

From Dungeon Masters to Keepers of Peace: Tribalism, Dispute Resolution, and Theoretical Intervention within the Prison System

Kacey Shap*

Conflict Analysis and Resolution, Nova Southeastern University, Davie, Florida, USA

Abstract

The American penal system is failing. Despite the billions of dollars spent on the prison system, America still faces challenges with its soaring prison population, high recidivism rate, and perpetual violence. Prisoners must cope with daily violence, and they are unable to escape once in the system. Prison administrators, overburdened with the need to maintain security, are powerless. This research proposal, therefore, presents a theoretical case for implementing tribalism and alternative dispute resolution (ADR) within the prison system in order to reduce violence, and empower both inmates and prison guards. Arguments for the benefits of ADR are examined. The paper proposes a theoretical model that uses the prisoners as self-regulating agents for change. A proposal for implementing reform by employing a system of "Tribal Elders" and a council of guards system is also discussed.

Keywords: Prison; Tribalism; Dispute resolution; Violence intervention

Introduction

The American penal system is ineffective. In fact, the U.S. government spends over \$48.5 billion each year to house its 1.6 million citizens in prison, making it the world leader in total number of incarcerated individuals, percentage of incarcerated individuals per population, and total money spent to house the incarcerated population [1-4]. If the \$48.5 billion budget were to be evaluated as income, each of the 1.6 million U.S. prisoners would earn an average of \$22,000 by their first year, \$100,000 by their fifth year, and \$1.5 million in their lifetime [5]. Furthermore, percentage of prison expenditure has sky rocketed over the past decades. For example, within the past 20 years, prison expenditure has increased by 570% as compared to the 33% increase in educational expenditure [3,6]. Despite the increased spending, the prevalence of *supermax* prisons, and the tough policy towards crime, America still faces challenges with its high prison population, recidivism rate, and perpetual violence within the prison environment.

Though the U.S. government spends billions of dollars on prisons, it still reports a 60% recidivism rate, meaning that three out of five prisoners who are released will return to prison [14]. Each year, 650,000 inmates are released, which is roughly the same as the population of Boston. However, of those prisoners who are released, two-thirds will be re-arrested within the next three years and half will most likely return to prison [7,8]. It was found that 37% did not return to prison, 50% returned for committing noncriminal revocations while 13% returned for committing new felony related crimes within a 5-year follow-up study [9]. In a sense, the prison system trains prisoners to become more violent. Various studies conducted by Johnson and Raphael [10], DeFina and Arvanites [11], and Donohue and Levitt [12] did not find significant impact on imprisonment and crime reduction, but the researchers did find a significant and negative relationship between incarceration and property related crimes.

The hostile prison environment, coupled with an ineffective system of regulation, has resulted in frequent riots, mass bullying, and sexual abuses. For example, Wolff et al. [13] conducted a study with male and female inmates and found that at least 40% of them had experienced some form of victimization within the previous six months, including various inmate-on-inmate or staff-on-inmate sexual or physical

abuses. Furthermore, it is estimated that one in 20 inmates reports being sexually abused by either their fellow inmates or staff workers, though some experts challenge the reliability of the statistics due to under-reporting [14,15]. Nolan [16] found that violent outbreaks in a California prison resulted in an 11-hour revolt during which 175 inmates were injured and 55 had to be rushed to the hospital; many of the prisoners were permanently maimed. In a Louisiana prison, the environment was so hostile that inmates had to sleep with metal plates or phone books out of fear of being stabbed [16].

The perpetual violence in prisons led the Commission of Safety and Abuse in America's Prison [14] to conduct a comprehensive analysis of the country's 5,000 prisons. The commission identified several major factors that contributed to the high recidivism, violent atmosphere, and deteriorating conditions in prisons. In the 126 page report, the commission documented overcrowding, isolation from family ties, inadequate healthcare, rigid standardization, overwhelmed staff, prevalence of high-security segregation unit, culture of us-versus-them mentality, and lack of respect or dignity for the inmates. The problem is partly due to the cycles of violence embedded in the system, as the study suggests. In order to survive, prisoners must adapt to their hostile environments; but once they are released, few prisoners are able to re-adapt to a more peaceful society, resulting in further violence that places them back in the prison system [7,8].

