

## Chapter 11

# Conclusion: Decentering Research and Practice Through Mutual Participation

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### Abstract

The chapters in this book show that it is possible to conduct studies on the intersections between gender, criminalization, imprisonment, and human rights in Southeast Asia. In this conclusion, we draw out the implications of this emerging scholarship. More specifically, we critically examine how common talk about “individual needs” risks blinding criminal justice reformers to the structural, gendered dynamics that render people criminalizable and imprisonable. We explore the potential of the concept of participation to strengthen understandings and activism around gendered harms, and grapple with the thorny issue of for whom we speak. We advocate for cross-cultural understandings, developed in collaboration and through partnership, to productively challenge the ethnocentrism of criminology and propel truly transformative agendas. Three steps are identified to decenter research and activism: Scholars and activists must acknowledge the risks of attending to need while not attending to the drivers of need; resist the temptation to operate only within the limits defined by the authorities, the state, the academy, or agencies set up to protect; and generate “home grown,” counter-hegemonic solutions that push back against the tendency to universalize, colonize and deny difference.

*Keywords:* Participation; ethnocentrism; collaboration; mutuality; activism; research

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## Introduction

This book began with a call for papers that we put out for a panel at the *Sixth International Conference on Human Rights and Peace & Conflict in Southeast Asia* originally scheduled for October 2020 but postponed because of COVID-19.<sup>1</sup> The call was rooted in a desire to collaborate, to connect with other scholar-activists, and to disseminate new knowledge that we were in the process of generating. The conference was put on hold, but we forged ahead nevertheless as we realized the abstracts we received had the potential to make a meaningful contribution. This book is the result.

In our introduction, we laid out our point of departure situating the contributions within pathways and feminist scholarship and stating that 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, and other gender, and sexual minorities, as they encounter criminal justice systems in Southeast Asia.

In this conclusion, we want to push further to reflect and think with and beyond the contributions and even beyond our own initial point of departure to illustrate the value of a kind of criminology – if we must call it that – emerging from Southeast Asia which is not right realist or administrative, but critical and transformative.

In this book, we have filled some empirical gaps in the research field, by further illuminating experiences of imprisonment and entanglements with criminal justice systems in Cambodia, Indonesia, Malaysia, Myanmar, the Philippines and Thailand, and posted some way-markers that might guide future studies. Collectively, we have looked inside and outside of prisons across several sites in Southeast Asia and considered the relationship between gender, other intersectional subjugations and criminalization, as they frame and impact people's lives while examining the potential and limitations of normative human rights frameworks.

This conclusion is structured as follows: we begin by critically examining how talk about individual needs and immediate concerns risks blinding well-intentioned criminal justice reformers to the structural gendered dynamics that render people imprisonable. Then we explore the potential of the concept of participation to illuminate, deepen and strengthen understandings and activism around such issues. From participation, we move to the thorny issue of for whom we speak and to criminology's ethnocentrism (raised in the introduction), and the necessity of developing and propagating cross-cultural understandings – in collaboration and through partnership. In a penultimate section, we point to some of the implications of a scholarship about and emerging from Southeast Asia for notions of gender, criminalization, imprisonment and human rights. We end by looking ahead and asking: is there any scope for hope?

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<sup>1</sup>Our thanks go to the Southeast Asian Human Rights Network for accepting our panel proposal and by doing so pushing these issues forward.

## **De-Individualizing Rights and Harms**

In the face of immense suffering, blatant examples of injustice or inequality and obvious examples of violations, it can be tempting to talk about how to meet gender-specific needs or how to ensure people know and are granted their rights without delving much deeper into the backstories around why needs are not met in the first place and why rights are not enjoyed and respected. Faced by human suffering it is natural to turn to the tools that are at one's disposal and to articulate social, societal, even global challenges in terms of the dominant languages available.

Sometimes these are languages of the powerful global agencies – the World Bank, the United Nations. Sometimes these are languages of the historically powerful disciplines – law or medicine. Sometimes these are languages of vested interest – of corporations, of patriarchy or those otherwise interested in the maintenance and reproduction of the status quo. Sometimes these are the languages of the academy, often the northern/western academy with its concomitant condescension, arrogance and monopolization.

In this book, we have sought to visibilize and analyze the languages – that is the voices and words – of women, sexual and gender minorities, those at the margins of other intersectional oppressions and members of organizations and actors situated at the frontline of struggles on behalf of and with people caught up in structures that render them vulnerable to violation, victimization, and criminalization.

One of the tasks of an emancipatory interpretive social science (which is what feminist scholarship is) is to wisely discern the character of situations, events, and dynamics that render particular groups of people in specific situations violable, torturable, imprisonable, and killable.

To do this, it is vital to avoid defining the problem or the goal in terms of the apparent solutions currently at hand. The ends should not be formulated in terms of the means immediately at one's disposal. A particularly blatant example of this in development and human rights work is the way in which global challenges pertaining to injustice and inequality are reframed in terms of lack of knowledge or lack of morality for which the solution is the provision of new knowledge (in the form of training) and new rules. If the conceptual tools – our understandings – that inform our interventionist practice are simply those we pull off the shelf or borrow from the arsenals (and standing languages) of the powerful we run the risk of reproducing the dynamics we desire to transform.

