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## **Prisons in Sanskrit Literature: A Comparison of *Arthaśāstra* and *Vāgmaṇḍanagaṇadūtakāvya* Descriptions**

SUMMARY: Prison descriptions are not often found in Sanskrit literature. Therefore, it is surprising that a very detailed description of prison life should be found in a *kāvya*, specifically, the *Vāgmaṇḍanagaṇadūtakāvya*. A fragment of this obscure text, which has only been published once, gives a quite realistic portrayal of the horrors of life in prison; it is a place where prisoners are held in abhorrent conditions and tortured. The account is in direct opposition to another, found in the *Arthaśāstra*, which concentrates on the welfare of the detained. There are severe fines for impeding the prisoners' basic human rights. This is an interesting reversal of roles, as *kāvya* poems usually depict an even more romantically idealised vision of the world than normative texts such as the *Arthaśāstra*.

KEYWORDS: Indian judicial system, prisons, *Manusmṛti*, *Arthaśāstra*, *Vāgmaṇḍanagaṇadūtakāvya*, Sanskrit messenger poems.

The concept of prison is an old one. As Michel Foucault aptly puts it:

It would not be true to say that the prison was born with the new codes. The prison form antedates its systematic use in the penal system. It had already been constituted outside the legal apparatus when, throughout the social body, procedures were being elaborated for distributing individuals, fixing them in space, classifying them, extracting from them the maximum time and forces [etc...]. The general form of an apparatus intended to render individuals docile and useful, by means of precise work upon their bodies, indicated the prison institution, before the law ever defined it as a penalty *par excellence* (Foucault 1977: 231).

Although he was referring to the penal system at the turn of the eighteenth and nineteenth centuries in Europe (specifically France), it cannot be denied that the notion of isolating offenders from the rest of society, whatever the means, most definitely constitutes one of the building blocks of practically all civilizations worldwide, including those on the Indian subcontinent. Unfortunately, archaeological evidence of the existence of prisons in ancient India is insubstantial, hence all studies on the subject must draw on textual evidence.

The first thing that must be noted when tackling the problem of prisons in Sanskrit literature is that the topic was one seldom taken up by authors. This paper primarily concerns two such instances of detailed prison descriptions: that found in the treatise on statecraft, the *Arthaśāstra* (AŚ) and, surprisingly, that in the *Vāgmaṇḍanagūṇa* (VMGD), which belongs to *dūtakāvya* genre.

Although prisons were not a popular topic, there is copious textual evidence that they were an integral part of the functioning of ancient Indian society. In his rock edict V, Aśoka (*circa* 3<sup>rd</sup> c. B.C.E.) decreed that one of the duties of his *dhammahāmahāttas*, officials meant to oversee the correct implementation and spreading of *dharma*, was watching over the welfare of prisoners, helping them in times of need: “They are also commissioned to work among prisoners to distribute money to those who have many children, to secure the release of those who were instigated to crime by others, and to pardon those who are very aged” (Nikam, McKeon 1978: 59).

The Chinese pilgrim Xuanzang, commenting on the judicial process in India during his visit (*circa* 633 C.E.) noted:

The statute law is sometimes violated and plots made against the sovereign; when the crime is brought to light the offender is imprisoned for life; he does not suffer any corporal punishment, but alive and dead he is not treated as a member of the community (lit. as a man). For offences against social morality, and disloyal and unfilial conduct, the punishment is to cut off the nose, or an ear, or a hand, or a foot, or to banish the offender to another country or into wilderness. Other offences can be atoned for by

a money payment. (Waters 1923: 172)<sup>1</sup>

The *Manusmṛti*, of course, also offers some insight into prison life, however, prisons are not described in any detail and the only stanza that gives us a glimpse of a gaol is in Chapter 9: “He should place the prisons on the King’s way, so that the maimed and suffering criminals can be seen” [MS 9.288]<sup>2</sup> It seems that the implication of this stanza is clear; according to the MS, prisoners were to suffer during their incarceration and this misery was to be displayed for all to see. Manu also prescribes imprisonment as a punishment: “a *vaiśya* shall receive the punishment of [losing] all his property after a year in prison” [MS 8.375].<sup>3</sup> He goes on to describe the duties of a king: “He should make an effort to suppress wrongdoers in three ways: imprisonment, shackles and different kinds of corporal punishment.”<sup>4</sup>