There needs to be a better way to handle conflicts within the prison system. Implementing alternative dispute resolution (ADR) might be a valid alternative, given the fact that ADR relies on actors, rather than third party agents, to resolve their issues. Furthermore, compared to

*Corresponding author: Kacey Shap, Conflict Analysis and Resolution, Nova Southeastern University, Davie, Florida, USA, Tel: 561-558-4577; E-mail: kschap24@gmail.com

Received September 10, 2013; Accepted November 05, 2013; Published November 09, 2013

Citation: Shap K (2013) From Dungeon Masters to Keepers of Peace: Tribalism, Dispute Resolution, and Theoretical Intervention within the Prison System. Social Criminol 2: 105. doi: 10.4172/2375-4435.1000105

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the billions of dollars spent on violence prevention, alternative dispute resolution is cheap. It relies on communication as a primary vehicle for change and focuses on the direct actors rather than relying on rules, laws, or regulations. In order to appreciate the benefits of ADR, one must first examine the interplay of conflict and violence.

A Case for Alternative Dispute Resolution

The current penal infrastructure is a failed system

System Theory [17] is “a general science of ‘wholeness’”. Costantino and Merchant [18] refer to systems as “arrangements of parts dynamically interrelated with each other and with the influence in their environments”. Simply put, a system is a compilation of its parts, which include boundaries, purposes, inputs, transformation, outputs, and feedbacks [18,19]. These interconnected parts interact with each other to influence the system as a whole. Meadows [20] considers a system to be “more than the sum of its parts”; the system consists of elements, function, resilience, interconnection, self-organization, and hierarchy.

According to Meadows [20], a failed system is one that has lost its “system-ness”. In other words, a failed system is when the “multiple interrelations that held it together no longer function, and it dissipates, although its material remains part of a larger food-web system” (p. 12). Stated differently, a failed system occurs when one or more components are not functioning properly. With regard to the penal system, prisons are unable to respond to residual violence, overcrowding conditions, or the ever-changing social landscape; as a result, the prison, as system, is unable to function properly.

The penal system is dysfunctional. The system takes in more money each year; but rather than fixing the problem (i.e. reducing the recidivism or controlling the violence), it produces more criminals. In fact, the incarceration rates have increased within past 30 years from 111 per 100,00 in 1975 to 491 per 100,000 in 2005 [10,21]. The system has failed and is no longer performing its original intention, which is correction and rehabilitation. David Garland eloquently summarizes this message in his book *The Culture of Control* [22].

“But today, rehabilitation programs no longer claim to express the overarching ideology of the system, nor even to be the leading purpose of any penal measure. Sentencing law is no longer shaped by correctional concerns such as indeterminacy and early release. And the rehabilitative possibilities of criminal justice measures are routinely subordinated to other penal goals, particularly retribution, incapacitation, and the management of risk”.

Another example of the failing system is the recidivism rate. Ninety-five percent of current inmates are due to be released at some point, and 50% of them are only guilty of minor, non-violent offenses [9,21]. The prison system is unable to account for the violent conditions or mediate disputes within the prison, which forces the inmates to become more violent in order to survive the system. Once released, the inmates are unable to acclimate to their society, making them more likely to commit crimes and end up back in the system [7,8].

As one former inmate put it, releasing an incarcerated citizen without a proper safety net is like “put[ing] a pit bull in a cage and pok[ing] him with a stick and let[ing] him out in a classroom full of kids” [8]. Taxpayers are also at a loss. They pay more each year for a prison system that is supposed to keep them safe, which in actuality serves to increase violent crime. Policy makers and prison administrators are also at a loss; they have to cope with overcrowding conditions and

ineffective system of regulation, which leaves them unable to monitor the prisoners. As a result, prison officials are plagued with feelings of powerlessness.

ADR, violence, and constructive conflicts

Rape, riots, and violence are examples of destructive conflicts that are fueled by “contest of wills, of force, of courage to resist, compel, and coerce”. In destructive conflict, parties tend to adopt distributive bargaining styles and operate under the assumption, “If I don’t dominate you, you will dominate me”. When actors engage in distributive bargaining style, they may feel stuck in the conflict, powerless to control the events, and cheated from reaching their goals. As a result, they may seek revenge through tit-for-tat behaviors. Because of this, parties will perceive the resources as finite, pursue their goals at the expense of others, focus on short-term gains rather than long term interests, engage in zero-sum either/or bargaining, and defeat the other at any cost [23-25].

Destructive or competitive win-lose styles of conflict are counterproductive to the goals of rehabilitation and correction. Destructive conflicts beget further violence and perpetuate the cycle of action and reaction, which only worsens the problem, costs taxpayers even more money, and strains the already overburdened system. Conflict within the prison system does not need to be violent or end destructively. Unfortunately, the current prison system operates within a law and order, right and wrong, punitive system; due to its nature, it cannot account for the underlying issues. Violence becomes all but unavoidable when these issues are not resolved.