Another example pertinent to the field of criminal justice is the manner statist language infiltrates the way reforms are talked about and issues are defined. Criminalized populations are referred to unthinkingly as offenders; the real-life situation of life after prison is reduced to the idea of “reintegration into society”; at-risk populations are identified as inherently vulnerable or as trouble-makers or threats to good order and community decency.

Both these examples involve not only the embrace of statist language but also the acceptance of a language that personalizes the issue, leaving the individual responsible both for their situation and for their own rescue. That is the “growth

conditions” for violence and vulnerability are conflated under the rubric of needs implying some kind of lack in the individual.

The tendency to individualize issues – which at heart are relational or inter-subjective – has deep roots when it comes to matters of criminal justice, as Craig Haney (2006) has powerfully argued. Haney (2006) unpacks the fundamental way in which dominant contemporary models of punishment and criminal justice are based on the transformation of social conflicts (where lines of causation might be blurred) into matters of individual behavior for which a single person can be blamed and held responsible. The person standing in the dock becomes the criminal, legally and morally responsible for their behavior and its consequences, with society’s only responsibility being to punish properly and ensure needs are met and procedures adhered to. The idea that people are constituted, and behavior partially determined through relations, through the opportunities at their disposal, through their position vis-à-vis others in society, through the transactions and dependencies within which they are caught up carries little weight in such settings (except in the almost tokenistic idea of mitigating circumstances).

Human rights and development discourse and practice – within which most of the contributors to this book are one way or the other situated – is not immune to the tendency to individualize either and when it does so it too runs the risk of exacerbating problems rather than addressing them. The human rights-based approach to development (HRBA) is one example of a line of thinking that exemplifies this. HRBA, at its most basic level, figures people as either rights holders or duty bearers (echoing a crude distinction resisted by many scholars and practitioners today between victims and perpetrators). By doing so it individualizes rights discourse and practice unnecessarily.

Iris Marion Young’s (1990) powerful argument about social justice not being a possession of individuals but something attached to relationships is pertinent here. While the idea of me or you or the next person “having” rights is seductive, in practice it can be a blind alley if the conditions in society are such that you or I cannot enjoy those rights because for example, society is based on patriarchal and authoritarian histories that exhibit intolerance for non-conformity, valuing instead uniformity and obedience and the perpetuation of the “natural” order of things. According to Young (1990), social justice, is not about what people have but about what they can do, what opportunities are available to them, the extent to which they have the conditions of life at their own disposal. She proposes a process-oriented, relational approach to social justice that focuses on the “social structures and processes that produce distributions rather than on the distributions” (Young, 1990, p. 18). From her perspective, and echoing the final paragraphs of this book’s introduction,

Rights are not fruitfully conceived as possessions. Rights are relationships, not things; they are institutionally defined rules specifying what people can do in relation to one another. Rights refer to doing more than having, to social relationships that enable or constrain action. (Young, 1990, p. 25)

Pursuing this line of thought, instead of individualizing collective issues attention should be directed toward the unequal distribution of possibilities to participate meaningfully in social life without risk of victimization and violation. Thus, it is important to examine the gendered distribution/patterning of harms and rights but also how possibilities to be harmed and to enjoy rights are distributed. This is ultimately about drawing attention to hierarchies of worth and the idea that some lives are more grievable than others (Butler, 2004; Segal, 2016; Stevenson, 2014).

A focus on distribution rather than possession redirects attention toward the way rights are conditioned by relations and positionalities. Rights thus need to be understood as distributed and diffused through populations (often unequally), translated into everyday practices, and embedded in societies rather than possessed by rights holders and applied in situations of individual need, lack or inherent vulnerability.

Proponents of the HRBA would, for sure, recognize this. They are not blind to the structural dynamics and inequalities that pervade societies and subordinate some groups at the cost of others. Nevertheless, the commitment to an individualized notion of rights evident in the notions of rights holders and duty bearers does set a limit on ways of conceptualizing the issues at stake that lead practitioners more easily toward needs-based approaches than to approaches that highlight the necessity of more radical structural and societal change, to once again pick up a thread from our introduction. Of course, one kind of response is easier to offer than the other – and often more immediate – which adds to its seductive power.

But ensuring rights are accessible without addressing the reasons rights are sometimes curtailed for some members of societies is not enough. And as Upen- dra Baxi (1998) and others note sometimes rights are in the interests of the powerful not the powerless. So, redistributing rights as if rights were possessions is insufficient. And identifying harms<sup>2</sup> as if they were the property, responsibility or fault of those subject to them is unproductive.

These reflections represent a subtle rethinking of how we might think about rights less instrumentally that draws on the scholarship of the last couple of decades about human rights in practice (Cowan, 2006; Cowan, Dembour, & Wilson, 2001; Dembour, 2006; Goodale & Merry, 2007; Jefferson & Jensen, 2009). During these times of rising authoritarianism (as we have seen recently in Myanmar, the Philippines and Thailand) and the questioning of the mechanisms and systems designed to manage the protection of rights as defined in United Nations conventions and charters, it is even more important to reanimate and give renewed impetus to rights discourse and practice. One way of doing this is to think of rights as relational.

