

Opinion Piece

Hollywood and the Reality of Prison Life

Kay Danes - December 2012

It is well documented throughout the world that the existence of poor conditions amounting to cruel, inhuman or degrading treatment have reputedly plagued many Correctional Facilities ¹ in Asia. Countless books have been written by former prisoners and even several Hollywood movies provide harrowing insights to conditions and treatment. Actress Clare Danes in 'Brokedown Palace (1999)' - plays the part of a young girl who, with her friend, takes a trip to Thailand to celebrate their high-school graduation. A charming young man befriends them with promises of adventure and good times, a weekend side trip to Hong Kong. They find it unthinkable that Mr. Right turns out to be Mr. Wrong. The girls are arrested for drug trafficking and sentenced to 33 years in a Bangkok prison. Danes plays a convincing role and despite the fact that it's a Hollywood story, her experiences are in fact, pretty close to the reality of what happens in the drug world on a daily basis throughout SE Asia. But where Hollywood scripts unravel in reality is when they write in fairytale endings, where the 'bad guy' gets caught and the unsuspecting drug mule is suddenly set free. Generally speaking this rarely happens. Nor are there alternative options to incarceration, no secret tunnels leading to a fast boat to freedom. Hollywood also tends to over dramatise mainstream prison conditions as uninhabitable, and the treatment of prisoners barbaric and jurisprudence non-existent. Independent monitoring by credible agencies counter Hollywood sensationalism to a large extent. Granted prisons conditions are not always ideal, heavy handed treatment by some guards happens, and though not perfect, trials do exist, are generally transparent and defendants are provided access to legal representation even if they cannot afford it, though often questionable is the effectiveness of some public defenders.

Many of those top 'best-sellers' also push the boundary between fact and fantasy, in order to increase the commercial value of their story. One journalist paints a particularly horrific picture of a prison dubbed a 'Hell on Earth' with its 'sex nights' and 'disease-ridden cells' to 'arbitrary violence'. And where of course, the authorities are portrayed as unrestrained and autocratic in their use of authority. Quite possibly, if these writer's didn't embellish to such an extent, then their work would hardly attract that elusive six figure publishing contract. Thus reinvigorating a journalist's career but at what cost to the prisoner and their families and at what consequence to prison reform? It was alleged that conditions in this prison were so hellish, and the prisoner, so far removed from normality, that they had not seen television for over eight years. Yet a local non-government organisation provided photo evidence and witness testimony to the contrary. The media aired the segment which showed a television, DVD and a filtered water dispenser in the common room where the prisoner spent most of their time throughout the day.

In the real world of civilised correctional facilities, those that are monitored by external agencies, Consular Staff, and social justice advocates, who frequently have access to prisons and prisoners, report that life behind bars is quite different to the stuff of B-grade movies and best-sellers. Though none would argue that there is not significant room for improvement, particularly, the foreign internment of westerners who face a whole range of additional challenges in relation to language, culture and separation from family support.

Setting aside for a moment that a person has lost all freedom and must reconcile with the fact that they may spend the rest of their life in jail or at least a good portion of it; perhaps the hellish conditions are exacerbated in the mind through cultural unfamiliarity. For example westerners seem to have an instinctive aversion to Asia squat toilets and the fact that most in Asia do not use toilet paper. According to a United Nations report, half the world's people don't have access to a toilet or a clean latrine. Only 30 percent of the world uses toilet paper. [Millennium Development Goals Report 2010]. Westerners are unaccustomed to communal sleeping, generally sleeping either alone or solely with a partner, and in a comfy bed and not on a mat on the floor. Westerners are used to all the modern conveniences of a western lifestyle and prisons in the western tend to follow those trends to a large extent. So can it be concluded that just because a westerner is confined in a cell without a bed, a flushable toilet, separate washroom facilities, no ceiling fans, air-conditioning, and television that it automatically constitutes 'hellish and inhumane' conditions? To some the answer will still be a resounding yes. To others the answer may be more simplified; try camping in the bush sometime. Okay so the analogy may not be entirely appropriate but the point is that humans can adapt to hardships.