Fortunately, when pushed in the right direction, conflicts can be constructive, create collaborative win-win solutions, and empower all of the parties involved. Alternative dispute resolution-which looks at conflict from a different perspective that is not destructive, violent, or costly-can move conflicts in the right direction, because it looks for the underlying root of conflicts, such as issues of dignity, respect and security.

Incorporating ADR within the current prison system offers an effective solution because of its focus on intervention from a systemic perspective. Alternative dispute resolution training models-such as mediation, negotiation, and communication techniques-promote interconnection and emphasize empowerment by engaging the elements to work *with* rather than *against* each other within the system. Furthermore, by relying upon the local actors to empower themselves to resolve their own conflicts, ADR helps foster resiliency by accounting for underlying issues of conflicts such as respect, power, and dignity. Finally, actors engaging in collaborative work are more likely to pursue joint goals, focus on long term relationships, maximize joint outcomes, build trust and openness, respond to real needs, treat each other with respect and understanding, and generate creative solutions that benefit all parties [24,26].

ADR accounts for what traditional correctional programs ignore

There is an assumption that violence is embedded within the rehabilitation system, that violence is pathological, and that the solution to ending the violence is to hire far more prison guards (or erecting more supermax prisons, or increasing funding, etc). In research consistent with such claims, Meade and Steiner [61] looked at the exposure of violence prior to incarceration and the impact on adjustment outcome during imprisonment; Wulf-Ludden [27] assessed

the gender differences and propensity towards violent within the prison system; and Morris et al. [28] employed General Strain Theory to predict prisoner's misconduct.

However, not all violence is pathological or even environmentally induced. Take the case of gang violence, for example. Like prison violence, researchers also believe that gang violence is environmental and the byproduct of pathological conditions [29-32]. However, Shap [33] analyzed gang violence from the context of culture and conflicts and found that 62% of the street violence is due to issues of identity, criteria of evaluation, and group cohesiveness. Furthermore, gangs employ violence as a tool to negotiate and construct their sense of reality. Shap's research on the impact of culture in facilitating violence is also consistent to McGuire's [62] research on "inmate code" and the nature of violence in the female prison system. McGuire found that inmate-to-inmate violence is more likely to occur when the victimized inmate failed to conform to the code of prison.

When violence ceases to be over issues of food, water, and security and more about honor, respect, and self-esteem, then the conflict is no longer a product of the environment or even the outgrowth of the individual's disposition. Rather, the conflict is reflective of the culture, identities, and values of such group. As previously noted, the prison system is not design to handle conflicts over identities, cultures, or values. ADR would be an instrumental tool for resolving such conflicts and would be of benefit for the prison community because it would provide an avenue for prisoners to resolve their disputes. This is the case because, as Coy and Hedeem [34] argue, mediation can be a powerful tool for restorative justice when applied to the community level such as the prison system. Community mediation empowers the disenfranchised group because it enables the actors to frame their grievances, to create space for a collective identity and consciousness, and to transform the grievances [35-37].

Policies cannot resolve the issue of human dignity and the need for respect. Most prison reforms emphasize a top-down system of approach in which changes occur from the policy makers, heads of agencies, or bureaucracies and eventually trickle down to the prisoners. While these changes are necessary, they may not be as effective, since the changes are made without including the prisoners. When the prisoners, or the primary stakeholders, are not included in the decision-making, the effect becomes limited in scope because it talks down to rather than talks with the prisoners. Alternative dispute resolution is a method of talking with the prisoners to make changes from the bottom up, rather than relying on the bureaucratic system or policy makers to make the necessary changes. Furthermore, unlike traditional reforms, ADR focuses on establishing and building the relationship, emphasizes both goal and outcome orientated processes, views communication as a process, relies on a mutual education, and emphasizes problem solving and option generating processes [38].

ADR is a win-win solution

At this point in time, there has not been a comprehensive study that examines the impact of mediation, negotiation, or ADR training on curtailing violence within the prison population. Part of the reason is that ADR is only 50 years old and is considered a relatively new discipline within the humanities and social sciences [39,40]. However, ADR has been gaining momentum as a viable solution for resolving conflicts, particularly in family mediation, court mediation, organizational conflicts, international conflicts, and etc. [24,25,41-43]. Furthermore, many state agencies are starting to consider ADR as a

potential solution for resolving prison conflicts. For instance, in 1990, New Mexico implemented mediation to help young offenders settle their issues peacefully [44].