We may find short references to prisons in various *kāvya*s, most notably in the *Daśakumāracarita*. From here, we learn that prisons were underground and criss-crossed with tunnels, e.g.: “I returned via the tunnel to the prison” (Onians 2009: 271). They were also places

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<sup>1</sup> This quote is particularly interesting, as it implies that what could be thought of as one of the worst crimes, i.e. plotting against the crown, would lead to a relatively non-violent punishment in the form of life imprisonment and expulsion from the community, whereas offences we could consider less serious, such as various moral offences, led to extremely dire consequences for the offender. One could imagine that a severed arm or mutilated face would stigmatize the offender for life, just as a prison sentence would, but would be infinitely more traumatizing.

<sup>2</sup> MS 9.288

*bandhanāni ca sarvāṇi rājā mārge niveśayet |  
duḥkhitā yatra dṛśyeraṇ vikṛtāḥ pāpakāriṇaḥ ||*

<sup>3</sup>MS 8.375

*vaiśyaḥ sarvasvadaṇḍaḥ syāt saṃvatsaranirodhataḥ |  
sahasraṃ kṣatriyo daṇḍyo maunḍyaṃ mūtreṇa cārhati ||*

<sup>4</sup> MS 8.310

*adhārmikaṃ tribhir nyāyair nigṛhṇīyāt prayatnataḥ |  
nirodhanena bandhena vividhena vadhena ca ||*

of suffering (although, the suffering was not on display): “they bound me up tight with rope, and conducted me undaunted to a prison house. ‘Here are your friends!’ They said, pointing to some people in chains, and bound my own two feet with chains also. [...] I inquired: ‘Excuse me, men of rough valor, what brings you to suffer the unbearable pain of prison life?’” (Onians 2009: 103).

Another such underground prison can be found in the *Kathāsaritsāgara* (VIII. 39), in the story of Śṛṅgabhuja and the daughter of the Rakṣasa. The king Virabhuja tests his wife Guṇavarā’s fidelity and decides to throw her into an underground dungeon—*bhūgrha*. The interesting thing is that the king orders the best dungeon (*varam bhūgrham*) to be built within walking distance of the women’s quarters (*antahpure sugam*).

A more drastic view of the jail can be found in the *Mṛcchakaṭika*, where Aryaka, who has just fled from jail, says: “Having left that great ocean of suffering and evil that takes the pretence of the king’s prison, I wander like an elephant runaway from captivity, pulling the iron chains at my foot like an elephant’s fetters.”<sup>5</sup> The story of Kṛṣṇa’s birth in the ruthless and cruel king Kāṁsa’s prison is also well known. However, all the above listed examples are merely mentions of prisons;<sup>6</sup> none of them actually describe the reality of life in prison nor do they describe what a prison really looked like.<sup>7</sup> Nonetheless, from

<sup>5</sup> *Mṛcchakaṭika* VI.1

*hitvāham narapitabandhanāpadeśa —  
vyāpattivyasanamahārṇavam mahāntam |  
pādāgrasthitanigaḍaikapāsakarṣī  
prabhraṣṭo gaja iva bandhanād bhramāmi ||*

<sup>6</sup> There are many more to be found, e.g. *Mālavikāgnimitra* IV, *Raghuvamśa* VI.40, *Harsacarita*.

