice to “activist, critical and feminist theorizing and research on gender, intersectionality, criminalization and carceral experiences,” makes this contribution an invaluable resource for criminologists, social activists, jurists and policymakers working to enhance the efficacy of criminal justice policy and practice in Southeast Asia and elsewhere.

Juan Marcellus Tauri, The University of Waikato, and the  
Centre for Global Indigeniety

In this collection, Jefferson and Jeffries draw together a range of important, expert voices to shed light on gender-based experiences, gendered harms and human rights considerations in the contexts of criminal justice in Southeast Asia. It provides data, analyses, theorizations and experiences of populations that much of the Western world has ignored or overlooked. The chapters aim to juxtapose the personal against the structural in a way that is enlightening for both. In so doing, the book as a whole argues that for transformation to take place, researchers, reformers and activists should consider not just individual need but also the legal, political and cultural constraints and conventions that create structural and gendered inequalities in the first place. The book also reminds us that there are aspects of human experience that are universal, such as the desire for freedom, to be seen as we really are and to be valued for the life that we each breathe into the spaces and societies we occupy. Shifting criminology’s gaze toward such issues from a Southeast Asian perspective is a most welcome and much needed adjustment of perspective.

Deborah H. Drake, Senior Lecturer, Criminology, The Open University

# EMERALD STUDIES IN ACTIVIST CRIMINOLOGY

## Series Editors:

Vicky Canning (University of Bristol), Greg Martin (University of Sydney) and Steve Tombs (The Open University)

*Emerald Studies in Activist Criminology* is a platform working to identify and address the harms of criminalization and expansive social controls. It draws together academics, activists, progressive policy-makers and practitioners to encourage cutting edge engagement on topics to effect positive social change.

The historical relationships between criminology and activism are contentious. Since criminology in its administrative forms can facilitate increases in state and cultural controls, and was formed within this nexus of social order, the discipline is often complicit in acting on behalf of states and state-corporate collaborators. Critical criminology and zemiology, by contrast, have nurtured conditions under which power and hierarchy can be more fully addressed from radical perspectives, specifically in challenging state-centric focuses on crimes of the powerless. It is from these positions that *Emerald Studies in Activist Criminology* encourages engagement with those working against negative impacts of crime controls on the lives of intersectionally disadvantaged groups in society.

*Emerald Studies in Activist Criminology* seeks to examine the history of both recent and more established justice campaigns and interventions. It extends across a range of pre-existing sub-fields of criminology that engage in questions of effecting progressive change through activism, such as feminist criminology, juvenile justice, migrant rights, corporate and state crime, green/environmental criminology, sentencing and wrongful conviction, prisons, corrections and abolitionism, and justice for victim/survivors of harm and crime. Campaigns and movements – defensive and progressive – around these issues define what we mean by “activist,” while we view “criminology” in its broadest, inter-disciplinary and social science inflected version.

*This page intentionally left blank*

# **Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia**

EDITED BY

**ANDREW M. JEFFERSON**

*Danish Institute Against Torture (DIGNITY), Denmark*

**SAMANTHA JEFFRIES**

*Griffith University, Australia*



United Kingdom – North America – Japan – India – Malaysia – China

Emerald Publishing Limited  
Howard House, Wagon Lane, Bingley BD16 1WA, UK

First edition 2022

Editorial matter and Selection © 2022 Andrew M. Jefferson and Samantha Jeffries  
Individual chapters © the respective Author/s Published by Emerald Publishing under  
an exclusive licence.



Chapter 1, *Introduction to Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia*, and Chapter 11, *Conclusion: Decentering Research and Practice Through Mutual Participation* are Open Access with copyright assigned to respective chapter authors. Published by Emerald Publishing Limited. These works are published under the Creative Commons Attribution (CC BY 4.0) licence. Anyone may reproduce,

distribute, translate and create derivative works of these works (for both commercial and non-commercial purposes), subject to full attribution to the original publication and authors. The full terms of this licence may be seen at <http://creativecommons.org/licenses/by/4.0/legalcode>.

#### **Reprints and permissions service**

Contact: [permissions@emeraldinsight.com](mailto:permissions@emeraldinsight.com)

No part of this book may be reproduced, stored in a retrieval system, transmitted in any form or by any means electronic, mechanical, photocopying, recording or otherwise without either the prior written permission of the publisher or a licence permitting restricted copying issued in the UK by The Copyright Licensing Agency and in the USA by The Copyright Clearance Center. Any opinions expressed in the chapters are those of the authors. Whilst Emerald makes every effort to ensure the quality and accuracy of its content, Emerald makes no representation implied or otherwise, as to the chapters' suitability and application and disclaims any warranties, express or implied, to their use.

#### **British Library Cataloguing in Publication Data**

A catalogue record for this book is available from the British Library

ISBN: 978-1-80117-287-5 (Print)

ISBN: 978-1-80117-286-8 (Online)

ISBN: 978-1-80117-288-2 (Epub)



ISOQAR certified  
Management System,  
awarded to Emerald  
for adherence to  
Environmental  
standard  
ISO 14001:2004.