Another way to express this is to say we need to put the human back into human rights or to rediscover rights in the service of those who suffer as Baxi (1998) (might) put it. Baxi (1998, p. 128) decries the corporatization of rights

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<sup>2</sup>For deeper insights into the notion of social harm see the work of the zemiologists (Canning & Tombs, 2021; Hillyard & Tombs, 2007).

discourse stating that “recovery of the sense and experience of human anguish provides the only hope that there is for the future of human rights.” And further, “to give language to pain, to experience the pain of the Other inside you, remains the task, always, of human rights narrative and discourse” (Baxi, 1998, p. 149). This profoundly visceral evocation of a rights-oriented relation would seem to sit quite well with the sensory turn in criminology (Herrity, Warr, & Schmidt, 2021). It also resonates with the contributions to this book that echo the voices of women, sexual and gender minorities as they have spoken about the way their lives are rendered deserving of violence.

## **Pathways of Participation**

We turn now to the concept of participation. In this book, authors have focused quite regularly on feminist “pathways” building on Daly’s (1994) approach and emphasizing the way routes into, through and out of prison are profoundly gendered. Another critical strand running through these pages strongly implies that many of the inhabitants of prisons would not be there were it not for the forces of law, society, culture and history that thrust women, sexual and gender minorities into situations (not of their own choosing) where they are subordinated, unable to provide for themselves or their families and consequently rendered vulnerable and violable and criminalized, and incarcerated. Within such conditions, they have expressed agency within the confines of their oppression and taken action, through what the state defines as criminal, to free themselves, if only for a while, from their oppressive circumstances. As mentioned, the feminist pathways scholarship, that explicitly or implicitly informs the contributions to this book, has focused on the way (mostly) women’s routes and journeys into, through and out of prison are gendered, thus casting light on the structured and structuring situations that women find themselves in at various points on that journey – be it the home, the search for livelihood opportunities, the police station, the courtroom, or the prison. The pathways approach makes explicit the fact that lives are not static but fluid and subject to change, that people are, so to speak, on life trajectories.

All the contributors to this book are concerned with people in everyday life, that is with the way people inhabit and occupy social and institutional worlds. At stake within each of the chapters – though mostly unacknowledged – are ideas about how people engage in the world, that is how they participate. The pathways approach implies that people are participants in social life, that is in the world even before they present as people with needs to be excluded or included in criminal justice systems.

Inclusion and participation have been buzzwords in the development and human rights world for decades sometimes burning hotter than others (Chambers, 1997; Cornwall, 2006, 2011; Holland & Blackburn, 1998). The concept of participation is a way of thinking about humans’ deep embeddedness in social practice, the inescapability of our “thrownness” into the world. While it has become a popular mantra that context should be taken seriously when designing any form of intervention or launching any new policy, mantras are no guarantee

of context-informed practice. Approaching people as situated participants in populated practices rather than history-less automatons in black boxes is an important way of inserting context more deeply into interventionist thinking and practice.

From this point of view, it is a problem when accounts of “individual needs” are insufficiently anchored in a thorough understanding of the way people are inherently embedded in social worlds. Participation is a deeper, stronger, more useful concept than often realized (perhaps even stronger than “agency”). A body of work that might help us in that regard is that of the critical psychologist Ole Dreier (2003, 2008) and his long-term collaborator anthropologist Jean Lave (2011). Lave has innovatively reframed theories of learning (and indirectly change) as less about knowledge transfer between “lollipop men” [i.e., (male) minds on sticks] and more about “changed participation in changing practice.” And with Dorothy Holland, she has helpfully recast structure-agency debates in terms of “enduring struggles and intimate identities” catalyzed through “contentious local practice” (Holland & Lave, 2001). Dreier theorizes from the point of view of a “science of the subject” aimed at making sense of what we might call persons-in-practice (Jefferson & Huniche, 2009). Of particular use is his concept of “trajectories of participation” which combines an orientation to lives on the move with an understanding of participation as more than just “taking part in” a particular activity that might or might not be appropriately attuned to one’s needs. To participate is to belong to the social world, to be embedded in history, and anchored in the world through embodied relationships. This embeddedness can be compromised by the structures and dynamics of any given situation leaving people unhinged and limited in their ability to exhibit agency and navigate their conditions of possibility. Critical psychologists, like Dreier (2003), direct attention to conditions, meanings and reasons for action recognizing the links between these features of everyday life (See, for example, Dreier, 2003, 2008; Motzkau & Schraube, 2015; Mørck, 1995; Nissen, 2000, 2012; Schraube & Højholt, 2016).

With these insights in mind, it is possible to think more critically and more deeply about the gendered “exercise of existence” (to borrow Achille Mbembe’s (2001) evocative phrase) of women and gender and sexual minorities as they encounter criminal justice systems and the way that exercise of existence is curtailed in harm-filled, harmful ways.

### **Speaking *with* and the Potential of Cross-Cultural Understandings to Decenter and Deprivilege Dominant Knowledge through Partnerships**

Through this book, we have made visible some key aspects of research, advocacy, policy, and program development taking place in Southeast Asia, while also giving voice to those criminalized and imprisoned in this part of the world. Cross-cultural understandings are important. They challenge the ethnocentrism of criminology (and other disciplines), create a space from which we can listen

and learn, and in turn, more accurately respond to the gendered needs of those in conflict with the law – but also the causes and drivers of those needs.