<sup>7</sup> My attention was drawn to an image found on <http://www.loc.gov/exhibits/empire/ethnic.html>, a website devoted to photos taken in Central Asia on the eve of World War I. Among the photographs we can find one entitled “Prisoners in a *Zindan* with Guard.” The caption next to it reads: “Five inmates stare out from a *zindan*, a traditional Central Asian prison—in essence a pit

the examples given we can easily determine that prison in ancient India was not a pleasant place to be. According to the above-mentioned texts, offenders were mutilated, tortured and even imprisoned for life. All the more interesting, then, is the detailed description (or rather prescription) of prison life as given in the AŚ.

Before I go on to an analysis of the text, a word about its dating. The AŚ is attributed to the legendary Kauṭilya/Cāṇakya (the alleged advisor of king Candragupta Maurya, *circa* 321 B.C.E.), however, most scholars agree that the text we have available today is of a much later redaction. In fact, “[t]he earliest dateable manuscripts take the form of the text back to about the 12<sup>th</sup> century CE.” (McClish 2009: 15). As regards the dating of the text proper, Mark McClish concludes in his dissertation that:

(...) the *Arthaśāstra* developed over some centuries through a seminal period in Indian history. It is further proposed that the *Arthaśāstra* was witness to some of the major shifts in the political discourse of that time. With its origins lost sometime in the late centuries of the first millennium BCE and its final form have taken shape by the 3<sup>rd</sup>—4<sup>th</sup> century, the *Arthaśāstra* comprises in itself many political worlds of that axial age (McClish 2009: 300).

Also, when studying the AŚ, we must remember that it is a normative text and one cannot possibly assume the state-machine worked as perfectly as the text suggests. Nevertheless, we can suppose that it was a guideline of sorts and, most likely, the ruler and court were supposed to strive to achieve that ideal situation described in the AŚ. Olivelle and McClish write: “the *Arthaśāstra*, like all *śāstras*, is a ‘normative’ text: it speaks mostly in ‘shoulds’ and ‘oughts.’ [...] The normative dimension of *śāstras* establishes standards and norms and gives advice on how to achieve optimal outcomes in the context of

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in the earth with a low structure built on top. The guard, with Russian rifle and bayonet, is attired in Russian-style uniform and boots.” It may well be that the Indian prison was similar to the one portrayed on this website. The door was made of horizontal bars and passers-by could easily see the prisoners sitting in the cell and this would be in concordance with the MS prescription.

those norms” (Olivelle, McClish 2012: xxxvi). I believe we can also implicate that the text assumed that there may have been a possibility (however remote) of achieving *some* form of the results described. Nevertheless, “running through the text, however, is an implicit (and sometime explicit) recognition that such optimal outcomes are sometimes not achievable” (Olivelle, McClish 2012: xxxvii).

Let us now move onto the rules and directives we can find in the text regarding prisons and incarceration.

First of all, incarceration was, in fact, not a preferred penalty.<sup>8</sup> It is quickly noticeable that criminals were to receive either corporal punishment or fines. As L.N. Rangarajan writes, “People were locked [up] because they were under investigation for a serious offence or unable to pay a fine imposed on them” (Rangarajan 1992: 487). Therefore, we cannot approach the subject presupposing that jail is a place to isolate criminals from society for longer periods of time as was suggested by Xuanzang. According to the AŚ, prison in India was merely a holding place for people between two phases of the judicial process—sentencing and implementing punishment and not a penalty in itself.<sup>9</sup> Terrence Day adds: “Places of confinement (*bandhana*) must be set up in such places where the criminals can be seen and their punishment observed. Incarceration in the prison is not in itself the punishment, but

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<sup>8</sup> There are also hints of this tendency in the MS:  
MS 8.220

*nigrhya dāpayec cainaṃ samavyabhicāriṇam |  
catuḥsuvarṇān ṣaṇṣkāmś chatamānaṃ ca rājakam ||*

After imprisoning such a violator, he should fine him six *nishkas*, four *suvarnas*, and one *satamana*.