Maryland had recently launched a pilot reentry program that focused on family and community orientated mediation to help inmates acclimate with the community once released. Charkoudian et al. [45] conducted a three-month follow-up of inmates following their release and participation in a mediation program. The researchers found the following: 53% of inmates reported better communication with their families after mediation; 79% said they were more likely to seek alternative solutions to resolve their conflicts; 82% said they would reflect first before responding in future conflicts; 60% of the inmates' families said that the inmates were better acclimated; and 66% of both inmates and their families reported more hope for the future due to the mediation services. Mediation, in this case, clearly supports the role of ADR within the penal system.

ADR has been successful especially with those most prone to violence. For example, Davis [46] conducted a field test in which 465 felon arrestees were referred to the dispute resolution center for arbitration. These felons were charged with D felonies that ranged from forgery, assault, rape, grand larceny to criminal possessions of weapons and carried a maximum sentence of 7 years and a \$5,000 fine. The study found that 94% of the complainants felt that the mediator heard their story (as compared to the 65% of the controlled group that attended the court); 88% believed that the case was conducted fairly (as compared to the 76% of the control); 23% reported dissatisfaction and anger towards the defendant upon conclusion (as compared to the 48% of the control); and four months later, 62% reported improved relationship with the defendant (as compared to the 40% of control group).

Reduced violence means lower hospital fees and the reduction of sexually transmitted diseases [2,14]. Reduced violence will also break the cycle of recidivism, because inmates will no longer need to adapt to the violent conditions and thus will allow them to better acclimate to society once they are freed. Alternative dispute resolution will create a safer prison environment. States will no longer need to invest in supermax prisons or increase security, since prisoners will serve as their own policemen as a natural byproduct of the new system. Furthermore, ADR is relatively inexpensive compared to current top-down measures; it relies on the prisoners and guards to be the agents of change rather than laws, regulations, or bureaucratic institutions.

While there may not be a one-size-fits-all model to fix the system, ADR is a doable alternative to the current problem. If prisoners learn to negotiate their differences via non-violent means, then they will commit fewer riots, rapes, and other violence inducing behaviors. This is the case because, as Augsburg [23] argues, conflict is universal, and it is "...out of the same basic needs, fears, and hopes, [that] humans have created ways of dealing with competition, frustration, and aggression that reverse and reflect each other". Simply put, Augsburg argues that society has created a "pool of habits" and it is through the customs and traditions that frame the context for how individuals interpret and resolve their conflicts. Within the prison system, the "pool of habits" is violence; prisoners learn to barter their conflicting realities by engaging in violent means. ADR would not necessarily reduce the conflicts but rather replace the currency of violence for one of conversation.

Planning and Preparing ADR in the Prison System

Effective ADR intervention requires a thorough understanding of the issues, parties, and context from a systemic standpoint. Only when

negotiators analyze the conflict from a systemic bird's eye view will they be able to anticipate potential problems and resistance points. Ury [47] calls it "going to the balcony" because it allows the people in conflict to distance themselves from the situation, their natural impulses, and their emotions in order to detach themselves from the conflict, the setting, and the dispute and assess the situation from an objective, non-biased point of view. To implement ADR practices, Lewicki et al. [24] suggest that practitioners should define the issue, analyze the parties' bargaining mix, find the interests, analyze the best alternatives to the negotiated agreements (e.g. the BATNA), find the resistance points, and assess the constituents and social context.

Within the current prison system, violence, rape, and riots are the issue. The bargaining mix, in this case, includes the distributive tactics, power over, and survival of the fittest styles of conflicts. Both the issue and bargaining mix deal with power: the former is the manifestation (and the result) of power, while the latter is the means for achieving such power. Lewicki et al. [24] define power as the individual's "ability to bring about the outcome they desire" or "the ability to get things done the way [they want] them to be done". Individuals, especially those in prison, seek power for two reasons: (1) they want to offset or counterbalance the other party's power, and (2) they want to gain or sustain advantage over the other party. Michael Buie, an inmate in Kansas's Ellsworth Correctional Facility, defined power as safety and security, stating, "I'm fighting and I'm stabbing people, and I'm trying to, you know, to survive" [8]. Thus, the goal for implementing ADR and integrative negotiation is to empower inmates like Michael Buie with a sense of control that does not rely on violence, rape, or riots, but rather respects the prison guards and the rules of the system.