Cross-cultural understandings enable us to confront the hegemony of western rationality and the dominance of western academic institutions in determining the form and criteria for valid knowledge generation. But cross-cultural understandings do not come about without hard work and they do not come about simply by attending more to the countries of the global south or juxtaposing findings from one culture with findings from another. Cross-cultural understandings require cross-fertilization in the form of coming together in a genuine multi-directional dialogue of exchange. This we aspire to, as this book bears witness, but it is something that will always be experimental and provisional calling for a constant interrogation of position and privilege and the grounds from which “we” speak.

The chapters in this book are the product of a range of different types of collaboration many of which predated the project of bringing this book together and go back several years. Common to the different collaborations is an attempt to bridge the divide between the academy and practice. A reflexive and critical concern with practice and with enabling action draws attention to the radically situated nature of any practice of knowledge production, that is to the theme of positionality.

Positionality is a core theme of feminist (and critical race) scholarship linked to reflexivity, criticality and intersectionality as explored in a range of important foundational writings (Haraway, 1988; Harding, 2004; Hill Collins, 1990). The contributors to this book are positioned quite differently across a range of dimensions. We are an eclectic bunch involved in varying ways at different times in knowledge generation, policy work, advocacy, activism, and hands-on development projects. We often have a range of overlapping roles – serving as designers of research and interventions, advisors to civil society, governments and other agencies, mentors of students or early career researchers and so on. In our experience, the ability to occupy multiple roles and take on and off different hats has proved fruitful for research and activism.

As already mentioned, our purpose with this book was to visibilize and make available to a wider audience work being done in and on Southeast Asia. In some ways, this can be thought of as a practice of giving voice. During the process of drafting this conclusion, however, this has brought to our attention the tricky question of for whom we, as contributors and editors, speak? And, by extension for whom and to whom does research speak? The significant work of Linda Alcoff (1991) has been instructive in this regard.

Writing in 1991, and revised and republished several times since, Alcoff<sup>3</sup> draws attention to the epistemic salience of a speaker’s location and reflects on important questions about the “discursively dangerous” authority of scholars located

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<sup>3</sup>See also a highly accessible interview covering some of the same issues published in *Stance* (Alcoff, 2019).

in situations of privilege, especially when that privilege is taken for granted. She locates her main argument as being about “that small space of discursive agency we all [academic writers that is] experience however multi-layered, fictional and constrained it in fact is” (1991, p. 6). What she is pointing to here are the elements of doubt, hesitancy and caution (or, on the other hand, certainty, speed, and daring) that inform acts of writing or speaking from a position of authority.

In her attempt to unpack the “problem” of speaking for others Alcoff (1991, p. 9) examines two premises, one pertaining to the fact “that there is no possibility of rendering positionality, location, or context irrelevant to content,” the second to the fact that “discursive context is a political arena.” Expanding on this latter point she writes,

rituals of speaking are politically constituted by power relations of domination, exploitation and subordination. Who is speaking, who is spoken of, and who listens is a result, as well as an act, of political struggle. (Alcoff, 1991, p. 9)

This is crucial to our developing understanding of our own reflexive position as writers, speakers, and editors working collaboratively with differentially positioned others jointly engaged in a practice of visibilizing other subjugated voices from a part of the world rendered peripheral by the standards of western-inflected academic study. We are not outside of the contestations that our differentially located positions animate. Rather, we are quite radically, and unavoidably, implicated in the practices and effects of struggle – both substantive and discursive – that our book is about. Our point here is that consciousness of this fact is vital. And the “emotionally troublesome endeavour” associated with “constant interrogation and critical reflection” (Alcoff, 1991, p. 15) on one’s own position and privilege is necessary. As Alcoff (1991, p. 12) puts it,

(T)here is no neutral place to stand free and clear in which one’s words do not prescriptively affect or mediate the experience of others, nor is there a way to demarcate decisively a boundary between one’s location and all others.

From this perspective, it is simply not possible to only speak for oneself; one always speaks for or about or in relation to others. Recognizing this is an important political gesture and offers a provisional platform from which to speak.

In a discussion of Gayatri Spivak’s (1998) “Can the Subaltern Speak?,” Alcoff (1991) notes the naivety of one position that could be adopted about the concerns we are addressing here. This would be the position that says we chose not to speak for or to but only to listen and re-present, for example, the voices of the oppressed or the voices of scholars from the south. The naivety of such a position lies in the fact that it “essentializes the oppressed as non-ideologically constructed subjects”

(Alcoff, 1991, p. 16) and undermines the potential added value of research.<sup>4</sup> Just because people are oppressed does not make them analytically authoritative or value-free. Ironically what we sometimes find is that so much effort has been put into spreading western academic norms and rationalities that one finds southern partners so heavily invested in these norms that they find our critical self-reflexive critiques about representation and politics of knowledge puzzling. Having said this and, as Alcoff (1991, p. 16) acknowledges, “listening” is one obvious way of “giving voice” and opening space for subjugated actors to perform as “knowing agents” and not merely “objects of knowledge.”

We agree with Alcoff (1991) that speaking for others is risky but sometimes necessary, though the impetus to *always* speak should be resisted. Choosing when not to speak can of course be a tricky endeavor and also rests on dynamics of privilege. Ceding position, granting the other space, choosing not to speak up or out is also a political act.

