INSTITUTE FOR SECURITY STUDIES

UNIVERSITY OF CAPE TOWN
IYUNIVESITHI YASEKAPA • UNIVERSITEIT VAN KAAPSTAD

South African
CRIME QUARTERLY
No. 73 | 2024

Recent prison protests/ riots in South Africa reimagined with different outcomes

A conflict management perspective

Casper Lötter and Gavin Bradshaw[1]

casperlttr@gmail.com
gjbrad54@gmail.com

https://doi.org/10.17159/2413-3108/2024/i73a19277

This article makes use of secondary data analysis to examine why conflicts in South African prisons, in the form of protest and/or riots, invariably end up in violence, resulting in the death or injury of prison officials and/or incarcerated people. Using the data on eight prison protests compiled by Lukas Muntingh, collected from a sociological/rights perspective, we re-examine these incidents from a conflict management perspective. The work of Burton and Galtung on peace studies is employed to reimagine the management of these case studies and we conclude that every one of these cases could conceivably have been stepping-stones to positive peace (a flourishing, trusting environment) rather than negative peace (mere desistance from violence) in our prisons. We conclude that investing funding in conflict management or transformation training by the Department of Correctional Services (DCS) is bound to generate meaningful benefits, including beyond prison walls. To allow an alternative dispute resolution regime to settle in DCS's institutional culture, we recommend that the Emergency Support Team (EST) should only be employed as a very last resort, authorised by the Inspecting Judge for Correctional Services (or someone independent of DCS) after consultation with the Minister of Correctional Services.

"It is a commonplace in the literature that prisoners have a profound sense of justice and fair play."

Roy D King[2]

Prison protests or riots (the two are not synonymous, as Muntingh[3] points out) are a feature of most societies across the world where incarceration has made an impact on the social and political landscape of those societies. Muntingh argues that '[p]rison protests should be seen [as] distinct from prison violence, as not all protests are violent (e.g. hunger strikes) and not all prison violence has a protest agenda.'[4] In the South African context, however, the distinction is almost non-existent since the Department of Correctional Services (DCS) has a propensity to respond to any form of discontent with violence.

Apart from its dramatic value, prison protest is also a symptom of a much deeper malaise. In his sociological assessment of eight recent prison protests in South Africa, Lukas Muntingh observes that

> The next and final step [in resolving conflict] is the re-assertion of social control. In a prison setting this typically takes the form of riot control, or interventions using force and coercion. However, it would be an equally valid, if not a more desirable response, to take measures to de-escalate the situation and avoid the use of force.[5]

It is precisely this angle that we wish to explore in this contribution. Whereas Muntingh approaches the data from sociological and rights perspectives, we found it profitable, instead, to assess the data from a conflict management perspective. John Burton's analytic(al) conflict resolution perspective, which focuses on the importance of basic human needs, very often situating its arguments within a framework of crime and punishment, seems instructive here. Burton's rejection of deterrence in the form of violence and/or coercion in favour of the actualisation of basic human needs promises a positive way forward for South African prisons.

This article uses Muntingh's preexisting data to undertake secondary data analysis for a different purpose: applying a conflict transformation or conflict management framework to the data. We briefly consider our method below.

Method

According to Payne & Payne,[6] secondary analysis entails using data collected by a different team of researchers for another project entirely and in pursuance of a different research question. The resources and diversity of data collection by research teams have enabled a pool of a bigger and more diverse sample size at researchers' disposal, contributing to the reliability of research findings. These advantages have led to the increasing appeal of secondary data analysis to many researchers.[7]

However, Marshall & Rossman[8] have pointed to three perceived drawbacks to using secondary analysis as a means of data collection, and we discuss two that are relevant to our endeavour.

First, a particular theory or theories undergird(s) the original studies that produced the data. Unless this theoretical framework is made explicit, the data might be distorted. Second, it is not known whether certain data may have been excluded from the picture presented in the published research. This is another way in which the research findings could have become distorted.

Our response to these objections is that, provided these studies pass peer review, the researcher using secondary data must remain vigilant for any distortions, including ideological ones. There should, accordingly, be no inherent

reason why such valuable research cannot be used to extend the boundaries of knowledge. We consider secondary data collection the most appropriate method for our investigation.

Against this brief background, Muntingh's consideration of eight case studies of prison protests in South Africa, which had so much of the element of conflict at their core, planted the seed in our minds that a conflict management or conflict resolution perspective on these case studies could add a valuable contribution to the debate on prisons protests or riots. We contend that re-examining this data could contribute a fresh, new perspective to gauge the possibility of different outcomes to that of the death and injury of inmates and prison officials in the aftermath of these events.

In particular, the fact that Muntingh had already ventilated these cases meant that we did not need to reinvent the wheel regarding the facts (the data) of these protests/riots. We undertook secondary data analysis[9] on the data as already collected and published, but supplied our own observations, and analysis as we were coming from a different perspective and theoretical framework. Against this background, we briefly consider John Burton's notion of human needs-based conflict resolution.