Certificate Number 1985  
ISO 14001



INVESTOR IN PEOPLE

# Contents

List of Tables	ix
About the Contributors	xi
Acknowledgments	xvii
 <b>Chapter 1 Introduction to Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia</b> <i>Samantha Jeffries and Andrew M. Jefferson</i>	 <i>1</i>
<b>Chapter 2 Gender and Imprisonment in Contemporary Myanmar</b> <i>Andrew M. Jefferson and Myanmar Research Team</i>	<i>13</i>
<b>Chapter 3 Perpetrators and/or Victims? The Case of Women Facing the Death Penalty in Malaysia</b> <i>Lucy Harry</i>	<i>31</i>
<b>Chapter 4 Supporting Female Prisoners and Their Families: The Case of Cambodia</b> <i>Billy Gorter and Philip J. Gover</i>	<i>45</i>
<b>Chapter 5 Catching Flies: How Women are Exploited Through Prison Work in Myanmar</b> <i>Myanmar Research Team</i>	<i>59</i>
<b>Chapter 6 Experiences of Ethnic Minority Women Imprisoned in Thailand</b> <i>Prarthana Rao, Min Jee Yamada Park and Samantha Jeffries</i>	<i>77</i>
<b>Chapter 7 Older Women's Pathways to Prison in Thailand: Economic Precarity, Caregiving, and Adversity</b> <i>Tristan Russell, Samantha Jeffries and Chontit Chuenurah</i>	<i>93</i>

<b>Chapter 8    Transgender Prisoners in Thailand: Gender Identity, Vulnerabilities, Lives Behind Bars, and Prison Policies</b> <i>Jutathorn Pravattiyagul</i>	109
<b>Chapter 9    Gendered Pathways to Prison: Women's Routes to Death Row in the Philippines</b> <i>Diana Therese M. Veloso</i>	125
<b>Chapter 10   Expanding the Promise of the Bangkok Rules in Southeast Asia and Beyond</b> <i>Chontit Chuenurah, Barbara Owen and Prarthana Rao</i>	139
<b>Chapter 11   Conclusion: Decentering Research and Practice Through Mutual Participation</b> <i>Andrew M. Jefferson and Samantha Jeffries</i>	155
References	173
Index	195



# List of Tables

Table 1.	Pre-Trial Detention and Prison Overcrowding in Southeast Asia.	3
Table 2.	Females Imprisoned in Southeast Asia.	4
Table 3.	Women’s Education Levels.	82
Table 4.	Pathways to Prison.	98
Table 5.	Female Prison Population Growth by Country 2010–2019.	142

*This page intentionally left blank*

## About the Contributors

**Chontit Chuenurah** started her career at the Ministry of Justice of Thailand and took part in the Enhancing Life of Females Inmates Project, which was later developed into the drafting of the United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Her early career mainly focused on the issues related to crime prevention and criminal justice. Currently, she serves as the Manager for the Office of the Implementation of the Bangkok Rules and Treatment of Offenders Programme at the Thailand Institute of Justice. As part of her work, she supervises and leads several research projects, including Women Prisoners and the Implementation of the Bangkok Rules in the ASEAN Region, National Survey of Female Inmates in Thailand, and Pathways to Imprisonment of Female and Male Prisoners in Thailand. She also played an important role in developing and launching the first comprehensive regional training program on the “Management of Women Prisoners in the ASEAN Region” which was launched by the Thailand Institute of Justice in 2016. She graduated with a Master’s of Law from the University of Kent, and a Master’s degree, Science in Social Policy and Social Research, from the University of Southampton, the United Kingdom.

**Billy Gorter** is the Executive Director of This Life Cambodia. He is a passionate activist and advocate for change, bringing more than 20 years of experience tackling conservation, social and human rights and educational issues in Australia and Cambodia to his role as Executive Director of This Life Cambodia. He launched This Life in 2007 based on his founding principles of listening to, engaging with and advocating alongside communities. This development philosophy achieves high-impact outcomes and sets best practice for international development. He is a sought-after speaker and is passionately committed to addressing the rights of children through education, juvenile justice and advocacy.

**Philip J. Gover** is the Impact Learning & Effectiveness Lead at This Life Cambodia. He has a passion for sustainable development and social economics. Following three years of research and tutoring with Northumbria University Social Science Research Centre, he spent 12 years working as a Senior Public Health Manager with the United Kingdom Government & National Health Service. He has worked in developing countries in East Africa, Southeast Asia and various settings across Europe, supporting a variety of Social Enterprises, Charities and Housing Associations. He is a graduate of Durham University (BA Hons’

Community & Youth Studies), Durham University Business School (MA Enterprise Management) and the University of Northumbria (MPH, Public Health). He is a Fellow of both the Chartered Management Institute and Royal Society for Public Health.

**Lucy Harry** is a Doctoral candidate in the Faculty of Law, Centre of Criminology at Oxford University undertaking research on gender and the death penalty in Southeast Asia, with a particular focus on Malaysia. Before undertaking the Doctor of Philosophy, she completed the MSc in Criminology and Criminal Justice at Oxford University, graduating with Distinction. She is a Member of Oxford University's Death Penalty Research Unit and is currently providing research assistance on several projects, including a study of foreign nationals at risk of the death penalty in Asia and the Middle East.