The position toward which we aspire is one that avoids the false dichotomy between either speaking for or listening to but rather cherishes dialogue and the pursuit of opportunities to speak with, to and through others mutually.<sup>5</sup> Ironically, many of the contributors to this book have never met each other in person. We have gotten to know each other through the exchange of textual material in the form of drafts and redrafts of chapters. It is quite possible, even quite likely, that in the editorial process we editors have engaged in clumsy acts of erasure as we sought to make this book a viable enterprise given the terms and conditions associated with contemporary academic publishing. We never set out to challenge the constraints that these conditions impose. Rather, reluctantly accepting them, we have sought to shape and reshape the chapters so that arguments were clear, voices decipherable, and analysis persuasive. In so doing, we contend that this book is a dialogical enterprise. As such it also serves as an invitation to differentially positioned readers to contest our positions and make their own sense of the arguments.

The question of for whom and about whom we speak lies at the heart of moves over the last couple of decades to decenter western taken for granted knowledges and to take seriously the colonial and imperial inflections of much knowledge production. We welcome moves within criminology and other disciplines to question epistemological foundations and presumed norms and canons more

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<sup>4</sup>In an earlier piece of work reflecting on the work of anti-torture organizations the first author proposed that research in such settings might be conceived of as bringing “convergent and divergent perspectives into conversation with one another adding a meta-reflexive layer which strives to be not just one more situated voice but an analytic voice juxtaposing and questioning, hesitating and puzzling and seeking new questions and points of curiosity” (Jefferson, 2016). Through activist scholarship we strive to do more than simply echo oppressed voices and subjugated knowledge. We strive to add analytic value.

<sup>5</sup>As Alcoff (1991, p. 16) puts it “we should strive to create wherever possible the conditions for dialogue and the practice of speaking with and to rather than speaking for others.”

fundamentally as evidenced by the emergence of decolonizing and southernizing efforts, however, splintered these may be (Aliverti, Carvalho, Chamberlen, & Sozzo, 2021; Carrington, Hogg, & Sozzo, 2016, Carrington, Hogg, Scott, & Sozzo, 2018; Cunneen, 2011; Dimou, 2021; Moosavi, 2019a, 2019b, 2020). Exposing and correcting traditions and structures that exclude certain voices and perpetuate the status quo is necessary. There may be a risk, nevertheless, that disciplines turn inwards rather than outwards during this necessary process of conscientization, even that peripheral or hitherto excluded voices are effectively and counter-productively drowned out as privileged voices continue a long tradition of speaking more to themselves than listening to the voice of the other [cf. Juan Tauri's (2021) Indigenous criminology and the counter-colonial criminology of Biko Agozino (2004)]. Neither the contestation around curricula, nor discipline-based in-fighting or drives to establish new strands or "traditions" must be allowed to distract from the practice of generating knowledge and enabling action collaboratively across cultures. It seems incumbent on scholars engaged in debates about the historical and current context of knowledge production to ensure that critical reflexivity does not slip into self-indulgence and become once again centered around the questions of who we are as "as criminologists" or what the "nature" of criminology actually is.

This book is published in the activist criminology series but most of the contributors are not strictly speaking criminologists or adherents to a discipline-oriented form of knowledge generation. Our approach is more expansive, our positionalities, as mentioned, quite varied. Where academic disciplines set boundaries, circumscribe fields, and police methods and forms of distribution in the interests of order and the production of certain types of professionals and certain forms of knowledge, our critical, feminist, practice-oriented approach allows us to transgress some of these boundaries.

But we are also captive to tradition even as we seek to transgress certain norms in the interests of inclusivity and the development of more comprehensive understandings. The most obvious of these is the choice to publish in English, not the first language of many of the contributors. Similarly, editorial work is by nature a craft form that involves a push toward conformity and uniformity in the service of the gods of cogency and coherence. As such, the task of editors or drafters of a conclusion like this might be seen as identifying common threads and imposing unity on a disparate set of chapters in the interests of clarity and on behalf of an imagined reader unable to discern for themselves. But why imagine the reader as in need of such help, as unable to hold disparate threads in mind, as only being able to decipher a linear, uniform narrative airbrushed clean of discrepancies, discolorations and wrinkles? Our imagined readers are smarter than this.

The stakes here are not issues of truth or method<sup>6</sup> as much as concrete constitutive matters about relations between people differently positioned across a

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<sup>6</sup>For more on the issue of truth and method versus justice, power and politics see the quite hefty debate between Susan Hekman, Nancy Hartsock, Sandra Harding, Patricia Hill Collins and Dorothy Smith (in Harding, 2004).

variety of dimensions (gender, race, generation, geography, etc.) with different academic backgrounds and levels of perceived authority and different life histories and contemporary life contexts. And this is just the writers of this book. If we look beyond the writers to the others implicated in the shared production of this book – to the imprisoned women, for example – we see even deeper degrees of variation and distinction. Feminist standpoint theory/ies and the epistemological commitments associated with the recognition that knowledge is situated and some forms of knowledge more subjugated or more privileged than others remind us of the way human experience is mediated by the differential distribution of resources, perceived worth or value, and suffering (in the form of poverty, violence, domination and the ability (or not) to transgress the conditions of possibility of specific forms of life) (Das, 2007, 2020). Recognizing the legitimacy and necessity of different standpoints and experiences and deliberately choosing to listen and engage with their perspectives is one marker of this book.