John Burton's human needs-based conflict resolution

John Burton, a notable retired Australian diplomat, developed his theory of considering human needs to resolve conflict after expressing frustration at contemporary diplomatic practice's inability to manage international conflicts effectively. Burton was interested in the definitive causes of intractable conflicts and coined the term 'deep-rooted social conflict' to describe these phenomena.[10] He reimagined the dominant techniques of negotiation and mediation, as these were based on coercion, an exercise in power play, which proved to be largely ineffective in resolving conflict.[11]

Building on the work of Maslow[12] and Paul Sites,[13] Burton constructed a complete theory of social conflict based on the notion of human volition which feeds into his Basic Human Needs Theory. Burton argued that if one or more of the tenets of this set of Basic Human Needs is frustrated, it will likely result in violent behaviour.

Notably, the negation of basic human needs cannot be deterred by coercion, violence, or 'mediation with muscle,' in the words of Kuperman.[14] Instead, Burton[15] emphasised the need for good communication and deep understanding between the parties aiming to settle a conflict. Conventional negotiation results from a joint analysis and rational tally of the conflict point, predicated on understanding human behaviour under deep-rooted social conflict conditions.

In the words of Franklin Dukes,[16] a mentee of Burton's, 'I certainly felt that he [Burton] wanted us to have a general theory and for that theory to be based on human needs alone.' Burton is sceptical of the ability of power bargaining to deter needs-driven behaviour, as he considers the satisfaction of human needs as universal to the human condition. Burton contends that

> the approach must get to the roots of specific problems, thereby revealing links between seemingly separate issues. It must point to the relevant system deficiencies, such as decision-making processes that lead to a lack of means to individual identity. These system deficiencies are, in turn, the common sources of specific problems such as corruption, crime and violence.[17]

Additionally, Burton[18] warned against the threats of power or threat of using violence as these would nullify a peaceful outcome of interventions. Burton argued that the

individualisation of overlapping concerns should be avoided as it would likely undermine trust in the intervention effort, since it could create the perception that parties are treated unequally. Initially, the only item on the agenda should be for the parties to appreciate each other's positions better.

The valuable work of Johan Galtung, another giant (like Burton) in peace studies, enhances these insights – particularly his notions of institutionalised peace and violence. Galtung drew a paradigmatic distinction between negative peace (the mere absence of conflict, such as crime) and positive peace (in the sense of achieving peace by peaceful means or social relations being such that they lead to peaceful resolution of conflict).[19]

Galtung also makes the seminal differentiation between structural violence and cultural violence.[20] Whereas the former refers to institutionalised or structural violence – such as DCS, as we argue in this contribution – the latter refers to the cultural acceptance or justification for violence within a particular setting, such as the South African prison system.

Johnson argues that "if we are unhappy, as a consequence of our choices, prisoners can be made unhappier still, to validate our choices."[21] Critical criminology's underpinning, known as peace building criminology, is influenced by its Foucauldian[22] thesis that punishment shifted in the mid-18th century from 'absolute monarchist' to a 'disciplinary' regime.[23] Individual responsibility as a disciplinary mindset is the foundation that underpins incarceration as our dominant sentencing regime.

Finally, it is worth considering the idea of peace building put forward by Boutros Boutros-Ghali, former secretary general of the United Nations (1992–1996), in his monograph A*n Agenda for Peace*.[24] This version of peace building is an indispensable stepping-stone on the path to positive peace.

We proceed to consider the eight case studies harvested by Muntingh, aiming to infuse our commentary with the salient features of a conflict management perspective.

Case studies with commentary

It's not always possible to transform conflict into a peaceful resolution, but managing conflict is mostly possible. Said differently, we aim to reconstruct these eight cases to demonstrate that it is possible to ensure different, non-violent outcomes for the most part.

Indeed, as Muntingh argues:

> It should be remembered, above all, that the administration has the upper hand in law and practice. This means that it has options open to it to select from in dealing with tension and conflict and reduce the need to use force. The prison administration is not, like a train, on a track of predetermined inevitabilities.[25]

Muntingh's contention that DCS is in the driving seat when it comes to dealing with unrest and prison protests is worth reflecting on, particularly his progressive idea that "[t]his means that it has options open to it to select from in dealing with tension and conflict and reduce the need to use force."[26] This remark allays fears about data distortion since his data was collected for analysis using sociological and rights perspectives, rather than a conflict management lens.