<sup>9</sup> Jaytilak Guha Roy is of a similar opinion: “Of all the ancient punishments mentioned so far, punishment by imprisonment was very uncommon and in the ancient works, this type of punishment is rather rarely mentioned. It simply implies that the principal purpose of prison administration in ancient India was the detention of offenders awaiting trial or execution. Another purpose, albeit secondary, was to deter others from committing crime by exposing the prisoners to public gaze” (Roy 1989: 5–6).

the place where the punishment prescribed by the law is to be administered. This merely locative purpose of the prison explains the absence of positive legislation on ‘terms of imprisonment’ which could serve as measures of criminality” (Day 1982: 177).

This is characteristic of the Indian judicial system portrayed in the AŚ. In chapter VIII on the penal system, we find endless lists of penalties administered for very specific crimes, however, the prescribed punishments are always either in the form of fines, corporal punishment, mirror punishment (the classic “an eye for an eye”: if someone caused the blindness of another, he too would have to lose his eyes) or *lex talionis*, e.g. if a bride turns out not to be a virgin, the husband can leave her and keep the dowry. However, if the woman is falsely accused of having lost her virginity before her wedding night, she may leave her husband and keep the dowry (Rangarajan 1992: 407).

Both the fine and corporal punishment systems were very detailed and the art of mutilation and torture was extremely sophisticated. Lawmakers were imaginative in designing refined punishments, e.g. one could be sentenced to death by setting the shaved head on fire (for the killing of a family member, AŚ 4.11.13) or to being boiled alive (for a man having a relationship with a queen, AŚ 4.13.31). Luckily, for all but the gravest offences, the accused was offered an alternative between a mutilation and a monetary equivalent.<sup>10</sup> Interestingly, as mentioned before, imprisonment does not figure as a *punishment* amidst the lists of penalties prescribed by the AŚ.<sup>11</sup> I believe that this

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<sup>10</sup> To give some examples: a first-time thief could choose whether he wanted to lose the thumb and forefinger of his right hand or pay a 54 *paṇa* fine. If someone kidnapped a slave along with some money, they had to decide whether they preferred to lose both feet and a hand or pay 900 *paṇas*.

<sup>11</sup> It appears rarely in any *dharmaśāstra* text. Terrence Day writes that, “no prison-terms appear to have been devised by the *dharmaśāstrikas*” (Day 1982: 148). The same author, however, gives some examples of prison being prescribed as the punishment for Brahmins: the Daṇḍaviveka (Day 1982: 52–54) decrees, “a brāhmaṇa culprit, worthy of the death sentence or of having his limbs mutilated should be placed in solitary confinement, where

may have been caused by the fact that the text was created in order to bring the country and king some kind of profit. If we think with this logic in mind, the crown really had nothing to gain from locking criminals up. Indeed, fining and confiscating goods probably seemed to make much more sense. We must remember that in this idealized world, banishment played the role of the modern prison—ridding society of offenders. Therefore, the Kauṭīliyan prison was more of a holding place than a jail.

In the AŚ we read that there were separate “detention centres” for those sentenced by judges (*dharmasthīya bandhanāgāra*)<sup>12</sup> and by high officials (*mahāmātrīya bandhanāgāra*) [AŚ 2.5.05c] and in his study of the text, Kangle notes that the former was also referred to as *cāraka*: “something like a lock-up where the defendant may be kept until the case is decided” (Kangle 1992: III, 241–242).

Worthy of note is that most of the sections of the AŚ regarding prisons focus on the prisoners’ welfare. In verses 2.5.5 and 2.5.6, we read that men and women were to be detained separately; wells, latrines and bathing facilities were to be built and the prisoner were to be protected from fire and poison [venomous creatures] by cats and mongoose.<sup>13</sup>

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being imprisoned (*nīrodhanena*), he will not be able to perform his (religious) duties.” The same page of the Daṇḍaviveka states that, “The proper punishment for a pious brāhmin consists, however, in restraining him from the proper performance of his religious acts” (Day 1982: 149). Seemingly, the above-given examples are proof of imprisonment being treated as the punishment *par excellence*, however, the true punishment was rather the consequences that would befall the imprisoned as a result of his failure to perform his duties.