Constructive conflict resolution requires a thorough understanding of positions and interests, for these aspects form the basis of most conflicts. Positions are the individual's pre-negotiated solutions. They are the desired outcome, or the *wants*. On the other hand, interests are the underlying, intangible needs that lead the person to create the position. In short, they are the *why* behind the wants [26]. To solicit interests that motivate positions, Katz and associates [26] suggest employing chunking up and chunking down questions. Chunking questions are useful in transforming the logic of thinking by allowing the person to toggle between different frameworks. For example, in chunking up, the person helps facilitate the parties to move from specific positions to general needs and interests.

To uncover the underlying interests Katz and associates [26], suggest the practitioner ask the following questions:

- Help me understand. If you were able to have X, what will having X do for you?
- Help me understand. If you were to acquire X, how would tomorrow be different from today?
- Help me understand. If you had X, how would it be helpful or beneficial to you?

As chunking up allows the person to go from positions to interests, chunking down helps the person brainstorm for creative options to satisfy their needs. For example, Katz et al. [26] advise the practitioner to ask the following questions when chunking down:

- What specifically is a good way of satisfying that interest?
- What might a specific example be, of ways to move from that need or interest?
- What are some good ways of obtaining that want or desire?

While an inmate's position might be to perpetuate violent tactics, his interests might reflect the need to achieve respect, control, safety, and security. Though positions vary, needs and interests do not, and parties tend to share similar needs and interests more often than not. The goal in integrative negotiation and ADR methods is to encourage the parties to veer away from their positions and towards their needs and interests. In doing so, parties will discover that they have commonalities, which will open the door for potential nonviolent and collaborative solutions.

Proper preparation also requires resolution expert to be familiar with resistance points and the best alternative to the negotiated agreement (BATNA). Resistance point determines whether the person should stop the negotiation, given the fact that any settlement reached would create an adverse impact for either party. Best alternatives to the negotiation determine whether the current outcome can be achieved without negotiation. Parties should negotiate when they have low BATNA, since any resolution made will be an improvement from the current status quo [24,47].

Best alternatives to the negotiation and resistance points are crucial when implementing ADR in the prison system. The BATNA for the current prison situation is maintaining the status quo, and the status quo is continuing overspending, maintaining high recidivism, increasing taxes to pay for the ineffectual system, and perpetuating violence. Thus, ADR is clearly a better alternative. However, there may be times when negotiation might not be optimal, when the resistance point is high, and when the prison administrators should interfere. These may include riots, conflicts between the guards and inmates, inter-group violence, or any form of violence that requires intervention.

To assess the context and key constituents, Lewicki et al. [24] suggest completing a field analysis, which is a metaphoric stadium that depicts key actors in a dispute. In the field analysis, direct actors are the players who share one side of the court. The other players are the opposing negotiator; indirect actors who sit on the sidelines, such as stakeholders and constituents; and interested observers who sit on the stands and who may be affected by the outcome but not directly involved in the conflict. Docherty [48] builds upon the field analysis model and suggests that negotiators should consider that: (a) parties who are represented by others in the conflict; (b) organized parties that choose not to participate but share the same concerns and issues; (c) institutions or organizations that are not represented but crucial to the implementation; (d) the unorganized public who may be crucial for success; and (e) powerful external parties who may alter the negotiators' BATNA.

The prisoners are the direct actors. Guards are both direct and indirect actors, since they are affected by and can shape the surrounding conflict. The warden, who is not represented in the negotiation but may have major influence over the outcome, is a key stakeholder who can authorize and determine the success of ADR implementation. Taxpayers and the general public may also affect the success of ADR; therefore, proper education may be needed so that the public can be on board. Finally, powerful external parties such as lawmakers, policy makers, and even Congress may have a major say as to the effectiveness of the program.

Theoretical Applications for ADR in State Prison Systems

Inclusion, empowerment, and changing frames

Pager [49] notes that changes in context, such as a corporate merger,

can create turbulence in negotiation, particularly with those who are most affected. With regard to the prison, inmates and guards will be most affected by the change, and one should expect resistance from both groups. To mitigate resistance and ensure success, practitioners must invite these actors through the process of inclusion.