In this context, note that incarceration is not the elixir for our crime problems. Marqua-Harries, Stewart & Padayachee argue that in South Africa

> [w]hat is needed is a different way of thinking about crime and punishment – a more ambitious vision that not only changes prisons but transforms the criminal justice system as a whole and

which challenges its role in reinforcing poverty, inequality and violence.[27]

Even in its post-colonial avatar, the prison has retained its colonial imprint, namely the warehousing of the poor and the marginalised.[28] A conflict management perspective predicated on Burton's Basic Human Needs Theory would answer, if only partially, this call for a 'different way of thinking about crime and punishment.' The employment of progressive conflict management tools in Correctional Services is bound to positively impact our unsustainable and unacceptably high rates of recidivism (which are fuelled by negative, disrespectful treatment and marginalising practices both during incarceration and post-release). This may prevent the cementing of criminal careers. South Africa's rates of recidivism are estimated to be around 86-94%[29] compared to continental China (6-8%),[30] Japan (45%),[31] the United States (66%)[32] and Finland (31%).[33]

While South Africa has one of the largest prison populations on the African continent (258 per 100 000 of the national population), save for a few exceptions, it performs poorly in relation to other societies in the Global South. Examples include India (41 per 100 000), Brazil (390 per 100 000), Lesotho (104 per 100 000), Botswana (161 per 100 000), Swaziland/eSwatini (243 per 100 000) and Namibia (roughly 318 per 100 000).[34] Although the global average prison population is 140 per 100 000, South Africa compares well with the southern African average, which is 243 per 100 000. Our comparatively high rates of incarceration and unsustainable rates of re-offending have not contributed to a safer society.[35] Lötter's study of the Finnish experience shows that it is possible to reduce re-offending by emphasising the actualisation of basic human needs rather than through incarceration.[36]

These data and statistics align well with Burton's Basic Human Needs approach. Burton's theory of conflict management, which relies on a more human-centred approach that is critical of traditional deterrence models, positions basic human needs centrally. Burton and others have used this model to critique the culture of prisons and corrections in the United Kingdom and the United States.

This kind of paradigm shift, should it occur, would benefit our violence-ridden society by creating safer communities for incarcerated persons to return to after the expiration of their sentences. Steinberg uses Jansen's experiment at Pollsmoor prison in the 1990s to demonstrate the potential of such a shift.[37] Applying a conflict transformation or conflict management lens to each of Muntingh's case studies allows us to see that there are other, perhaps more effective, ways of dealing with protests (and indeed grievances) by people who are essentially powerless against the use of force.

To allow for an alternative dispute resolution regime to settle in DCS's violent institutional culture, we also suggest that the Emergency Support Team (EST) should only be employed as a very last resort, authorised by the Judicial Inspectorate for Correction Services (JICS) (or someone independent of DCS) after consultation with the Minister of Correctional Services.

We proceed to consider the eight case studies.

Case study 1: Odi Correctional Centre, northwest of Pretoria, Gauteng

Muntingh's summation of the facts of this incident is as follows:

> In October 2011 at Odi Correctional Centre the cancellation of a planned family day sparked protests, made possible when six officials simultaneously unlocked 600 prisoners. Once unlocked, inmates chased officials out and barricaded entrances to the unit and set

> fire to mattresses. [The South African Police Service] (SAPS), Metro Police and the Fire Department were called. Rubber bullets were fired from the roof at inmates, and they retreated to the cells. They were locked up but unlocked again and assaulted. It was reported that 19 prisoners were assaulted; one was shot in the leg, and one official was assaulted. Some 24 shots were fired.[38]

The JICS investigation found other sources of their dissatisfaction, such as inadequate diet quality, overpricing at the tuck shop, and diminished family contact due to the facility's isolated location (among other concerns).[39]

When reading and processing the facts of this case, the first question that comes to mind is why DCS did not investigate the grievances aired by the incarcerated people and, if feasible, address those concerns. Excessive pricing at the tuck shop, a shortage of bedding, or the lack of family visits due to the prison's distant location are legitimate concerns. It is worth asking why the prison authorities left the issues unresolved.

The JICS investigation uncovered these motivations or drivers for the protest after the fact.[40] It is difficult to comprehend why DCS would not defuse the situation by addressing concerns in a compassionate and responsible manner. Prisoners are in DCS's care for the purpose of rehabilitation, and care for their well-being should be integral to this goal. For example, DCS could have explained to the incarcerated persons why family visits had to be cancelled. Had this discussion taken place in advance, and in a respectful, approachable manner, it would almost certainly have de-escalated the situation.