This book has not explicitly sought to decolonize knowledge but if it does so we are more than happy. Our target is not western scholarship except in the sense that we wish to decenter the point of orientation or the axes around which understandings of gender, imprisonment, human rights and criminalization revolve. Our desire has been to illuminate a non-western context attentive to its own terms and conditions. By doing so, we indirectly undermine or push back at dominant circulating images of the intersection between gender, imprisonment, rights, and criminalization that are limited by their peculiar context of production being mainly in the west.

Our desire to conduct research in southern contexts and to generate knowledge in order to push back against dominant and hegemonic understandings goes back at least two decades and predates recent moves toward decolonization and southernization.<sup>7</sup> In some respects, our previous research demonstrates more the doing of (post)colonial scholarship than the thinking about the state of the colonial epistemological foundations of criminology. We have sought to put our privilege – our know-how, know-who as well as our access to resources – to work, together with scholars and activists the concerns of whom have been neglected in the past.

As Alverti et al. (2021) argue, it is necessary to do more than just broaden the scope of scholarship to incorporate the global south as a field for “northerners” to study. This must be accompanied by a ceding of space to enable the growth of hitherto peripheral scholarship that is not stifled by the dictates of western

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<sup>7</sup>The initiation of the Global Prisons Research Network in 2009 by the first author of this piece and colleagues from Denmark, India and Ghana with its avowed purpose “to fill the empirical gap created by the hegemony of the Anglo-American axis of comparison in prison studies by promoting and supporting in-depth studies of prison practices in Africa, Asia, the Middle East, Latin America and the former Soviet States” testifies to this.

rationality or methodological dogma.<sup>8</sup> The normative power of research produced in Anglo-American contexts to define and police the legitimacy and credibility of research must be challenged. One way to do this of course is through doing research *otherwise* and with others and yet this is not without obstacles, be these related to bureaucracies, funding possibilities, pandemics or other dangers and risks. However, we suspect that the conditions that ‘militate against the production of research in Southern contexts’ (Aliverti et al., 2021, p. 304) are actually over-estimated and we concur with Luisa Schneider that there needs to be a “right to risk” (Schneider, 2020).<sup>9</sup> In our experience field research conducted with an ethnographic sensibility (Schatz, 2009), a feminist epistemology (Harding, 2004), or an action research angle offers rich possibilities in the global south, especially when conducted through partnerships. We therefore agree that the challenges of researching in the south can also be conceived of as “a driving force for methodological and theoretical innovation to expand criminological imaginations” (Aliverti et al., 2021, p. 304). Similarly, we concur with Katja Franko Aas (2012, p. 16) that “developing more democratic epistemologies is not only a question of epistemological justice, but increasingly also an analytical imperative and an opportunity for theoretical innovation.” But paying heed to Cunneen and Tauri (2016, 2019), it is also incumbent on researchers from the north to acknowledge and recognize (in the deepest sense of these words) pre-existing, but hitherto ignored and peripheralized, scholarship.

In this penultimate section of this chapter, we briefly consider some ways in which research in and about Southeast Asia pushes back against hegemonic understandings and practices pertaining to gender, criminalization, imprisonment and human rights.

## Revisiting Gender, Criminalization, Imprisonment, and Human Rights

In this book, we have not compared systems or institutions but engaged in an illumination of experiences and conditions of possibility, as well as responses designed to mitigate harms and ameliorate sub-standard conditions. The approach we seek to model is person-centered without being individualizing. Our focus is not essentialized gender but the effects of gender; not crime but criminalization; not the prison but the practice of imprisonment; not human rights as such but the translation and practice of human rights.

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<sup>8</sup>Dimou (2021) and Moosavi (2020) both warn candidly of the risks that the current “craze” to intellectually decolonize might perversely end up reinscribing coloniality. Moosavi (2020) has helpfully drawn attention to the thought of scholars such as S. H. Alatas, S. F. Alatas, C. Ake, N. Thiong’o, W. Mignolo, A. Quijano, K.-H. Chen as well as members of the Subaltern School (not forgetting F. Fanon and E. Said) to mitigate against this risk.

<sup>9</sup>Schneider (2020) is not arguing that researchers should put themselves in unnecessary danger but exposing the absurdity of mollycoddling, bureaucratic, risk averse procedures that are rooted in universities’ desire to protect themselves from liability.

The chapters in this book testify to the fact that it is possible to conduct studies on these topics in Southeast Asia, if that was ever in doubt. Practical challenges and bureaucratic hurdles to one side it is not impossible to study or to engage as decades of side-lined scholarship bear witness. There are opportunities for dialogue with authorities and for programming. There are opportunities for regional policy pushes, for example, 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). And there are opportunities for collaborative research. So, what does our collective research and reflection from and about Southeast Asia teach us about gender, criminalization, imprisonment and human rights? Here we simply draw out a few illustrative points.