**Andrew M. Jefferson**, PhD, is a Senior Researcher at DIGNITY – Danish Institute against Torture where among other things he is a Principal Investigator on the project Legacies of Detention in Myanmar. He has been with DIGNITY for over two decades occupying academic positions at the cutting edge of theory/practice within what is a predominantly activist human rights organization. His work focuses on ethnographies of prisons and prison reform processes in the global south and has featured a range of collaborations with activist organizations engaged in torture prevention, human rights work, and prison reform. He co-convenes the Global Prisons Research Network. Aside from issues of prisons and comparative penalty, interests include the relation between state and subject in transitional contexts, the hierarchization of human worth, and how to conceptualise human suffering under compromised circumstances. He is the author (with Liv Gaborit) of *Human Rights in Prisons: Comparing Institutional Encounters in Kosovo, Sierra Leone and the Philippines*.

**Samantha Jeffries**, PhD, is a Senior Lecturer in the School of Criminology and Criminal Justice/Griffith Criminology Institute, Griffith University. Her research focuses on marginalized social statuses, criminalization, victimization, and justice. She has conducted research on LGBTIQ+ domestic violence, the sex industry, problem-solving courts, sentencing, gender, and Indigeneity. In focus more recently, has been the needs and experiences of domestic violence victims in the family law system and restorative justice processes. Since 2015, she has been collaborating with the Thailand Institute of Justice undertaking studies in Southeast Asia and Kenya on gendered pathways to criminalization, women's experiences of imprisonment, as well as re-integration and human rights. She has co-authored a book on domestic violence (*Romantic Terrorism: An Autoethnography of Domestic Violence, Victimization and Survival*, with Sharon Hayes), published articles in high impact journals including *Criminology* and the *British Journal of Criminology*, and conducted training on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) with prison personnel in Thailand, Kenya and Indonesia for the Thailand Institute of Justice and United Nations Office on Drugs and Crime.

### Myanmar Research Team

For reasons of safety and security, and given the circumstances in Myanmar following the February 2021 military coup, and with much regret, we are unable to reveal the names, affiliations, or any identifying information for this research team. We are deeply thankful for their contributions to this book, their unwavering dedication to the human rights of Myanmar's people, and stand with them as they continue to fight for democratic freedom.

**Barbara Owen**, PhD, is an international expert in the areas of women and imprisonment; gender inequality within the criminal justice system; improving operational practice in women's prisons; and women's prison culture, with extensive experience in conducting, ethnographies, large-scale surveys, policy studies; and program evaluation. Internationally, her work involves implementing human rights protections in women's prisons with the Thailand Institute of Justice. A Professor Emerita of Criminology at California State University, Fresno, she received her PhD in Sociology from UC Berkeley in 1984. Before returning to academia, she was a Senior Researcher with the Federal Bureau of Prisons. Her books include *In Search of Safety: Confronting Inequality in Women's Imprisonment* (with James Wells and Joy Pollock), and *In the Mix: Struggle and Survival in a Women's Prison*. Along with Barbara Bloom and Stephanie Covington, she has co-authored a major policy report, *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders* (2003). More recent works include multiple projects relating to the context of sexual and other forms of safety in women's prisons; an analysis of women's recidivism; research and policy work on Realignment in California and co-authoring the policy report "Unlocking America." Her work has been funded by local, state, and federal agencies. Her consulting experience includes several projects with the California Department of Corrections and Rehabilitation; on-going work with the National Institute of Corrections; extensive work with The Moss Group in providing research and policy review of operational practice in women's facilities; developing architectural design in women's jails; and evaluation efforts within local probation systems. She also serves on the Advisory Council of the Safe Alternatives to Segregation II initiative with the Vera Institute of Justice.

**Min Jee Yamada Park** joined the International Detention Coalition as the Asia-Pacific Programme Officer in 2019. Prior to that, she worked in the areas of detention monitoring, research, policy advocacy, and capacity building, particularly for government actors in Southeast Asia and Africa. Her previous role as a Policy and Research Coordinator with the Thailand Institute of Justice focused on advocating for the humane treatment of marginalized groups including migrants, stateless persons, and ethnic minorities in criminal detention, and promoting the implementation of the relevant international human rights standards into national laws and policies in Southeast Asia. She has also published and spoken at various international and regional platforms on the experiences and challenges of vulnerable groups deprived of liberty, particularly women and their accompanying children, based on her extensive field research in detention facilities in

Cambodia, Indonesia, Thailand, and Kenya. She received a Master of Arts in Development Studies from the International Institute of Social Studies, Erasmus University Rotterdam in the Netherlands.

**Jutathorn Pravattiyagul** earned a PhD in Criminology from Utrecht University and Hamburg University in 2018. She has a decade-long experience working as a researcher, ethnographer, university lecturer and consultant for international organizations, the private sector, and universities globally. Since 2016, she has served as an Associate Scholar at Harvard University Asia Center. Her professional specialization is on discrimination and race, gendered migration, and identity politics, reducing gender-based violence, transgenderism, transgender prisoners' rights, policies-making and criminal justice in Thailand and Europe. She has also worked as a Consultant for United Nations Development Programme and United Nations Office on Drugs and Crime on transgender inmates and prisons management policies projects by creating Standard Operation Procedures and technical brief documents for states. Currently, she is lecturing in Anthropology Department at Copenhagen University with a special focus on post-colonial queer, gender stigma and sexuality from non-Western perspectives.