<sup>12</sup> As Patrick Olivelle notes, the *dharmasthas* were judges working in the civilian court system, corresponding and cooperating with the criminal court system, *kaṇṭakaśodhana* (Olivelle 2012).

<sup>13</sup> AŚ 2.5.5

*pakveṣṭakāstambhaṃ catuḥśālam ekadvāram anekasthānataḥ  
vivṛta-stambhāpasāram ubhayataḥ panyagṛhaṃ koṣṭhāgāraṃ ca,  
dīrghabahuśālam kakṣyāvṛtakuḍyam antaḥ kupyagṛham, tad eva*



Further on, we learn that there were fines imposed on guards who tortured or tormented the prisoners in any way. AŚ 4.9.21 states:

Prison guards who deprive the detained of [their] rights such as sleeping, sitting, eating, walking [/exercising] are to be punished with a fine of 3 *paṇa* and over. The same fine is imposed if the guard binds the prisoner and anyone who ordered such actions is also to be punished.<sup>14</sup>

The issue of the prisoners' 'rights' is addressed once more in the text. In AŚ 4.9.23 we read, "unless the Chief Superintendent of Prisons (*bandhanāgāra adhyakṣa*) orders it, the guards will be fined if they: impede the prisoners' free movement (24 *paṇa* fine), torture a prisoner (48 *paṇa*), move the prisoner to another location (96 *paṇa*), withhold food and drink (96 *paṇa*), kill a prisoner (1000 *paṇa*)."<sup>15</sup> There were also severe fines for raping women prisoners, the extreme being the death penalty if the woman was of aristocratic descent [AŚ 4.9.24–26].

The prisoners could leave jail when they paid their due— with money or through labour. They could also choose corporal punishment over incarceration or a virtuous person could pay their fine for them [AŚ 2.36.46]. What's more, on special occasions, such

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*bhūmigrhayuktam āyudhāgāraṃ,  
pṛthag dharmasthīyaṃ mahāmātrīyaṃ vibhaktastrīpuruṣasthānam  
apasārataḥ suguptakakṣyaṃ bandhanāgāraṃ kārayet ||*

AŚ 2.5.6

*sarveṣāṃ śālāḥ khātodapānavarcasnānagrḥāgnivīṣatrāṇamārjāranak  
ulārakṣāsvadaivatapūjanayuktāḥ kārayet ||*

<sup>14</sup> AŚ 4.9.21

*dharmasthīye cārake bandhanāgāre vā śayyāsanabhojanoccāra-  
saṃcārārodhabandhaneṣu tripaṇottarā daṇḍāḥ kartuḥ kārayitūś ca||*

<sup>15</sup> AŚ 4.9.23

*bandhanāgārādhyakṣasya saṃruddhakam anākhyāya cārayataś  
catur-viṃśatipaṇo daṇḍaḥ, karma kārayato dviguṇaḥ, sthānānyatvaṃ  
gamayato 'nnapānaṃ vā rundhataḥ saṅṅavātir daṇḍaḥ, parikleśayata  
utkoṭayato vā madhyamaḥ sāhasadaṇḍaḥ, ghnataḥ sāhasraḥ||*

as the birth of a prince,<sup>16</sup> the heir's *abhiṣeka* and conquest of a new territory all prisoners were to be released [AŚ 2.36.47]. On the king's birthday or during a full moon all the young, old and helpless were freed [AŚ 2.36.44-47].<sup>17</sup>

These fragments emphasising what we could interpret as basic human rights that should be granted to all the prisoners are very striking, as they have a contemporary feeling to them. Also, the obvious importance of the safety and health of detainees is not something we would

<sup>16</sup> This can be found in various *mahākāvya*s, e.g. *Madhurāvijaya* of Gangā Devi,

MV II-23

*viṣṅkhalās tasya girā nir̥yuh̥ kārag̥hebh̥yo vimatāvarodhāḥ |*  
*tuluṣkabandīnivahāya tūrnam āgāmine dātum ivāvakaśam ||*

The convicts were unchained and left the prisons due to his order, as if quickly make room for the future mass of Tuluṣka prisoners.