*Gender* is a condition or quality that is difficult to pin down but has real effects. Scholars have come to understand gender as fluid not fixed. In Southeast Asia, it is fluid in different ways to those commonly recognized in western discourses and by international actors. This point is clearly made by Pravattiyagul as she explores the struggles of trans prisoners in Thailand and by the Myanmar-based research team in their discussion of *apwints* in conflict with the law in Myanmar (both in this volume). The slipperiness of terms and the difficulty translating practices and orientations into concepts that remain meaningful across languages has been articulated very clearly by Lynette Chua and David Gilbert writing about gender identity and sexual orientation in Myanmar (Chua & Gilbert, 2015; Gilbert, 2013). Presuming that vocabularies match is a temptation that must be avoided.<sup>10</sup> Additionally, observable variations in ways of talking about issues and forms of life remind us that in-country, on-the-ground research is indispensable.

The launch and naming of the Bangkok Rules in Thailand suggest an attentiveness to issues pertaining to gender and imprisonment in the region and we do see evidence of considerably more policy-related efforts around these matters in Southeast Asia than elsewhere with significantly more attention here than in many western jurisdictions.<sup>11</sup> However, it must be noted that the push in this direction was hardly bottom up. On the contrary, it was propelled by Thai royalty with substantial input from the western-influenced research community and policy bodies. Despite this, the Bangkok Rules do serve as a kind of “lightening rod” around which to galvanize support for more gender-sensitive penal policies in the region as described by Owen (this volume).

*Criminalization* is a process of designation and othering that targets the poor and the disenfranchized disproportionately and enables the powerful to benefit. In Southeast Asia, a prominent trend is the imprisonment of women for their first offense and often for trivial offenses that would not bring a person near a prison in other parts of the world. This is partly the result of unscrupulous policing practices (including corruption and other barriers to impartial justice provision) and partly

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<sup>10</sup>“Prisoners of freedom” by Harri Englund (2006) is instructive in this regard in relation to the untranslatability of the concept of “human rights” in Malawi.

<sup>11</sup>Perhaps this is another example of rights-informed policy frameworks that serve more to civilize abroad than civilize at home.

related to the relative absence of non-custodial measures in the region. The production and marketing of illicit drugs as well as the war on drugs also have particularly powerful effects in the region (especially of late in the Philippines and Thailand) but also the war on terror and the brutal crackdown on dissent by authoritarian/military regimes where opposition itself is criminalized (see Chapter 2, this volume). Of additional significance in relation to criminalization are issues pertaining to migration and cross-border labor practices as reflected in work on foreign nationals in prisons across the region (Yamada-Park & Jeffries, 2018; Chapter 3, this volume). As in other parts of the world, ethnicity is yet another marker that renders some people more subject to criminalization than others as reflected in Chapter 6 on ethnic minority women in Thai prisons (this volume).

*Imprisonment* is a practice that produces harm and has negative effects on imprisoned persons and their families. It rarely lives up to stated aims and is not fit for purpose. But contrary to popular imaginaries the prisons of Southeast Asia, while definitely overused, do not quite live up to their representation in the west as feral pits of inhumanity. Often their scale and the degree to which prisoners are involved in prison governance gives prisons the appearance of walled, securitized towns with economies, transactions and dependencies, businesses, entertainment facilities, churches, mosques, shrines, events, and contested political terrains, making the adage that prisons are microcosms of society more literally true than often imagined.<sup>12</sup> Poor conditions and scarce resources lead to situations where staff and prisoners share similar environments and staff are often heard to express considerable sympathy rather than antipathy for prisoners<sup>13</sup> (see Chapter 6). In our experience, prisons in Southeast Asia also exhibit considerable openness to partnerships with non-governmental organizations and other external actors compared with their western counterparts, as highlighted in Chapter 10 and Chapter 6.

*Human rights* are one commonly invoked solution to wrongs in the world but as already mentioned they must be “translated” to acquire meaning and not simply applied, technically implemented, or imperially imposed. In many jurisdictions in Southeast Asia, rights-oriented norms and standards feature at the level of official discourse and policy but lack bite at the level of everyday practice. The Philippines, for example, is lauded as a country with quite progressive rights-promoting legislation, including an anti-torture law, but implementation and enforcement mechanisms are lacking and the effects are thus limited. Similarly, the aforementioned Bangkok Rules are highly visible in the region but there is still a long way to go with their effective implementation. At the same time, there is

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<sup>12</sup>See Jefferson, Jensen, and Turner’s (2019) characterization of the New Bilibid Prison in the Philippines as reminiscent of a Bruegel painting (p. 10). And also Narag and Jones (2016) for a similar characterization of a Philippine prison as a village.

<sup>13</sup>See Jefferson and Gaborit (2015) for comparative analysis of similar situations in Sierra Leone (West Africa) and the Philippines.

always the risk that norm-orientated policies can be taken hostage by regressive forces resulting in imaginary rather than real reform (Jefferson, 2008).

Marie Benedict Dembour (2010) has identified four distinct but overlapping schools of rights scholarship and practice – the natural, deliberative, protest, and discourse schools. Her work helpfully reminds us of the huge range of positions that it is possible to adopt with regard to rights. For example, she elucidates the four schools along two key dimensions: more or less foundational and more or less liberal, examining how rights are perceived differently in terms of whether they are given in advance or there to be claimed, and whether they are perceived as “essential” or constructed.<sup>14</sup> Like Baxi’s (1998) invocation of rights in the service of those who suffer (rather than to ease the conscience or marketability of profit-making corporations) Dembour’s (2010) work reminds us that rights can have both conserving and liberating orientations and effects.