**Prarthana Rao** graduated with a Masters in Development Studies from The International Institute of Social Studies, Erasmus University Rotterdam, the Netherlands. She currently works as Policy and Research Officer at the Thailand Institute of Justice (TIJ), an organization that aims at strengthening criminal justice reform and enhancing the rule of law through research, capacity building and policy advocacy. In her present role, she works extensively on improving gender sensitivity in the criminal justice system through the use of international human rights standards and norms. As a researcher, she has been involved in multiple projects on understanding women's pathways to prison, their experiences of incarceration and their rehabilitation needs in countries such as Thailand, Cambodia, and Kenya. As a capacity-building specialist, she has trained more than 100 senior correctional staff and prison officers from 11 countries on gender-sensitive prison management. Prior to TIJ, she worked at Leaders' Quest, a social enterprise that helps companies balance profit with purpose, aiming to reduce the structural inequalities in society by focusing on empathetic leadership development.

**Tristan Russell** is a PhD student in the School of Criminology and Criminal Justice at Griffith University/Griffith Criminology Institute. Her PhD examines the intersection between age and gender, and utilizing prisoners' voices, explores the experiences of older women incarcerated in Thailand. Before this, Tristan was a member of Griffith University's prestigious Honours College, graduated with a Bachelor of Criminology and Criminal Justice with distinction in 2018 and completed her Honours year in 2019. Her Honours dissertation focused on gendered pathways to prison in Thailand. She has a track record of published papers in the areas of gender, imprisonment trajectories, life during and post-incarceration, gender-based violence and restorative justice. She is also engaged in research projects on domestic violence and family law.

**Diana Therese M. Veloso** is an Associate Professor and the Graduate Studies Program Coordinator of the Behavioral Science Department at De La Salle University. She completed her PhD in Sociology at Loyola University Chicago. She has conducted original research on the life histories and issues of women formerly on death row in the Philippines and the re-entry experiences and challenges of formerly incarcerated women in Chicago, Illinois. She served as the lead researcher in two studies on serious and organized crime threats in the Philippines, as commissioned by the National Law Enforcement Coordinating Committee-Subcommittee on Organized Crime. She was a consultant in a nationwide evaluation of the interventions and rehabilitation programs for children in conflict with the law in the Philippines. She has also conducted research on gender-based violence among internally displaced people in Zamboanga City and Marawi City, two conflict zones in the Southern Philippines. She was also involved in participatory action research projects with First Nations communities in Chicago, Illinois.

*This page intentionally left blank*



## Acknowledgments

We owe a debt of gratitude to a range of institutions and people and would like to take this opportunity to register our appreciation. Together we thank the Series editors, Steve Tombs and Vicky Canning for their belief in the project and Katy Mathers and colleagues at Emerald for smooth processing. The project out of which this book grew (*Legacies of Detention in Myanmar*) is funded by a grant from the Consultative Research Committee of the Danish Ministry of Foreign Affairs and we are grateful to the Danida Fellowship Centre who administer the grant and particularly to Pernille Friis. We thank Sriprapha Petcharamesree of Mahidol University and the Southeast Asian Human Rights Network who planned the conference at which we would have presented these ideas were it not for the pandemic. We thank the contributors for putting your ideas and energies at our disposal and for your receptiveness to our input. And, of course, the book would not exist without the people who chose to engage with us (and the book's contributors) during field research sharing experiences of injustice and suffering, oppression and resistance. You take us places we could never go alone, and we are deeply grateful.

Samantha would like to thank Griffith Criminology Institute, Griffith School of Criminology and Criminal Justice, and the Thailand Institute of Justice, in particular the Office for the Bangkok Rules and Treatment of Offenders (OBR) for enabling my research in Southeast Asia with travel funds, an institutional platform, and collaborative relationships through which to undertake joint projects. In particular, from the OBR team, I would like to extend my heartfelt gratitude to Chontit Chuenurah, Yodsawadi Thipphayamongkoludom, Salila Narataruksa, Ploypitcha Uerfue, Wasoontara Sapsaman, Prarthana Rao and Min Jee Yamada Park. Additionally, I would like to thank Barbara Owen and Kathleen Daly for their mentorship and William Wood for his steadfast support throughout my research journey in Southeast Asia.

Andrew would like to thank DIGNITY – Danish Institute Against Torture (my research base for 20 years) and colleagues there for support, encouragement and tolerance. I single out Janne Tornsberg (for helping control the funds in such a friendly and professional fashion), Angelina Tarik Fattah (who is always able to find the literature I need) and members of the LoDiM team who sustained the project from its earliest days. Here I think of Irlin Osaland, Sarah Auener, Eva Zahia Nassar, Hannah Russell, Ergun Cakal, Liv Gaborit, and Tomas Max Martin. We gratefully acknowledge Hannah Russell and Tomas Martin's editorial contribution to Chapter 5. On matters pertaining to feminism, patriarchy, entitlement and mutuality I thank Victoria Canning Brigitte Dragsted, Luisa Schneider, and Bethany Schmidt from whom I am learning much.