Sukla Das writes:

“Kālidāsa records that when the constellation on which a king was born was in evil aspect, astrologers advised release of all the prisoners [*Mālav-* IV]- At the time of royal coronation also prisoners were released [*Raghu-* XVIII- 19]- Bāṇa informs that not only coronation but birth of a royal son was also another occasion for the release of prisoners [*H-C-*, II, IV, *Kād-* Kale] The *Bṛhatsamhitā* adds that release of prisoners could even be ordered when the king took the *Puṣyasnāna* (an auspicious bath) [*Bṛhat-*, 47, 18]- The practice of releasing prisoners on special occasions continued even in the Mughal period- On the occasion of the celebration of the recovery from illness of the favourite princess Begam Sahib, Shah Jahan ordered the release of his prisoners in 1638- [Satya Prakash Sangar, *Crime and Punishment in Mughal India*, Delhi, 1967, p- 35]” (Das 1977: 74).

<sup>17</sup> AŚ 2.36.44 *bandhanāgāre ca bālavyddhavyādhitānāthānām jāta*  
*nakṣatrapaur̥namāsiṣu visargaḥ||*

2.36.45 *paṇyaśīlāḥ samayānubaddhā vā doṣaṇiṣkrayaṃ dadyuh̥ ||*

2.36.46 *divase pañcarātre vā bandhanasthān viśodhayet |*  
*karmaṇā kāyadaṇḍena hiranyānugraheṇa vā ||*

2.36.47 *apūrvadeśādhigame yuvarājābhiṣecane |*  
*putrajanmani vā mokṣo bandhanasya vidhīyate ||*

expect from the seemingly notoriously ruthless Kauṭīliya, especially keeping in mind that these were people who had, for the most part, already been sentenced as criminals. This may be caused by the fact that Kauṭīliya's philosophy did not appear to commend unnecessary acts of violence, particularly committed against one's own subjects and there is seems to be no profit to be gained from senseless torture.

The detailed descriptions of an idealistic prison life in the *Arthaśāstra* are fascinating and I would like to compare Kauṭīliya's point of view to the stark 'reality' portrayed in the VMGD.

First, a few words about the text—it has only been published once, as Work No. 2 of the *Saṃskṛta-dūta-kāvyaśaṃgraha*, edited by Jatinda Bimal Chaudhuri. The author was Vīreśvara and it is 101 śloka long. The text is extremely obscure and in his "A History of Classical Poetry," all Siegfried Lienhard writes is:

The Vāgmaṇḍanaguṇadūtakāvya by Vīreśvara occupies an intermediary place between sandeśakāvyas and panegyric poetry. It is a praise of Rāja Bhīmasena and the men who are closest to him: the poem is sent as a message to Bhīmasena and, in imitation of the Meghadūta, describes the route from Vradhnapura to Mayapura, where Bhīmasena is staying. All the authors mentioned in the work lived before the 12<sup>th</sup> century (Lienhard 1984: 128).

He also inserts a footnote referring to "A Descriptive Catalogue of the Sanskrit Manuscripts in the Collections of the Asiatic Society of Bengal, 1934". The analysis of the text as well as correspondence with Dr. C. Rajendran of Calicut University and, indirectly, with Dr. Didhiti Biswas of Calcutta University has led me to believe that the poet was most likely Bengali. This is all the information I have been able to find about the history of the text and its author.

As mentioned, the VMGD is a messenger poem and the poet's messenger of choice is Poetic Quality (*guṇa*). The author sends Guṇa to the king in order to garner his favour and gain his patronage. As usual in *dūtakāvyas* the messenger describes what it sees on the way and, as usual, the places shown are very picturesque, with

one important exception—a four-*śloka* long description of the city prison in Bradhnapura:

21) “Look at the office of the City Governor, which is like the abode of the lord of hell! Now (look) at the man who is free from court proceedings. He is terrified of the prison, which is full of people stinking due to diet of chickpeas and lack of bathing. The jail is a place where one can reach a state that is similar to the lowest of hells.”