One way to encourage inclusion is to provide incentives for both inmates and guards. For inmates, ADR implementation would allow inmates to have a voice within the system, control their rewards and outcomes, and provide an opportunity in the real world should they become successful mediators or negotiators. Providing an economic incentive might be a positive deterrent for violence and recidivism considering that once a prisoner leaves the prison, he is likely to wear the “mark of a criminal record” [50]. Furthermore, once released, former inmates are more likely to earn less in salary, experience a decline in wage growth, and are less likely to maintain a long term job, and the resulting “coercive mobility” is likely to result in more crimes for both former prisoners and non-prisoners [21,49,50]. For instance, success in ADR might provide them with an opportunity for early release and potential jobs with a good *report card* from the prison, which they were released. In fact some of them could also apply for a job as a negotiating consultant for other prisons. Thus, prisoners might *graduate* from the prison with the security that they have a future waiting for them rather than a crime-ridden, jobless, future that most prisoners face once they are released.

California’s Prison Fire Camps is a good example of a prison system employing effective rehabilitation techniques coupled with positive incentives [51]. Unlike the traditional standard prisons with electrified fences and cramped cells, the California Prison Fire Camps provide decent meals, has a loose security perimeter, is surrounded by lush green landscape, and is managed by a relatively cheery staff. In analyzing the prison system [51], found that the overlapping narratives of prisons and camps, inmates and heroes, and fire camps and punitive turn enabled the prisoners to initiate the rehabilitation process from an individual level. Simply put, the multifaceted and malleable prison and non-prison condition enabled the prisoners to believe in a rehabilitation process in which:

“First an individual decides they want to change, second they seek out resources that help make that change happen, and third they become a transformed person”.

Prison guards will also have strong incentives for the program. The current system does not reward correctional officers for their tireless efforts, despite the lack of resources, support, or manpower and the inherent dangers of their profession [14]. Since they are in an unacknowledged profession, prison guards may feel underpowered, have low job satisfaction, and have high turnover rates. ADR can provide incentives by re-channeling the guards’ energy towards empowerment, ensuring that they have a direct impact on the inmates through collaborative problem solving and joint-venture negotiations to produce a safer and more rewarding work environment. Guards will be consulted to mediate disputes between the inmates that will enable the inmates to create valid solutions.

Mutual trust is a key aspect for guards and inmates to buy into the ADR system. One method for doing that is to change the perceptions of guards, from “knuckle-dragging” [14] dungeon masters to guardians of peace and security. When the inmates perceive guards as antagonists, or bad cops, they are less likely to trust them and more likely to perceive them as the problem. However, if image of the guards image

are change to one of a protagonist or good cop, inmates will view the guards’ actions as legitimate and will therefore trust the guards during the decision making process. Another approach to facilitate trust is to assign a peer-mentor relationship between guards and inmates.

Tribal System: Strength through Unity

There is a risk in instituting a tribal oriented community within the prison system. Separating the members into distinct tribes may lead the groups to ascribe to the us-versus-them mentality, which may exacerbate the problem and cause more conflicts. According to social identity theory, the “mere awareness of the presence of an out-group is sufficient to provoke inter group competitive or discriminatory responses on the part of the in group” [52]. According to Fisher [53], intergroup conflict occurs because members in a group act and react to the other group from their vantage point as a way of solidifying the group’s identity. In other words, the group identity is fused into the individual’s sense of identity to produce an in-group bias in which members of the in-group regard themselves favorably while regarding members of the outside group unfavorably [54].

As social identity theory predicts, the mere awareness of another group instantly creates competition and discriminatory practices. However, Eder et al. [55] argue that humans exist in collective identities and that the tendency to be defined by those identities is universal and a normal feature of life, whether the descriptor pertains to gender, sexuality, geography, religion, or political affiliation. Though collective identity has been a source for intergroup conflicts, it can also be used as a tool for social control. For instance, Ahmed and Mammo [56] documented the indigenous conflict management styles of the pastoral communities in Ethiopia and Somalia and found that despite various conditions that normally cause conflicts—such as scarcity of land, water, and natural resources—the people living in the Shinile zone reported the fewest destructive conflicts, which was partly due to their emphasis on conflict resolution methods that were community oriented and based on elderly systems. In other words, the people living in the Shinile zone were able to resolve their conflicts through collective identity.

Collective communities already exist in the prison system. Inmates form groups or belong to gangs that protect them from other inmates [57]. However, what distinguishes the collective community within the prison system from collective communities in Somalia or Ethiopia is that the currency for result is measured through the degree of violence. Edgar [58] likens the prison culture to that of a Conflict Pyramid and argues that violent social contexts frame the conditions for the interests (i.e., material goods), values (i.e., honor, loyalty, respect, privacy), relationships, purpose (i.e., means for achieving a particular goals), and interpretations (i.e., framing the conflicts).