Many political prisoners who have survived truly horrendous conditions, where prisoners are forced to bathe in sewage or a fish pond water or not at all, or shackled in groups and thrown in dungeon style cells for days, even months, who are subject to torture and denied access to their Embassy, legal support, family and friends, say that it is not so much the conditions of detainment that mostly affect a prisoner's psyche, it is the actual loss of freedom, the uncertainty of confinement, the anxiety attributed to the unknown, the separation from family, the desire to be heard and not forgotten. Hollywood tends to feed our own western beliefs that foreign detainment is automatically hellish simply because it goes against what we deem normal.

Further discussion may help ordinary citizens in western cultures gain a better understanding of foreign internment. And perhaps it ought to begin with addressing the reporting process, finding a balance between reporting fact versus reporting 'what sells'. Some journalists, perhaps not subject matter experts, have a tendency to source stories from previous articles written by others whom, it would seem, did similar. Generally speaking, journalists do not have the same level of access to prisons that consuls, social justice and monitors have, in order to conduct in-depth investigations and a cross checking of information, necessary for a comprehensive report as opposed to meeting an editorial news deadline.

So what are the facts? According to the UN Office on Drugs and Crime, a model prison is one managed on the basis of justice and humanity in which prisoners spend their time engaged in purposeful activities, such as education and vocational training. It is not designed to be 'a holiday paradise'. The rehabilitation programs within a correctional facility are designed to assist in the social reintegration of offenders. [UN Office on Drugs and Crime, Prison Reform and Alternatives to Imprisonment, Feb 2011] A model prison is not one fitted with the luxuries of a five star hotel despite the media labelling prisons as hotels [Bangkok Hotel, Hotel Kerobokan, Hanoi Hotel]. Though few prisoners would object to being detained in such places, A model prison must be realistic in the terms of what a State can provide in line with national budgets.

Prisons in Asia have undergone significant reform since the days of 'The Bangkok Hilton'. And whilst prison conditions remain less than ideal, compared to western standards, there has been a conscientious effort towards implementing programs that support rehabilitation and improved standards.

When deciding how far or how fast prison reform has come, one could look at Thailand as an example. Consider that it was not until around 1891 that the criminal justice system of Thailand actually began. Major reform did not begin until the establishment of the Thai Constitution (1997) which resulted in a decree that the Court system be an independent public agency, separate from the Ministry of Justice. During the 21st century, prison population figures escalated dramatically. In 1998 the Royal Thai government introduced the *Drug Prevention and Suppression Policy* which led to drug offences being the number one crime in Thailand over crimes against property. [United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, Country Report, Somphop Rujjanavet]

Previously in Thailand there were hardly any pre-release programs, preparation or rehabilitative support to prisoners until the decision finally came to move from punishment to rehabilitation. Sentencing of criminal cases in Thailand is generally attached to lengthy prison terms. Most likely offenders would face 30 to 99 year prison terms. Early releases were not expected to occur. But with ever growing prison populations, amnesties were introduced and leniency shown to release prisoners, making room for the inevitable new arrivals. Rehabilitation programs today include the improvement of literacy. Prisoners can choose to continue their secondary level schooling through the adult curriculum in prison. They can even gain access to undergraduate programs, vocational education and non formal studies such as short-term computer courses, engine repair courses, scout training, job training, spiritual guidance or faith based education, behavioral skills training, and an array of art and recreational programs.

Prison reform has most certainly been embraced by the Government of Thailand but seldom does the media or Hollywood delve any deeper than the surface to show just how far prison reform has come. Likewise, conditions at Indonesia's 'Kerobokan Prison' too are dramatically different from media reports. Social justice advocates visit the prison daily and report that the prison is hot, overcrowded and at times violent but prison authorities are making every effort towards rehabilitating prisoners and providing opportunities that support prison reform. [Hard, hot but not all hell, Rachel Browne, Sydney Morning Herald, June 17, 2012] With a population of just over 1000 inmates, who have more freedoms than inmates elsewhere around the world, Kerobokan prison is considered one of the better prisons to be in if you are given a custodial sentence. Though prisoners are locked in their cells from 5pm to 8am, during the day they are free to interact with other prisoners, family and visitors. They have access to a library, religious services from a number of faiths and philosophy classes. Medical facilities are basic but accessible, with a dental clinic and a doctor on site, and a methadone program available for those who are trying to kick heroin habits. And far from being cut off from the outside world, prisoners have access to computers, wi-fi, television, iPhones, iPads, Xbox, Playstation and DVD players. Kerobokan prison is certainly like no other where inmates can get room service like any hotel; dinners brought in, beers brought in, even prostitutes.