## ***xviii***   *Acknowledgments*

Our gratitude is deep and genuine. Our expression of it signals in no way responsibility for the content or tone of this book. For that, we take joint responsibility.

## Chapter 1

# Introduction to Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia

*Samantha Jeffries and Andrew M. Jefferson*

### Abstract


In this introductory chapter, we discuss the impetus for this edited book. We introduce activist, critical and feminist criminological theorizing and research on gender, intersectionality, criminalization, and carceral experiences. The scene is set for the chapters to follow by providing a general overview of gender, criminalization, imprisonment, and human rights in Southeast Asia with particular attention being paid to Indonesia, Malaysia, Cambodia, Thailand, Myanmar, and the Philippines. We consider trends and drivers of women's imprisonment in the region, against the backdrop of the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, also known as the Bangkok Rules, which were adopted by the United Nations General Assembly just over a decade ago. We reflect on the dominance of western centric feminist (and malestream) criminological works on gender, criminalization and imprisonment, the positioning of Southeast Asian knowledge on the peripheries of Asian criminology and the importance of bringing to light, as this book does, gendered activist scholarship in this region of the world.

*Keywords:* Gender; criminalization; imprisonment; human rights; Southeast Asia; feminism; activism; critical criminology

---

**Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia, 1–11**

Copyright © 2022 by Samantha Jeffries and Andrew M. Jefferson. Published by Emerald

 Publishing Limited. This chapter is published under the Creative Commons Attribution (CC BY 4.0) licence. Anyone may reproduce, distribute, translate and create derivative works of this chapter (for both commercial and non-commercial purposes), subject to full attribution to the original publication and authors. The full terms of this licence may be seen at <http://creativecommons.org/licences/by/4.0/legalcode>

doi:[10.1108/978-1-80117-286-820221001](https://doi.org/10.1108/978-1-80117-286-820221001)

## Setting the Scene

Throughout history, women in conflict with the law and those behind prison walls, have been afterthoughts, often ignored because of their small numbers, making them a relatively invisible or forgotten population (Chesney-Lind, 1998; Jeffries, 2014; Owen, Wells, & Pollock, 2017). As a result, criminal law, justice systems, and prisons across the world have shown little evidence of gender sensitivity in policy or practice, leading to discrimination, social exclusion, and violations of human rights. The absence of gender-sensitive perspectives results in systems that are structurally blind to gender-specific challenges and harms within the field of criminal justice in general, and particularly in prisons. It is critical that gendered needs, including how these intersect with other forms of inequality, are paid more attention, better understood, and adequately reflected in law, policy and practice.

Over the last several decades, the number of detained women worldwide has surged (Walmsley, 2017). Women are no longer as invisible as they once were and concurrently, there has been increasing recognition of their human rights when they come into conflict with the law, and especially behind prison walls (Penal Reform International & Thailand Institute of Justice, 2021; United Nations General Assembly, 2010). Just over a decade ago, the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, also known as the Bangkok Rules, were adopted by the 193 countries at the United Nations General Assembly (2010).

The adoption of the Bangkok Rules has not interrupted increases in women's imprisonment, even though the Rules contain important commitments concerning non-custodial alternatives that should have reduced population numbers (Fernández & Nougier, 2021, p. 4). In Southeast Asia, as is the case globally, there have been substantial upward trends in women's detention (Jeffries, 2014; Jeffries & Chuenurah, 2016; Walmsley, 2017; World Prison Brief, 2021). This expansion in the region is being driven by heightened punitiveness, including government "crackdowns" on the illicit drug trade, human trafficking, and immigration (Jeffries, 2014).

Most notably, the war on drugs (global and local) has resulted in large numbers of women being imprisoned throughout Southeast Asia (Chuenurah & Sornprohm, 2020; Fernández & Nougier, 2021; Jeffries, 2014; Jeffries & Chuenurah, 2016). Sentences for drug offending are harsh, incorporating long-term incarceration, mandatory life, and the death penalty in all but two Southeast Asian countries (Cambodia and the Philippines). Furthermore, the number of people being incarcerated pre-trial, and thus presumed innocent, is skyrocketing. In the Philippines, for example, drug laws establish mandatory pre-trial detention (Chuenurah & Sornprohm, 2020, p. 132; Fernández & Nougier, 2021, p. 7; Penal Reform International & Thailand Institute of Justice, 2021). While figures by gender are not publicly accessible, data provided by the World Prison Brief (2021) show that in some Southeast Asian countries, around 7 out of 10 people in prison are pre-trial detainees. The overall result is prison overpopulation. Aside from Singapore, all prisons in the region are at over 100% capacity, with some

sitting above 400% (Table 1). Custodial overcrowding and concomitant under-resourcing pose obstacles to protecting the human rights of those deprived of liberty, including with regard to healthcare, education, and humane treatment (Chuenurah & Sornprohm, 2020, p. 132; Fernández & Nougier, 2021, p. 19; Penal Reform International & Thailand Institute of Justice, 2021). It is important to stress, that representing overcrowding in numerical terms fails to do justice to the experience of living under these conditions. As argued by Schmidt and Jefferson (2021, p. 82),

overcrowding, we believe, cannot be understood only as a quantitative category. It is not about percentages or about exceeding capacity but bodies in close proximity, living, breathing, infectious, aching, sick, damaged, and sensorially extreme.