22) [Conversation of the guard and a prisoner:]

Guard: “Tell the truth!”

Prisoner: “Didn’t I just tell it?”

G: “Let’s hope so.”

P: “Even if I tell the truth you will give me a sound whipping.”

G: “So be it.”

P: “I’m not the master here.”

G: “(Your) fate is cruel.”

P: “Why are we beaten even if we tell the truth? Oh lord! You are witness of our pure deeds!”

23) [Conversation contd.]

P: “Oh mother! This beating is terrible! Alas! I am full of sorrow. Oh Lord! Why this terribly painful beating?! This must be the worst time<sup>18</sup> [in my life]. Oh! I’m fainting! Death looms closer! Oh lord, forgive me, a lowly man, my sins from my former life!”

24) “Oh garland of well-expressed speech!<sup>19</sup> Those are the kinds of words that you had to constantly listen to. The “*saṭak saṭak*” sound of the falling whip arose. While this never-before-seen corporal punishment is being meted out, you should leave this place. That thief is talking to a friend standing nearby.”<sup>20</sup>

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<sup>18</sup> Here the word *kali* can refer to the *kaliyuga*—the worst period (in the history of the world or, metaphorically, in someone’s life). It can also mean the losing die in a game of dice, so this fragment could also be read: the losing die has been thrown [for me].

<sup>19</sup> This is directed to the Guṇa.

<sup>20</sup> *sthānaṁ nāgarikasya paśya tadanu nyāyād apeto janaḥ  
sthānāt saṁyamanīpater iva yataḥ prāpnoti bhūtiṁ parām |*

One may be puzzled as to why this naturalistic, brutal scene was interwoven into a *kāvya* poem. Moreover, these stanzas seem to be in complete contrast to the character of this, specific poem, encompassing the typical descriptions of pleasant objects and pastimes, such as beautiful women leisurely playing in temple gardens and bathing in pools. There are scenes that are slightly more realistic in the text but none is as unpleasant as the prison scene. Keeping in mind that the poet did not find refuge in Bradhnapura, one explanation of why the prison scene was included in the poem by Vīreśvara may be that he wanted to convey to king Bhimasena of Māyāpura (the ruler he is directing his plea to) what he had seen in another realm, one that was ‘worse’ than Māyāpura because it not only had a corrupt and unfair penal system but had also cast out the poor, talented poet. Perhaps the impoverished poet had even felt the cruelty of an unjust prison system on his own skin?

Another possibility is that Vīreśvara wanted to shock the audience and drew upon a fresh, new idea. He did something that had not been done before (*apūrva*) by inserting the brutal prison scene between two quite differing descriptions: one tranquil and bucolic of beautiful flowerbeds and the other the building story of a heroic battle fought by a local king of Budhavārapura. This contrast between charming vistas

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*asnānāc caṇakādanāc ca nicitam pūtipradhānair janaiḥ  
kārāgāram udāranārakadaśām yasmin samālabate ||21||  
satyam brūhi nanūktam eva bhavatād dehe kaśātaḍanam  
satyoktāv api ced bhaviṣyati bhavaty atrāsmiṇ nāham prabhuh |  
daivam te viparītam asti kim ito ‘pyukte ‘pi tathye vayam  
tāḍyante (?) yad aho mukunda sukṛte sākṣī tvam evāsi naḥ ||22||  
hā mātaḥ kaṭhināḥ kaśā harihari vyāpto ‘smi duḥkhair aham  
hā lokaśa kim eṣa śokabahulaḥ kaṣṭaḥ kalir nirmītaḥ |  
hā mūrccā mama jāyate mṛtir api prāptā samīpam prabho  
pāpam prāgjanuṣīyam arhati bhavān kṣantum daridrasya me ||23||  
ityādīni vacāmsi yatra niyataṁ sūktāvataṁsa tvayā  
śrotavyāni saṭāk saṭāg iti kaṣādhātadhvaniś cotthitaḥ |  
prasthātavyam itaḥ punar drutataram cauraḥ kṣaṇam tāḍanā-  
vyasthānārtham adṛṣṭapūrvam api yad brūte ‘ntikasya nijam ||24||*

and a dreadful portrayal of the jail may have been intended to trigger a sort of aesthetic shock among the readers.