How this highly sensitive matter was handled leaves us to conclude that the aim was to enrage or provoke the incarcerated persons who were affected by the decision. The fact that DCS communicated the cancellation of a family day on the same day that the visits would have taken place, without prior consultation and without providing legitimate reasons, was bound to provoke outrage and resentment. As Johnson notes, "[p]risoners have always been scapegoats. […] prisoners can be made unhappier still, to validate our choices."[41]

Case study 2: Krugersdorp Correctional Centre, Western Gauteng

Muntingh's recording of the incident:

> At Krugersdorp Correctional Centre in November 2011, an inmate with a diagnosed mental illness requested to be taken to the hospital to receive his medication. After his request had been refused for two days, he started a fire with sponges in the ablution area of the communal cell in which he sleeps. One inmate was treated for smoke inhalation. The prisoner had made previous attempts at suicide and was known to the Head of Centre (HoC). He had previously requested to see a psychologist. The prisoner had obvious mental health problems and the denial of access to his medication led to a heightened state of agitation.[42]

Muntingh notes that "[w]hat then appear to be the major determinants of prisoner well-being are responsive, approachable and respectful staff."[43] Besides the frustration and resentment that ignoring an offender's legitimate requests for medical treatment would cause, Muntingh's observations tie in nicely with Burton's Basic Human Needs theory.

Clearly, the prison staff in this case study did not understand the importance of responsive, approachable and respectful treatment as key elements of responsible conflict management. Liebling has also found that

fairness and legitimacy are vital to the wellbeing of incarcerated people, which in turn has an appreciable impact on the orderly running of the facility.[44]

Case study 3: Grootvlei Correctional Centre, Bloemfontein, Free State

Muntingh's summary:

> In November 2011, at Grootvlei Correctional Centre, awaiting trial prisoners expressed their unhappiness to the [Head of Centre] (HoC), through a memorandum, about being held in the awaiting trial section [sic] for long periods, some as long as five years. Other allegations, including ill treatment by the police and racist attitudes by prosecutors, were also aired in the written complaint to the HoC. A meeting between inmates and representatives from relevant government departments was arranged, but the Regional Commissioner intervened, and the meeting was cancelled. In protest, a section key was stolen from an official, but it was soon recovered. However, a riot broke out and detainees burnt the offices of unit managers at C and D units and the clinic at C unit was destroyed. The Emergency Support Team (EST [also known as '*die Taakmag*' in prison slang]) was called in and rubber bullets were fired. Two prisoners were shot in the head and one is reportedly paralysed. Exact injury numbers are unknown.[45]

The facts of this case underscore the impression that DCS seems ignorant or uninterested in the tools or benefits of conflict management. Prison researchers like Irwin and Owen argue that

> Treating prisoners with contempt and hostility and persistently and systematically casting them as ill-worthy, harms prisoners in complicated and somewhat unexpected ways. Many are psychologically scarred. More reject their rejecters, turn away from conventional society and embrace an outsider, usually criminal, viewpoint.[46]

These observations painfully illustrate the facts of this case. Indeed, 'prison harms' are likely to produce resentment and fuel reoffending once these individuals are released from custody. Sustainable resettlement of the formerly incarcerated hinges precariously on this pivotal outcome. By not treating the incarcerated person/s with respect and dignity, for example, by not hearing their justified grievances, DCS invited conflict. When trouble arose, EST was predictably deployed as a show of force with lamentable results, including unfortunate damage to the relationship between the incarcerated people and DCS staff.

It is worth asking, for example, why the Regional Commissioner cancelled the pre-arranged meeting between the incarcerated person/s and relevant government departments and whether the reasons for this unfortunate cancellation were communicated respectfully to the affected people.

The Department's kneejerk reaction to respond with violence resulted in a dismal failure in conflict management. Gavin Bradshaw, for example, suggests that integrative negotiation is vastly more beneficial than power bargaining, since it harbours the potential for a conflict transformational perspective:

> Fairness is an important guiding principle throughout. Because [of] the importance of maintaining good working relationships in a country as fraught with conflict as South Africa, it would be advisable to use integrative negotiation techniques as far as possible. Most recent research work on negotiation also supports the fact that

> integrative approaches are usually far more effective [than power bargaining].[47]

Engaging emphatically and responsibly with the incarcerated person/s about a justifiable concern that was close to their hearts (awaiting trial for long periods) had the potential to be a powerful peace-building exercise which could have fostered trust and goodwill between the parties. However, the violence that followed resulted in the breakdown of the relationship, and this opportunity was lost.

Power bargaining rather than integrative negotiation techniques seems to win every time, as Bradshaw contends. One is inclined to observe that the latter does not even feature in the Department's repertoire of conflict management techniques.

Case study 4: Boksburg Correctional Centre, Gauteng

Muntingh's report of the facts of the case:

> In May 2012, at Boksburg Medium A Correctional Centre, inmates were informed that the Area Commissioner made a decision that all electrical appliances (e.g. kettles) had to be removed from the cells. A meeting was held with staff and inmates to work out ways in which electrical appliances could be removed in an orderly manner and collected by families. The Regional Commissioner was present but was not given an opportunity to address the meeting. Two days later a hunger strike commenced. The EST moved in to remove the electrical appliances and used tear gas. Seven inmates were injured.[48]

Once again, there is no indication whether the incarcerated person/s were consulted in advance and apprised of the reasons as to why the electrical appliances had to be removed (assuming that no alternative arrangement was available).