It is clear from the chapters of this book that in Southeast Asia, as in other parts of the world, human rights are differentially distributed, and that the differential distribution of rights corresponds to the differential distribution of opportunities and reflects positions and dynamics of privilege and power that are assumed to be natural and cry out for demystification. In this light, it may be pointless to promote rights or address needs without addressing the factors that inhibit their progressive implementation or sustain their violation in the first place.<sup>15</sup> For example, policies that focus on needs are typically oriented toward the individual implying that the criminal justice system is somehow in the interests of the individual rather than the state. Under such circumstances, a needs-oriented focus can have adverse effects. Prisoners can be obliged or compelled to participate in programs “for their own good” to enable them to “reintegrate” into society even while the possibilities available to them in society remain severely curtailed.

To polemically (and perhaps perversely) counter this position, one might call for *less* inclusion of women, sexual and gender minorities in prison and for *less* participation of women, gender and sexual minorities in programs designed ostensibly to meet their needs. Such a call would illustrate the absurdity of calling for needs to be met while ignoring underlying causes and drivers of inequality and criminalization. A more radical position would be to call for women (and men) to be kept out of penal systems, as called for by numerous authors in this book. If that could be achieved many of the dilemmas and quandaries that some prison authorities battle with could be avoided. For example, instead of struggling to defend themselves against the accusation of not providing the same kind of meaningful activities as those available to men authorities could channel their energies into offering

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<sup>14</sup>For the natural school rights are given and for everybody; for the protest school rights are fought for and primarily for the suffering; for the deliberative school rights are agreed upon and for organizing society; and for the discourse school rights are talked about and ought to be for those who suffer (though in fact often are not).

<sup>15</sup>Celermajer’s (2018) argument for an ecological model of torture prevention is seminal in this regard, reviewed by Cakal, Jefferson, and Martin (2021).

a decent standard of care to those who cannot be diverted from prison or helped to evade the clutches of the criminal justice system in the first place.

Another example of the tension between addressing acute need and dealing with states of chronic crisis is the much talked about issue of prison overcrowding or overpopulation (see Chapter 1). The problem is not that there are too many people *in* prison but that too many people are *put* in prison. Or put differently, there are in fact two problems but the former tends to crowd out the latter and energies are expended on acute situations at the expense of examining and changing the chronic practices and political motivations that lead to the acute situations. We know that the number of people put in prison is a political choice not a given reflection of crime statistics. But what are the concrete implications of recognizing the “chronicity of crisis” (Vigh, 2008) and the intersectionality of oppressions when it comes to concretely transforming the situations of people rendered vulnerable and violable? And from where might we identify sources of hope? In our conclusion below we briefly entertain these questions.

### **Conclusion: Some Hope-Filled Steps**

We have argued that it is not enough to give or guarantee or distribute rights (or needs-oriented provision) if one does not address the structures that perpetuate the need or the violation. Scholar-activists who insist, as we do, on attending to structural factors as well as immediate needs face a dilemma: how exactly to do both? How concretely, in project or research terms can we address what makes populations violable, disposable, and torturable, (or some more torturable than others) and how can we begin to deconstruct the embedded habits and structures that perpetuate this at the same time as ameliorating specific harms? A first step must be to acknowledge the potential unintended consequences of attending to need while not attending to the drivers of need, rather than either denying or remaining structurally blind to this, or papering it over with band-aid solutions.

A second step is to more accurately define the problem – using collaborative, mutual research – and resisting strongly the instinct to define the problem in terms of the solutions at hand. Activists, practitioners, and researchers must beware the temptation to operate only within the limits defined by the authorities, the state, or the existing bodies ostensibly set up to protect, or by hegemonic academic norms. Hegemonic interests have a tendency of infiltrating even the most progressive and well-intended mechanisms resulting ultimately in the maintenance of the entrenched status quo.

In this light, a third step is to advocate for more “home grown,” mutually co-produced, and counter-hegemonic solutions that push back against the presumption to universalize, colonize and deny difference. This is likely to involve a combination of modesty and ambition as well as pragmatism and risk. Which brings us to hope. Philosopher John Caputo (2020, p. 198) writes,

Hope is not caused by being, être, but elicited by a may-being, a peut-être (perhaps). Hope is not caused, it is called up, called for, in the face of the cool course that being runs, affirmed in the face

of the groundlessness of being. Hope is not the effect of a cause; it is a response to a call. Hope is not sustained by a cause; the cause is sustained by hope.

Confronted by the suffering that gendered, criminalized, and other subjugated populations are subject to and the disinclination of powerful bodies or agencies to really act in the interests of all humans and of the planet, it can be difficult to identify sources of hope. Despair and cynicism knock regularly at the door. Caputo's deconstructionist, Derrida-inspired angle resists the idea of an eternal *source* of hope, a well-spring from which we might be filled up and instead alludes to the hope that is elicited by the possibilities that our living and acting in the world makes available, the maybes, the perhapses. It is our conviction that together, mutually and in collaboration, research and activism can go hand in hand to further social justice and ameliorate social harm. This book is our provisional, partial, and positioned response – our hope – to practices of violation, victimization, and vulnerability facing criminalized and imprisoned populations in Southeast Asia. We submit that together the empirically grounded chapters gathered here make a worthwhile contribution toward the development of perspectives and actions that will help in the ongoing pursuit of a more just and fairer world.