The goal of implementing a tribal community, then, is to capitalize on the community-oriented nature but to replace the context of violence with one of community oriented conflict resolution. To harness the us-versus-them mentality, I propose that the prison system institute an artificial tribal community that works in conjunction with the Alternative Dispute Resolution network. A tribal community has multiple facets that would allow it to function within the prison system. First, it would give inmates a sense of in-group identity, serving as a family unit that protects its own. Inmates living in a tribal community would feel secure in the fact that others would not bully, harass, or abuse them. They would feel protected from other tribes. Second, the tribal community would not counteract, challenge, or contradict the pre-existing jurisprudence of law and order as established by

the warden. Finally, a tribal community can only lessen the current violence because the prison strips inmates of their legal rights; but the tribal community empowers them with their unalienable human rights of identity, respect, and belonging.

One method to manage the prison population is through a divide and conquer strategy. Inmates can be divided into equal tribal communities with unique identities, constitutions, and manifestos. Equality among tribes will ensure that the tribes do not fight each other, since they will perceive the others as equal in power. Each tribe will select a chief, who will function as the ombudsmen, negotiator, and mediator for intra-tribal and inter-tribal conflicts. Selection of tribe chief will take place on a biannual cycle. However, for a tribal chief to be selected as the representative of the particular tribe, he or she must pass the certification training in negotiation, mediation, and arbitration.

Each tribal chief will represent his or her tribe in a tribal council, which will be under the auspice of the warden and chief of guards. The tribal council will work in conjunction with the council of guards in arbitration. The tribal council will act as arbitrators who will recommend punishments, rewards, or suggestions to the chief of guards (Figure 1). Only the chief of guards will have the authority to finalize or codify the recommendation made by the tribal council and the council of guards. The warden will make the ultimate decision and can veto any decision made by the council, should he deem it appropriate. Guards will elect fellow guard officers to serve on the council of guards, and they will elect a fellow officer to serve as the chief of guards. The chief of guards will serve as the final arbitrator, should conflict reach an impasse.

There are many tactics to encourage tribal community and mitigate violence. For instance, incentives will be given to a tribe for good behaviors or resolution of interpersonal violence. Rewards might include increased time in the play yard, time of family visits,

or increased decision-making in tribal council. Rewards will be given for good behaviors and taken away for bad behaviors. However, all rewards and punishments will be attributed to the tribe rather than the individual. If individuals are responsible the tribal outcome, group and social shaming will ensure that individuals within the tribes behave.

To channel the potential violence, I propose creating sports activities for the various tribes to play against one another. The winner of these games will receive extra bonuses such as pizza day, extended playtime, or conjugal visits. Sports will distract the tribes from fighting and turn their attention towards socially acceptable behavior. Successful tribes might even be given the opportunity to allocate a stipend for the prison that would allow them to create an action plan to enhance the prison community, such as a new exercise machine or basketball court. Rewards in a tribal system are a good idea, because tribes will force the individual actors to behave properly through group consensus, peer pressure, and shaming. Thus tribes, by their mere function, will serve as a self-check mechanism to reduce violence and maintain a more peaceful atmosphere [59,60].

Teaching and Training

Prevention of rape, violence, and riots begins with teaching and training. In the system I am proposing, prisoners and guards will be required to take an introductory course on violence prevention. The course will analyze violence from sociological, psychological, theoretical, religious, and other social science perspectives. The coursework will also expose prisoners to forms of alternative dispute resolution, such as integrative negotiation, interest-based mediation, facilitation, and arbitration.

In addition to taking the introductory coursework, guards who wish to be mediators, negotiators, or arbitrators must also take a certified training course in their respective interests. Once certified, guards will be in charge of the teaching and training of the introductory courses of violence prevention to the new inmates. By teaching the inmates, guards will expand their repertoire, thus legitimizing their role as guardians of peace and security rather than as knuckle dragging dungeon masters. In this regard, guards will act like the United Nation, whose authority embodies the codified laws and conducts, but whose presence ensures that the chiefs are respecting their people, that conflicts are properly resolved, and that the tribes are respecting each other. Elected tribal leaders must pass the certification training in mediation, negotiation, or arbitration in order to be represented in the tribal council and mediate or negotiate conflict.