Muntingh contends that "in a number of instances the EST was called in to respond to the protest and there is a growing body of anecdotal evidence that EST officials frequently engage in the excessive use of force."[49] As can be seen from the case studies that follow, a body of verified evidence shows that these observations are not merely anecdotal.

DCS's heavy-handed (or high-minded?) way of dealing with incarcerated person/s and their inclination to use violence to settle any signs of conflict is indeed a cause for concern.

Case study 5: Groenpunt Correctional Centre, Deneysville, Free State

Muntingh related the circumstances that led to this conflict situation as follows:

> In January 2013, at Groenpunt Correctional Centre, a protest started following the cancellation of a soccer match. Inmates refused to go back to their cells after unlocking and began pelting officials with rocks. The EST was called in with full riot gear, and ultimately 101 prisoners were injured.[50]

Muntingh observes that the apparent reasons for this protest are well-documented,[51] but we only touch on a few that seem pertinent to us: the Head of Centre did not prioritise dealing with complaints, poor quality of food, medicine not being dispensed timeously, and a shortage of medical personnel led to limited-service delivery, unhappiness with security reclassification, general building maintenance backlogs, and limited family visitation.

Fair-minded readers may be shocked that eminently reasonable complaints by the incarcerated people were dismissed out of hand by DCS. The Department's default reaction seems to be to meet any sign of apparent discontent with violence, although a conflict management perspective shows that this is unnecessary and easily resolvable. Burton's

theory of Basic Human Needs would suggest that consultation with the incarcerated person/s on their grievances and a sincere attempt by DCS to resolve them would almost certainly have obviated the need to escalate to violence.

Heard[52] has shown that access to family and other loved ones is vital in efforts to stabilise prisons. This basic human need, which Burton characterises under the need for valued relationships,[53] should not be trivialised by the prison authorities. Burton argues this need "acts as a self-restraining influence on human behavior. In the absence of valued relationships, there are no self-imposed restraints."[54]

Simply giving these incarcerated person/s the respect of an empathic hearing and reporting back to them expediently would almost certainly have led to a non-violent outcome, with both staff and incarcerated person/s in a much better place going forward. The trust engendered by such meaningful, approachable, respectful, and non-violent intervention is almost certain to bear fruit for future cooperation.

Case study 6: St Alban's Correctional Centre, Port Elizabeth, Eastern Cape

Muntingh's summary of this case is as follows:

> On 26 December 2016 three prisoner[s] died at St Alban's Correctional Centre. It is alleged that inmates from Cells 22 and 23 in B-Unit at St Alban's were denied privileges without being provided with the reasons. Prisoners belonging to both 26 and 28 number gangs planned and executed a coordinated attack, first targeting two officials. There were two scenes of attack, the first near the dining hall and the other near the records office, where officials stabbed inmates with knives. Three inmates died, 25 were injured, and five officials were stabbed.[55]

Although we use Muntingh's summary as the basis for this analysis, it should be noted that the facts of this case are contested.[56] In the civil litigation that followed the incident, the incarcerated person/s disputed the 'official' version and claimed that they were tortured and assaulted after being identified for group punishment by the EST after the prison was locked down. They alleged further that a warden was stabbed to death because he told an incarcerated person's mother that her son indulges in sodomy. The mother vowed never to visit her son again.

Jonny Steinberg[57] has shown that the primary reason for the existence of gangs (the 26s and 28s) in many South African prisons was to serve as a defence mechanism against harsh and debilitating conditions and treatment in our prisons during apartheid. These conditions, although improved, have persisted into the democratic dispensation.

After the stabbing, the EST (known in prison parlance as 'die Taakmag') was called in as a show of force. They allegedly assaulted the entire section for a prolonged period (this is, admittedly, still contested). Was there any effort to resolve the conflict peacefully?

Roy King,[58] an acknowledged expert on 'supermax' confinement, argues that "[i]t is a commonplace in the literature that prisoners have a profound sense of justice and fair play." This remark has profound implications for the suggestion that a conflict management (if not conflict transformation) perspective should replace the power negotiation/institutionalised violence currently employed by DCS structures.

From the conflict management perspective, John Burton has shown that all human beings (including incarcerated persons and prison officials) need distributive justice or fair treatment.[59]

Case study 7: Leeuwkop Correctional Centre, Johannesburg, Gauteng

Muntingh's summation of the incident:

> From Leeuwkop Correctional Centre in December 2016 it was reported that it had been the practice for inmates to store their personal belongings in buckets. On 23 December a cell search was conducted and the buckets confiscated, as it was alleged that they were being used to brew beer. Inmates' property was also strewn about the cell in the course of the search. The inmates demanded a meeting with the HoC or Area Manager, as the acting HoC did not want to listen to their complaint about the buckets. They retreated to their cells and refused to come out for lunch. The EST was called in and tear gas was used. Someone started a fire. It is reported that an unknown number of inmates were hospitalised.[60]

The question immediately arises as to why the incarcerated person/s were not consulted on the reasons and necessity (assuming this was necessary at all) of removing the buckets in question. Showing force (by the enforcement of a unilateral decision to remove items as trivial as buckets) is clearly a sub-optimal approach to conflict resolution or management.