Kerobokan prisoners can access a number of educational programs within the prison, designed to present employment opportunities upon release. They can also access external distance education studies. Prisoners with cash can pay to have their living conditions improved. Some spend hundreds of dollars transforming their cells. Prisoners too can also receive goods from outside, as in contrast to many Asian prisons that restrict prisoner purchases to within the prison only. Social Justice advocates agree that the way Kerobokan prison is depicted in the media is exaggerated and that the jail is progressive. In fact, the conditions for Indonesia's 134,000 inmates may not have changed dramatically in recent years, but a stronger foundation for better prison management is something that the Indonesian Government is focussing on.

Progress has been made to granting inmates greater information about their cases and application for parole. Another dramatic policy change occurred in June 2011, when a Presidential Instruction initiated a radical change in the management structure for prisons, bestowing direct administrative authority to the directorate general, enabling a more accountable budget.

Prison reform is dependent on the expectations of the public, whether they want the death penalty to continue, whether they want authorities to get even tougher on crime, and whether they want to engage in prisoner transfer agreements and pardons for drug traffickers. Public opinion is influenced by media and depending on how the story is presented, public opinion can influence support to prisoners. Improving prison conditions is an integral part of prison reform but it is misleading to compare prison standards of a second and third world developing country with that of a first world developed country. In fact, whenever a westerner is detained in a foreign prison, generally the headline will read 'Prisoner detained in hellish conditions'. The assumption is the standards must be hellish because there is no flush toilet or access to air-conditioned facilities. When in fact, most prisons in Asia follow an International Standard Minimum Rules for the Treatment of Prisoners which form the basis of a general consensus as to what the essential elements of prison systems should comprise. [Standard Minimum Rules for the Treatment of Prisoners, United Nations] There are of course varying opinions as to what the 'Standard Minimum' actually means. One view is that it refers to the level of minimum standards in consideration to the International Covenant on Civil and Political Rights [ICCPR], although not all countries in Asia are signatories to the ICCPR but despite this, agree in principle. [International Covenant on Civil and Political Rights 1966]

A second opinion is to identify the living standards as comparable to the living standards of the outside community in each respective country. For example; millions of Filipinos live well below the poverty line. Many do not have access to clean potable drinking water, electricity, secure housing, the provision of two meals a day. Yet those detained in Filipino prisons have access to these basic essentials and more. It isn't any wonder many in such communities have little empathy for the so-called plight of prisoners, particularly when money spent refurbishing prison amenities may be deemed as money better spent on educating the community on crime prevention and recidivism.

Culture, traditions, legal and administrative structures of a country also determine the manner in which the rights of prisoners are addressed. The expectation for prison reform is ideologically a democratic construct. In the present day, legally prisoners have no rights to democratic participation BUT that they are treated to a minimum standard of care is an accepted international view in most States. Western influence can and does promote democratic reforms to a large extent, though some would argue that the death penalty still upheld by first world countries, such as the United States, goes against a human's right to life and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. [Second Optional Protocol, ICCPR, 1999] In any case, in regards to prison reform, Governments are expected to prioritize their national budgets to support poverty alleviation, health, education, drinking water and so on. Given that the national budget of developing countries is so limited and many sectors demand immediate attention, there is often no sufficient budget allocated for the improvement of the prison conditions. Fortunately, international agencies pick up the slack. The International Committee of the Red Cross for example, refurbished one of the Philippines worst prisons as a 2010 priority project. The ICRC also improved the jail's existing water tank and installed an additional 4,000-litre tank, to ensure inmates had reliable access to safe drinking water.

The ICRC assisted local authorities to upgrade prison infrastructure, tuberculosis management in jails, and the criminal justice process. [International Federation of Red Cross and Red Crescent Societies (IFRC), *Philippines: over 200 inmates of Ormoc Jail get better facilities*, 1 November 2010]

More than 10.1 million people are held in penal institutions throughout the world, mostly as pre-trial detainees/remand prisoners or as sentenced prisoners. With the world's total people population at an estimated 6.9 billion (United Nations); if set against the world prison population of 10.1 million this would produce a world prison population rate of 146 per 100,000 (156 per 100,000 if set against a world prison population of 10.75 million). [World Prison Population List (ninth edition), Roy Walmsley, May 2011]