Table 1. Pre-Trial Detention and Prison Overcrowding in Southeast Asia.

Country	Year	Pre-Trial (%)	Occupancy Level (%) Based on Official Capacity
Thailand	2021	19	339
Cambodia	2019	71	355
Indonesia	2021	20	196
Myanmar	2017	15	139
Malaysia	2019	27	132
Vietnam	2019	12	Unknown
Singapore	2020	11	79
Laos	2016	67	Unknown
Philippines	2018	75	464
Brunei	2019	7	144

Source: World Prison Brief (2021).

In 2017, the World Prison Brief listed the top 10 countries with the highest female prisoner numbers, in which 5 were in Southeast Asia: Thailand, the Philippines, Indonesia, Vietnam, and Myanmar (Walmsley, 2017). On average, globally, women constitute around 7% of the total global prison population, and are incarcerated at a rate of 9.9 per 100,000. As demonstrated in Table 2, both figures are higher in nearly every Southeast Asian country. The overuse of imprisonment for women in Thailand is particularly stark, with more women in prison here than elsewhere in the region. Furthermore, after the United States, Thailand has the second highest rate of female incarceration in the world (Chuenurah & Sornprohm, 2020, p. 135; Walmsley, 2017; World Prison Brief, 2021).

Table 2. Females Imprisoned in Southeast Asia.

Country	Year	Number	Percentage of Total Prison Population	Rate per 100,000 Population
Thailand	2021	37,365	12%	54
Cambodia	2019	3,000	8%	18
Indonesia	2021	13,167	5%	5
Myanmar	2017	9,807	12%	18
Malaysia	2019	3,247	5%	10
Vietnam	2019	13,202	11%	14
Singapore	2020	1,246	11%	21
Laos	2016	1,503	18%	22
Philippines	2018	21,349	11%	20
Brunei	2019	162	12%	36

*Source:* World Prison Brief (2021).

### The Impetus for this Book

In proposing this book on Gender, Criminalization, Imprisonment and Human Rights in Southeast Asia in the Emerald Activist Criminology series, our objective was to capture and collate the emerging work of activist scholars and grassroots advocates grappling to understand the lived experiences of cisgender women, transgender persons, other gender, and sexual minorities, as they encounter criminal justice systems in Southeast Asia. Exploring the complex interplay between conditions, needs, experiences, identities, and trajectories, our goal in the text that follows is to add significantly to our knowledge of the practices of gendered violation, victimization, and vulnerability facing people in conflict with the law and behind prison walls. Covering a range of country contexts – Indonesia, Malaysia, Cambodia, Thailand, Myanmar, the Philippines – and attentive to the variegated gendered experiences of different people on their way into, through, and/or beyond prison, this book contributes toward the development of theoretical and policy-oriented perspectives that are empirically grounded, rather than based on a presumed uniformity of experience.

For the most part, criminological scholarship undertaken within Asian societal contexts has been dominated by academics researching in a limited number of countries, employing masculinist theoretical paradigms (Lee & Laidler, 2013; Moosavi, 2019a). While we have witnessed advancement in criminological knowledge production from East Asia, including Japan, Hong Kong, China, South Korea, and Taiwan, some countries remain on the periphery within the Asian ambit (Lee & Laidler, 2013, p. 144). These tangential sites comprise Southeast Asian countries such as Malaysia, Cambodia, Thailand, Indonesia, Myanmar, and the Philippines (Belknap, 2016, p. 253; Lee & Laidler, 2013, p. 144). Furthermore, even among the relatively active centers of criminological knowledge

production in East Asia, most work focuses on testing and reproducing western criminological scholarship, frameworks, and knowledges (Belknap, 2016, p. 256; Lee & Laidler, 2013, p. 150). This work generally coalesces within the domain of new right realist criminology, being “administrative, positivist, quantitative and geared toward reducing crime from a state perspective” (Moosavi, 2019, p. 266). Issues of power, including gender, class, race/ethnicity, and sexuality have not been central to the research agendas of criminologists researching in East Asian countries (Belknap, 2016; Moosavi, 2019, p. 266).

Yet, for the editors of this book, what has become increasingly obvious after years of undertaking collaborative research in Southeast Asia, is the emergence of a burgeoning collection of critical criminological scholarship in the region, including gendered activist work. These endeavors are not limited to academe; they include collaborations with those working at the “frontline” in human rights organizations, NGOs, and government, all of whom seek to effectuate positive change in criminal justice policy, practice, and more broadly. The primary aim of this book is to make this more critical body of work visible.