Case 8: Kgosi Mampuru II Correctional Centre, Pretoria, Gauteng

Muntingh's report of the matter:

> In July 2017, a group of prisoners at Kgosi Mampuru II Correctional Centre, serving life imprisonment, staged a sit-in, protesting that, following the Van Vuren judgment, their cases should be considered for parole and that this was not being done with a sense of urgency. Attempts were made to get them to return to their cells but this failed and the EST was called in. Several inmates were injured but the exact number is unknown.[61]

To contextualise the dispute, the Constitutional Court ruled in *Van Vuren*[62] that people sentenced to life imprisonment could be considered for parole after serving 15 rather than 20 years, as had been policy up to that point. It is easy to imagine the excitement and high expectations among 'lifers' once they heard about the ruling.

Once again, the Department's arrogant and indifferent way of dealing with the incarcerated person/s' plight in respect of a justifiable complaint is astonishing. Burton has shown that "punishment does not stop further crime and, on the contrary, accentuates it."[63] From a conflict management perspective, the Department seems oblivious of any response other than violence to resolve conflict, a sentiment with which Muntingh[64] apparently agrees.

Conclusion

All eight cases had a violent outcome. We argue that this shows that this heavy-handed approach is normalised in the way DCS deal with protests (even where these events are not strictly riots and are supported by justified grievances). The Department's policy of using a show of force seems frequently unjustified and leads to unnecessary injury and/or deaths. We have shown instead that different, non-violent outcomes are possible and indeed preferable to a heavy-handed, violent show of force.

The case studies examined in this contribution lead to the conclusion that conflict management (let alone conflict transformation) as a way of dealing with incarcerated person/s' concerns has not made an impression on DCS management or the staff in their employ – with predictable results. One can only marvel at

the tolerance which this level of unprofessional conduct has met.

All efforts must be made to move the Department from an institution that embraces negative peace to a space that propagates positive peace (as Galtung demonstrated). Once this happens, the default reaction to conflict will not be violence, but constructive engagement (in terms of consultation) regarding often justified complaints.

While South Africa's political transformation has often been described as exemplifying international best practice in the realm of conflict management, the democratic era has witnessed a return to power politics across the board, despite rhetorical flourishes to the contrary. The abandonment of the National Peace Accord, the National Peace Secretariat and the Truth and Reconciliation Commission, and the failure to properly institutionalise peace education at schools and peace and conflict resolution programmes in our universities are good examples of this shift.[65] Similarly, initial efforts towards a progressive model of community policing were also soon reversed in favour of a more traditional, punitive model.

We argue that DCS should undertake constructive engagement through meaningful consultation, based on trust and respect between the parties. They should give reasons for their decisions and ensure effective, empathic communication between staff and incarcerated person/s, in an atmosphere that supports positive peace. It is of paramount importance that the Department's conflict management regime is founded on the respectful and dignified treatment of incarcerated person/s. This will ensure that conflict situations, such as the eight case studies discussed above, can be managed (and perhaps even transformed) from flash points boiling over into violence to opportunities for growth (mutual trust, improved, better relationships). The goal should be peace building amid an atmosphere of positive peace, rather than merely the absence of conflict and violence (negative peace).

Why does DCS empower officials who are prone to violent responses? We argue that this regime might be a continuation of apartheid-era correctional policy that considered violence a norm to deal with problems. While we recognise that this doesn't apply to all DCS staff, a 'prison effects' perspective shows that these rotten apples endanger public safety, and this cannot be allowed to continue. As Galtung's contribution to peace studies shows, the structural violence embedded in DCS cannot be tolerated when so much is at stake.

Power bargaining or deterrence by way of violence does not deter, as Burton, Bradshaw and Kuperman, point out – albeit in different contexts. Apart from the issue of institutional violence, we argue that eliminating psychological 'prison harms' (which Irwin and Owen show damage incarcerated persons in many complicated ways) is likely to contribute to desistence vis-à-vis reoffending significantly. As the Finnish experience illustrates, sustainable reintegration of the formerly incarcerated becomes a realistic possibility only once this issue, among others, have been addressed. The basic human needs approach within Burton's conflict management theory suggests benefits of such a positive peace inside the prison walls.