Regardless of the reasons behind the author's decision to include this unpleasant fragment in his *dūtakāvya*, it is obvious that there is a stark contrast between the idealistic visions painted in the AŚ and the brutal 'reality' portrayed in the VMGD. The torture of a prisoner is in direct opposition to the instructions found in the AŚ, which ordered high fines to any guard that physically or mentally harm a detainee. Yet in the poem, the prisoner asks, "why are we beaten even if we tell the truth?" This suggests that this kind of senseless torture was a bread and butter issue for inmates at the time of the poems composition. There is no sign of the idea that physical inviolability is a basic right.

We can concur from these verses in the VMGD, as well as the excerpts given in the first part of this paper, that prison was not such a safe place to be as the AŚ would suggest. We read nothing about proper nutrition (except for the note about the horrible chickpea diet), basic amenities and exercise. Instead, it was the worst of hells, full of stinking people and a terrible place of suffering and injustice—the worst of punishments.<sup>21</sup>

This is an unexpected turn, as we would expect the *kāvya* to depict the more romantically idealised vision of the world. The fact that the *kāvya* description portrays the bleak reality of what prison life most probably looked like, comes as surprise.

The interesting question is: why this discrepancy between the two descriptions? Assuming that in some way, the AŚ was a set of guidelines that rulers were meant to strive towards, there are two possibilities: that prison life went through a complete downfall between the times of the AŚ (keeping in mind, that the texts were not necessarily that far apart in time, the dating of the AŚ is unresolved but, as already mentioned, it was definitely composed or redacted much

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<sup>21</sup> Even Aśoka considered the problem of a poor penitentiary system important enough to include the topic in his rock edicts and send special officials to oversee the fair functioning of the jails.

later than the 4<sup>th</sup> c. B.C.E., as is traditionally assumed) and Vīreśvara. However, this view cannot be supported by other textual evidence given in the first part of the paper: Aśoka (ca. 3<sup>rd</sup> c. B.C.E.) wanted overseers of the unfair penitentiary system, Aryaka was enormously relieved to escape from the living hell that was the jail (Śūdraka lived somewhere between the 3<sup>rd</sup> and 4<sup>th</sup> centuries C.E.—Warder 1990: 2–3) and Somadatta met his ‘friends’ shackled to a wall in a dank cellar (Daṇḍin, 680–720 are the possible dates of his active career) (Bronner 2011: 10).

The other, infinitely more probable, answer to this question is that prison was never such a decent place to begin with and the AŚ description was, doubtlessly, an extreme case of normative wishful thinking. The normative nature of the AŚ is maybe the most important characteristic of the text that should be kept in mind when studying it. “In addition to being abstract, the ideal-typical kingdom of the *Arthaśāstra* is also normative, as illustration of how things should be, as opposed to how they are. Kauṭilya’s primary purpose is to tell us how kingdoms can be governed most effectively, not to provide a snapshot of classical society” (Olivelle, McClish 2012: xliv). Yet, I think that there is much valid information on the functioning of ancient Indian society to be gleaned from this and other normative texts, as the authors must have based their normative ideas on an existing reality. So, even though prisons were described extremely idealistically in the AŚ, we could hypothesize that this vision was a direct reaction to the existing and very poor state of the prison system described in the VMGD among others.

As Foucault pointed out the, “double foundation [of the penal system]—juridico-economic on the one hand, technico-disciplinary on the other—made prison seem the most immediate and civilized form of all penalties.” Unfortunately, the penal system has always been easily corrupted and the ideals behind it were, apparently, quickly shattered in ancient India also.

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