In contrast to administrative or right realist criminology that has dominated criminological work undertaken in Asia to date, critical criminology is concerned with issues of social structural power. Those working within this activist framework make evident the injustice of criminal justice, and unpack how systems of power mark experiences of criminalization and imprisonment. Ultimately, the aim is the creation of a more socially just society across numerous domains, including, and especially within (and sometimes also against) the criminal justice system (Arrigo, 2016; Belknap, 2016; DeKeseredy & Dragiewicz, 2018; White, Haines, & Asquith, 2017, pp. 209–230).

## **Feminist Criminology, Human Rights and the Chapters that Follow**

Feminist criminology sits within the critical criminological paradigm. The collective goal is to speak truth to patriarchal power by centering and valuing the voices of criminalized women and raising awareness of gender oppression (Barberet, 2014, p. 16; Belknap, 2016, p. 14). Ultimately, feminist criminologists have tasked themselves with calling out gendered injustice and advocating for change in the conditions of criminal justice and society more broadly, that is harmful or oppressive to women in conflict with the law (Barberet, 2014, p. 16; Belknap, 2001; Britton, 2000; 2004; Carlen, 1985; Chesney-Lind, 1997; Daly & Chesney-Lind, 1988; Miller & Mullins, 2008; Renzetti, 2018, p. 75). Explicitly or implicitly, feminist activism presents as the prevailing theme throughout this book. More specifically, the authors of the chapters that follow build on two bodies of feminist criminological work that has, until recently, been dominated by western scholarship – pathways and feminist explorations of women’s imprisonment.

Beginning with Daly’s (1994) seminal work in the United States, feminist pathways researchers have mapped the life experiences leading women into the criminal justice system, exploring how gender shapes criminalization. These

studies revealed a particular and shared gendered backstory in the lives of women who come into conflict with the law, which is qualitatively different from that of men (Evans, 2018, pp. 41–43; Miller & Mullins, 2008, pp. 229–232; Wattanaporn & Holtfreter, 2014). Women's pathways are generally characterized by histories of gender-based violence (e.g., sexual and domestic abuse), associated trauma, substance abuse, economic marginalization, caregiving, problematic familial relationships, and intimate entanglements with men (see Daly, 1994; Owen et al., 2017; Wattanaporn & Holtfreter, 2014 and for studies in Asia, see Cherukuri, Britton, & Subramaniam, 2009; Khalid & Khan, 2013; Kim, Gerber, & Kim, 2007; Jeffries & Chuenurah, 2018; Jeffries & Chuenurah, 2019; Jeffries, Chuenurah, Rao, & Park, 2019; Jeffries, Chuenurah, & Russell, 2020; Jeffries, Rao, Chuenurah, & Fitz-Gerald, 2021; Russell, Jeffries, Hayes, Thipphayamongkoludom, & Chuenurah, 2020; Shen, 2015; Veloso, 2016).

At its core, feminist pathways scholarship highlights how patriarchal social structures play out in the lives of criminalized women, oppressing them through interpersonal, family, and state-sanctioned abuses (e.g., political and economic marginalization). Rather than pathologizing women and seeing their offending as something inherent at the level of the individual, feminist pathways scholars have sought to locate women's criminalization within social structural forces intimately related to gendered power relationships and associated access to resources. Women, it is argued, are frequently criminalized for exacting behaviors of survival within contexts of patriarchal subjugation (Willison & O'Brien, 2017).

In this book, Veloso (Chapter 9), and Russell and co-authors (Chapter 7) have specifically applied a feminist pathways approach to explore the imprisonment trajectories of women formerly on death row in the Philippines, and older women incarcerated in Thailand. The research findings presented in both chapters mirror the themes of previous feminist pathways studies. For the women in Veloso's (Chapter 9) study, economic precarity, victimization, and addiction were dominant themes in their lives, alongside deception, betrayal, and corrupted patriarchal systems of justice. Russell, Jeffries, and Chuenurah (Chapter 7) conclude that the older women in their research had either come into conflict with the law because they were providing for their families against the backdrop of poverty, took "the fall" for loved ones, or had self-medicated with illicit drugs in response to adversity and victimization.

The centrality of pre-existing conditions of gendered social structural vulnerability, putting women at risk of criminal justice system involvement, is highlighted in other chapters. Jefferson and co-authors (Chapter 2) discuss how the criminalization of certain behaviors, normative expectations of womanhood, poverty, relationships, gender discrimination in law, access to justice, and treatment in the criminal justice system, alongside the patriarchy of the Tatmadaw (armed forces), especially in the aftermath of the 2021 military coup, underpin women's imprisonment in Myanmar. Harry (Chapter 3) highlights the gendered vulnerabilities of women sentenced to death in Indonesia and Malaysia. Gorter and Gover (Chapter 4) note that women behind prison walls in Cambodia often come from poor, disadvantaged backgrounds, and lack legal literacy. Rao and co-authors (Chapter 6) highlight similar themes in the life histories of ethnic minority women imprisoned in Thailand.