ADR Grievance Procedures

Interpersonal conflict within a tribe will first be mediated and negotiated by the tribe's leader and correctional officer who is trained and certified in conflict resolution. If conflict persists and parties experience an impasse, the issue will be brought to a tribal council, which will be composed of other tribal leaders and correctional officers. The tribal council and the council of guards will arbitrate the conflict. If the issue is not resolved between the two parties, the tribal council and council of elders will make recommendations such as reward, stipend, or punishments that they deem necessary for the conflict to be resolved. However, the decision is not finalized until the chief of guards authorizes it. The warden can intervene at any given moment if he or she deems it necessary. Any decision made by the chief of guards or warden becomes a mandate that must be followed, and failure to comply will negatively affect tribal rewards. The tribal council and

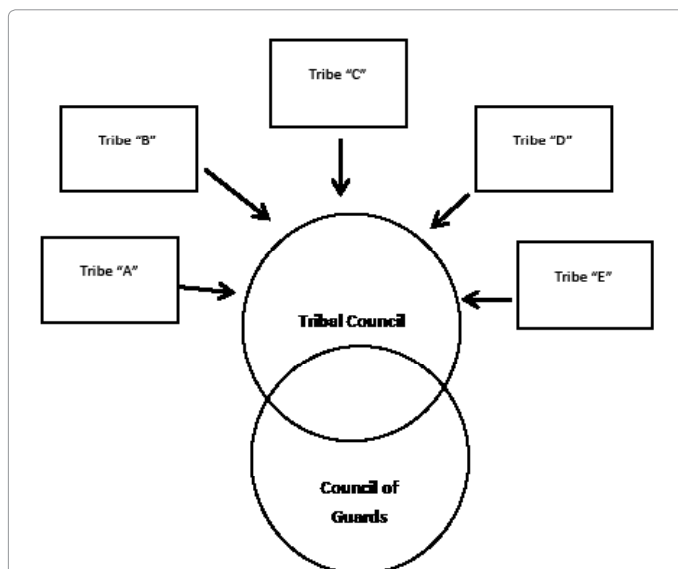
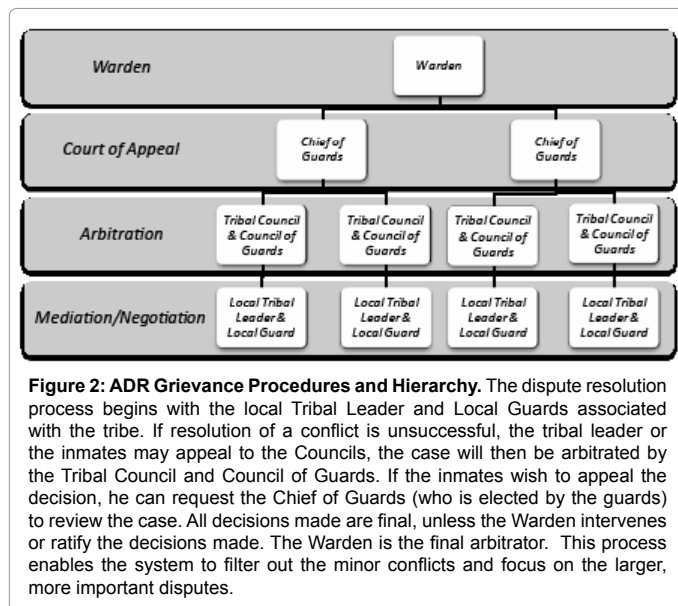


Figure 1: Tribal Council and Council of Guards. Each tribe selects a representative, the Tribal Chief, to serve in the Tribal Council. The Tribal Council then works in conjunction with the Council of Guards (selected by the warden) to arbitrate intertribal and intra-tribal conflicts. The Tribal Council and Council of Guards then recommend the solutions which the warden ratifies. Tribal mediation can range from one Tribal Council and one Council of Guards member to as many as needed. Tribal leader from the conflicting tribes cannot preside over the conflicting case.



council of guards will also arbitrate inter-tribal conflict (Figure 2).

Conclusion

Current prison conditions are so bad that Alexander Busansky [4], an executive director of the CSAAP, commented, "If [the prisons] were public schools or publicly traded corporations, we'd shut them down". Unlike a corporation, we cannot shut down prisons, but we cannot continue with the ineffective system. Alternative Dispute Resolution coupled with a Tribal Community Team System may serve to curb prison violence because it relies on actors, rather than third party agents, to resolve their issues. Furthermore, unlike the current system, prisoners and guards will be able to pursue joint goals, focus on long-term relationships, maximize joint outcomes, build trust and openness, and respond to each other's real needs and interests. The tribal community component of the program provides inmates a sense of belonging, autonomy, which might alleviate prison violence and reduce overspending on prison reform. A society is only as strong as its weakest link, and social advancement depends on citizens helping those who need it most, even if they are deemed unworthy.

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