Seldom do media reflect just how much of an impact basic economics play in prison conditions and reform. Comparing the prison budget of developing countries against developed countries is like comparing apples with oranges. Funding or lack thereof, impacts greatly on the conditions of prisons, the standard of care provided, the management of staff, inclusive, training and wages etc. But what affects prison reform more than most anything else is increasing prison populations. Overcrowding impacts on the ability of governing authorities to meet specific goals in line with prison administration. Annual prison budgets are not unlike business and household budgets whereby each are generally decided or fixed at the beginning of any given financial year. But the actual number of prisoners is unknown in any given year and particularly, in the event of a natural disaster (discussed later), can greatly impact on prison conditions and reform. This creates a follow on effect that adds to put pressure on human resources, material resources and technical resources (security) and administration.

By the 1st November 2011, the number of prisoners in Thai jails was recorded at 252,044 (men 215,920 and women 35,124). The 144 prisons in Thailand only have a capacity for 105,748 prisoners based on regulations that each inmate has 2.25 square metres of space in a cell. [Thai Prison Life, Thai-prison-statistics, Nov 2011]. Increases in crime equals increases in prison populations and thus, increase the burden on the State to provide adequate standards according to the Standard Minimum Rules for the Treatment of Prisoners, to which Thailand is a signatory.

The Department of Thai Corrections is investigating a number of ways to improve the living conditions in Thai Prisons. Among them, improved sleeping conditions, prisoner/cell ratios, better hygiene in kitchens (food preparations), improved medical services (prisoners who require a long-term treatment plan are transferred to the Central Correctional Hospital in Bangkok), improved access for visitors (contact visits so that prisoners can meet directly with family instead of shouting to them at a distance). Often the case for long term incarcerated, it becomes too much of a financial burden on families and as a result, many only visit their loved one but once or twice a year.

For foreign prisoners in foreign prisons, forced isolation can make the entire process of enduring a custodial sentence all the more challenging. Isolation from family and culture, from familiar smells, language all contributes to the prisoner's experience and hence why we so often hear 'my hellish experiences' in media headlines.

Natural disasters oddly enough can also play a significant part in changing prison conditions, when you consider that in October 2011, Thailand was hit with the worst floods its residents had seen in 50 years, which resulted in nearly one-third the country being submerged. [Thailand floods: 'Bangkok Hilton' evacuated as city prepares for worst, Ian MacKinnon in Bang Phlad, Bangkok, 26 Oct 2011]. Hundreds of prisoners were relocated because of the rising water levels. As if the sanitary conditions inside the prisons weren't deemed bad enough, the floods brought with them a whole other set of dangers -- even more overcrowding due to temporary transfers and the risk of an outbreak of leptospirosis, a disease that can be transmitted to both humans and animals by direct contact with the *urine* of infected rodents in contaminated flood water. Both, rodents and humans, reside within Thai prisons. Herein lies another example of perspectives; rodents might not be found in a western prison but in an Asian prison they are considered by some, a vital food source. Understandably western prisoners are horrified at the thought of eating rodents and thus, when asked by media as to the conditions they were subjected to, a graphic picture of 'rat-infested cells' grabs the headline space.

In general, and in fairness to the many challenges departments of corrections face throughout Asia, the conditions of prisons, though not ideal, have improved and continue to evolve along with increased public interest in foreign internment and particularly, since millions of people travel overseas today more than ever before, the risk of arrest is greater. The challenge is to separate fact from fantasy - to report more accurately as opposed to sensationally - to protect the integrity of the information shared - and to be realistic in one's expectations when endeavouring to understand or get the full picture concerning foreign internment and all its complexities.

Discussions on prison conditions and prison reforms might seem uninteresting to the average Australian travelling overseas, but with approximately 30,000 travelling each year, the uninteresting suddenly becomes interesting if you are one of the 1,000 Australians arrested in a foreign country each year. [Smartraveller, DFAT]. Then and most often only then, do people give any real consideration to the issue of foreign internment. Most travel with the attitude of *that could never happen to me* and when it does, scenes from Hollywood movies or that great prison novel suddenly flash from within their frontal lobe, the place where long forgotten memories are stored, and with reality comes the inevitable realisation that unlike in fairytales and bedtime stories, the Government cannot wave a magic wand and suddenly, wondrously secure their release.

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ⁱ Refers to correctional facilities that are accessible by Embassies, inspection teams, lawyers, other officials and public. Does not include political prisons or secret detention centres.