Notes

1 Casper Lötter holds a PhD in Interdisciplinary Philosophy, and is a postdoctoral research fellow at North-West University's School of Philosophy. His primary research interest lies in the confluence between philosophy and conflict criminology, and more recently, cyber criminology. Gavin Bradshaw retired in 2019 from the Department of History and Politics at Nelson Mandela University. He holds a DPhil in Conflict/Conflict Management and continues to consult widely in that field. He is currently a research associate with the CLEAR evaluation anglophone africa at Wits University.

2 Roy King, "The Effects of Supermax Custody," in *The Effects of Imprisonment*, eds. Alison Liebling and Shadd Maruna (Devon, UK: Willan, 2005), 118–145, 131.

3 Lukas Muntingh, "Prison Protests in South Africa: A Conceptual Exploration," *South African Crime Quarterly*, no. 71 (2022): 2-34, 24. DOI:10.17159/2413-3108/2022/vn71a12709.

4 Ibid., 24.

5 Ibid, 30.

6 Geoff Payne and Judy Payne, *Sage Key Concepts: Key Concepts in Social Research* (London: Sage, 2004), 214.

7 Ibid, 215.

8 Catherine Marshall and Gretchen Rossman, *Designing Qualitative Research* 6th ed. (London: Sage, 2014), 125.

9 Sarah Boslaugh, *Secondary Data Sources for Public Health: A Practical Guide* (London: Cambridge University Press, 2007), 1–10.

10 John Burton, *Global Conflict: The Domestic Sources of International Crisis* (Brighton: Wheatsheaf Books, 1984); John Burton, *Resolving Deep-Rooted Conflict: A Handbook* (New York: University Press of America, 1987).

11 John Burton, "Conflict Prevention as a Political System," in *Beyond Confrontation: Learning Conflict Resolution in the Post-Cold War Era*, ed. John A. Vasquez (Ann Arbor: University of Michigan Press, 1995), 115–127.

12 Abraham Maslow, *Motivation and Personality* (New York: Harpers, 1954).

13 Paul Sites, *Control*: *The Basis of Social Order* (New York: Dunellen Publishers, 1973).

14 Alan Kuperman, "Muscular Mediation and Ripeness Theory." *Ethnopolitics* 21, no. 2 (2022): 163–177, DOI:10.1080/17449057.2022.2004777.

15 John Burton, *Global Conflict*.

16 E. Franklin Dukes, "Human Needs in Conflict Resolution in Practice: Environment and Community," in *Conflict Resolution and Human Needs: Linking Theory and Practice*, Routledge Studies in Peace and Conflict Resolution, eds. Kevin Avruch and Christopher Mitchell (London: Routledge, 2015), 216–229, 219.

17 John Burton, *Violence Explained: The Sources of Conflict, Violence and Crime, and their Prevention* (Manchester: Manchester University Press, 1997), 127.

18 Burton, *Global Conflict*, 143–152.

19 Johan Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research* 6, no. 3 (1969): 167–91, http://www.jstor.org/stable/422690.

20 Johan Galtung, *Peace by Peaceful Means: Peace and Conflict, Development and Civilization* (London: Sage, 1996), 5 and 31; Johan Galtung, "Cultural Violence," *Journal of Peace Research* 27, no. 3 (1990): 291–305, DOI:10.1177/0022343390027003005.S2CID220989188.

21 Robert Johnson, "Brave New Prisons: The Growing Social Isolation of Modern Penal Institutions," in *The Effects of Imprisonment*, eds. Alison Liebling and Shadd Maruna (Portland, US: Willan, 2005), 255–284, 273. In this regard, the following observation by Galtung is significant: "Make the subconscious conscious and we may be liberated from much protracted structural and repetitive, direct violence." Galtung, *Peace by Peaceful Means*, viii.

22 Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Alan Sheridan, trans. (London: Penguin, 1991), 162–163.

23 Casper Lötter, "Die Transformasie van die Suid-Afrikaanse Gevangeniswese tot 'n Openbare Instelling met Positiewe Vrede as 'n Waardestelsel. [Transforming the Prison System in South Africa to a Public Institution with Positive Peace Underlying its Values.] *Tydskrif vir Geesteswetenskappe*, 61(4–2) (2021), 1235–1259, 1250, DOI:10.17159/2224-7912/2021/v61n4-2a2.

24 Boutros Boutros-Ghali, *An Agenda for Peace* (New York: United Nations Press, 1992).

25 Muntingh, "Prison Protests in South Africa," 32.

26 Ibid, 32.

27 Lisa Marqua-Harries, Grant Stewart and Venessa Padayachee, "Towards Transforming a System, Re-Thinking Incarceration for Youth (and Beyond)." *South African Crime Quarterly*, no. 68 (2019): 33–40, 35, DOI:10.17159/2413-3108/2019/i68a5632.