Around the same time that Daly (1994) was writing, other scholars were attempting to understand the backgrounds and experiences of incarcerated women, alongside the collateral damages of carcerality through a feminist lens (e.g., Bosworth & Carrabine, 2001; Carlen, 1985; 1998; Chesney-Lind, 1991; Owen, 1998; Pollock-Byrne, 1990). In terms of the former, findings align with feminist pathways scholarship. Regarding the latter, women's time in prison was characterized by multiple interlocking gendered harms and abuses. Women experience and adapt to incarceration differently than men due to their distinct incarceration pathways and because prisons are patriarchal institutions built by men for men. Gender exacerbates the pains of imprisonment, with resultant long-term negative implications to women's well-being post-release, including deepening poverty, loss of children and familial connection, stigma, increased socio-economic isolation, trauma, and mental health problems (including substance abuse) (Owen et al., 2017). Feminist criminologists have called attention to the plight of imprisoned women, leveling criticism at prisons for being gender oppressive institutions unresponsive to women's needs (Barberet, 2014, p. 51).

There have been subsequent feminist calls for the development of a women-wise penology that recognizes the impact of patriarchal oppression on women through the development of gender-responsive prisons and increased use of non-custodial sentencing measures (Bloom, Owen, & Covington, 2003, 2004; Evans, 2018, p. 45; Owen et al., 2017). For many, negating the characteristics of women's criminalization trajectories (e.g., poverty, victimization, trauma), their experiences, needs, and concomitant gendered harms behind prison walls and post-release, constitutes a violation of human rights (Gainsborough, 2008; Gundy & Baumann-Grau, 2013; Willison & O'Brien, 2017, pp. 39–40). As argued by Gundy and Baumann-Grau (2013, pp. 106–107) ignoring the effects of patriarchy on women before, during, and after incarceration, the gender-specific factors underpinning their criminalization, and the gendered harms and abuses experienced, constitutes discrimination against women and violates multiple international conventions regulating the preservation of human dignity and equality. These conventions include, but are not limited to, the United Nations Conventions against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (United Nations General Assembly, 1984) and Elimination of All Forms of Discrimination against Women (United Nations General Assembly, 1981); the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (United Nations General Assembly, 2016), and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) (United Nations General Assembly, 2010).

As noted previously, the Bangkok Rules were adopted by the United Nations in 2010 and are described as being a “landmark step in adapting the 1955 Standard Minimum Rules for the Treatment of Prisons [currently the Nelson Mandela Rules] to women offenders and prisoners” (Barberet & Jackson, 2017, p. 214). Until their adoption, international human rights standards had not properly reflected the specific gendered needs of women, both as prisoners and regarding alternatives to imprisonment (Penal Reform International, 2013). The Bangkok

Rules reflect the research evidence gleaned from feminist pathways and penal scholarship. They provide a starting point for addressing the appropriate treatment of criminalized women and their children. Spearheaded in Southeast Asia by Princess Bajrakitiyabha Mahidol of Thailand (a prosecutor, jurist, and leading women's rights advocate), the rules were drafted in close consultation with feminist researchers and prison activists from around the world, and taken by a Thai delegation to the United Nations (Barberet & Jackson, 2017, p. 221).

The 70 Bangkok Rules provide a practical and aspirational set of human rights principles via a set of gendered directives to policymakers, legislators, sentencing authorities, and correctional institutions (Gainsborough, 2008). There is recognition that criminalized women and their children are especially vulnerable, that women in conflict with the law have different needs from men, are generally non-violent, subsequently pose minimal risk to society, and that existing systems of corrections are masculinist. The rules consider, amongst other things, high levels of victimization, trauma, substance abuse, mental ill-health, poverty, women's primary childcare responsibilities, and reproductive health care needs. They advocate for non-custodial measures alongside the need for gender-specific prison programs, policies, and practices, that support women's well-being, rehabilitation, and reintegration (Barberet & Jackson, 2017; Carlen, 2012; Gundy & Baumann-Grau, 2013, pp. 11–12; Penal Reform International, 2013). The rules also specifically address the needs of the children who are negatively impacted when their main caregiver (mother) comes into confrontation with the criminal justice system; there is an expectation that the best interests of children are considered (Penal Reform International, 2013, pp. 3–5).

The gendered challenges faced by imprisoned women, and by extension, the need for a more gender-informed approach, are highlighted in several chapters in this book. Gorter and Gover (Chapter 4) discuss the human rights challenges faced by imprisoned mothers and their children in Cambodia. As grass-roots advocates working “on the ground” for an Non-Government Organization, the authors overview a program developed by their organization that aims to support women and their children at risk of separation through imprisonment, recognizing the importance of familial relationships to women's rehabilitation and reintegration. In Chapter 5, a research team from Myanmar<sup>1</sup> explore and critically reflect on the rehabilitative and re-integrative potential of work tasks assigned to female prisoners in Myanmar. Jefferson and researchers from Myanmar<sup>2</sup> (Chapter 2) deliberate on the challenges faced by women imprisoned in Myanmar regarding their basic human right to health care. More broadly, the authors of this chapter summarize findings from an interview-based case-study, examining the gendered experience of imprisonment, the character of prisons, practices of repression and resistance, and reflect on what the future may hold in the wake of the 2021

---

<sup>1</sup>Given the current circumstances in Myanmar and for reasons of safety and security, it is with much regret that we feel unable to reveal the names of the authors of this chapter.

<sup>2</sup>Given the current circumstances in Myanmar and for reasons of safety and security, it is with much regret that we feel unable to reveal the names of the co-producers of this chapter.