28 Ibid, 35.

29 Matthew Cronje, *A Comparative Analysis of Recidivism with Specific Reference to Crimino-Victimogenic Variables, Offence Analysis and Programme Participation*, (Unpublished PhD thesis, Durban: University of KwaZulu-Natal, 2017); Patrick Bashizi Bashige Murhula and Shanta Singh, "A Critical Analysis on Offenders' Rehabilitation Approach in South Africa: A Review of the Literature," *African Journal of Criminology and Justice Studies*, 12(1) (2019), 21–43, https://digitalscholarship.tsu.edu/ajcjs/vol12/iss1/12; B Pierce and Lester Kiewit, "NICRO: The High Rate of Offender Recidivism," 702 Podcasts (2020), 13 January, http://www.702.co.za/podcasts/269/tonight-with-lester-kiewit/279121/nicro-the-high-rateofoffender-recidivism.

30 Michael Dutton and Xu Zhangrun, "Facing Difference: Relations, Change and the Prison Sector in Contemporary China," in *Comparing Prison Systems: Toward a Comparative and International Penology*, eds. Nigel South and Robert Weiss (Amsterdam: Gordon and Breach, 1998), 289–336, 322. These figures for China exclude unknown numbers in pre-trial custody and other forms of detention.

31 Editorial, "Help Former Prisoners Fully Rejoin Society to Cut Rates of Recidivism." *The Japan News*, January 22, 2022. https://japannews.yomiuri.co.jp/editorial/yomiuri-editorial/20220122-10479/.

32 Ben Geiger, "The Case for Treating Ex-Offenders as a Suspect Class," *California Law Review*, 94, no. 4 (2006), 1191–1242, 1197, DOI:10.2307/20439062

33 Casper Lötter, "Gentle Justice' Reduces Recidivism and Incarceration: The Finnish Experience," *Phronimon* (2023), 15, DOI:10.25159/2413-3086/13232. This study identifies an unacknowledged link between the basic human needs

framework embedded in Finland's penal and socio-political systems and its low rate of recidivism.

34 Helen Fair and Roy Walmsley, *World Prison Population List*, 14th edition (University of London, Institute for Criminal Policy Research, 2024) https://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_14th_edition.pdf.

35 Ibid.

36 Lötter, "Gentle Justice"

37 Jonny Steinberg, *The Number* (Johannesburg: Jonathan Ball, 2005), 12–15.

38 Muntingh, "Prison Protests in South Africa," 26.

39 Ibid, 26.

40 Ibid, 25.

41 Johnson, "Brave New Prisons," 273.

42 Muntingh, "Prison Protests in South Africa," 26–27.

43 Ibid, 25.

44 Alison Liebling, "Moral Performance, Inhuman and Degrading Treatment and Prison Pain," *Punishment and Society* 13, no. 5 (2011): 530–550, 535. DOI: 10.1177/1462474511422159.

45 Muntingh, "Prison Protests in South Africa," 27.

46 John Irwin and Barbara Owen, "Harm and the Contemporary Prison," in: *The Effects of Imprisonment*, eds. Alison Liebling and Shadd Maruna (Portland, US: Willan, 2005), 94–117, 108.

47 Gavin Bradshaw, *Conflict Management for South African Students: Theory and Application*. 2nd edition. (Cape Town: New Voices Publishers, 2008), 79.

48 Muntingh, "Prison Protests in South Africa," 27.

49 Ibid, 29.

50 Ibid, 29.

51 Ibid, 27–28.

52 Catherine Heard, "Commentary, Assessing the Global Impact of the Covid-19 Pandemic on Prison Populations," *Victims Offenders*, 15, nos. 7–8 (2020): 848–861, DOI:10.1080/15564886.2020.1825583.

53 John Burton, *Conflict: Human Needs Theory* (London: The Macmillan Press Ltd, 1990), 154.

54 Ibid.

55 Muntingh, "Prison Protests in South Africa," 28.

56 See, for example, Casper Lötter, "Judging the Holy Cow: Examining the Role of Implicit Bias in Judicial Rulings – An Analysis of the Decision in *Mbena v Minister of Justice and Correctional Services* 2015 4 All SA 361 (ECP)," *Potchefstroom Electronic Law Journal*, 25 (2022), 1–29, DOI:10.17159/1727-3781/2022/v25i0a12743.

57 Steinberg, *The Number*, xiv–xvii.

58 King, "The Effects of Supermax Custody," 131.

59 Sandra Marker, "Unmet Human Needs," in: *Beyond Intractability*, eds. Guy Burgess and Heidi Burgess (Boulder: University of Colorado, 2003).

60 Muntingh, "Prison Protests in South Africa," 28.

61 Ibid, 28.

62 *Van Vuren v Minister of Correctional Services and Others* (CCT 07/10) [2010] ZACC 17; 2010 (12) BCLR 1233 (CC); 2012 (1) SACR 103 (CC) (30 September 2010).

63 Burton, *Violence Explained*, 23.

64 Muntingh, "Prison Protests in South Africa," 29.

65 Bradshaw, *Conflict Management for South African Students*, 259.