Prison Through a Philosophic Prism

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A Dialogue Between Prisoners Past, Present and Future

“He, and he alone, who suffers is a prisoner.” – Kedar Joshi

“A mind enclosed in language is in prison.” – Simone Weil

“Be thine own palace, or the world's thy jail.” – John Donne

“Man is condemned to be free.” – Jean Paul Sartre

“Man who outthinks man; he’ll rule hell.” – Raam Gokhale

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Scene: Could be anywhere but since Ram is styling Kedar and himself as prisoners maybe an imaginary jail scene with prison garb would be appropriate.

Players: Right now it’s just Ram and Kedar but others may join them as the case may be.

Kedar: OK. You have been in prison during one of your bipolar episodes as you’ve said, and I think one day I might be in prison because of the inflammatory articles I’ve written, especially given the fanaticism of Indian politics. That’s prisoners past and future. Where does the ghost of prisoners present come in? Or is that a mere ghost?

Ram: Not a mere ghost, it’s the holy-ghost. Like in Dickens’ A Christmas Carol the ghost of Christmas present—prisoners present in our case—is the one who most knows how to live, is the most free.

Kedar: I don’t see how any prisoner could be described as free. And who would want to be a prisoner at present—better to have been imprisoned in the over-and-done-with past or the deferrable future.

Ram: Not ‘prisoner at present’, prisoner of the present, which I take to be the human condition. We’re all prisoners of the present. But being in the present can also mean being fully in the moment, which is what athletes and entertainers strive for, what Zen masters and motivational speakers advocate. In the moment is when you’re most free. When you’re attuned to every one of your constraints is paradoxically when you’re most liberated from them. Man isn’t condemned to
be free as Sartre would have it; rather he is privileged to be in prison—if he’s a prisoner of the present who’s fully in the moment.

**Kedar:** OK. Maybe I see what you mean. But I still don’t want to be a prisoner in any sense of the word. Anyway moving on to other things obscure: Your quote of yourself—again bad form, I must point out—is rather enigmatic. What is it supposed to mean?

**Ram:** Oh that. That’s from a poem I wrote long ago.

Present has a present

Now has won

O end all things done

Sage of the ages

We’ll make all well

Man who outthinks man

He’ll rule hell.

It’s a bit gimmicky really: the first and last words of each line are anagrams—as if mere rhyming wasn’t enough. Sort of makes me think of the second quote: “A mind enclosed in language is in prison.” I’ve straight-jacketed my poem into a rhyme scheme that keeps me from soaring free as a true poet should. But maybe it became a good poem in spite of myself.

**Kedar:** And very topical too since hell is the ultimate prison. Also the ‘present has a present’, ‘now has won’ lines seem to suggest something of the ‘being in the moment’ discussion.

Anyway, your dialogues straight-jacket me enough by themselves to worry about a poem. For example, the research—you got my email didn’t you—that you had me do into India’s prisons seemed a little too cut and dry to interest a philosopher. Don’t you want to sink your teeth into a juicy paradox?

**Ram:** Well to tell the truth, I was hoping to work into the dialogue…I think it’s called the Prisoner’s Dilemma. I have a solution to it, but I don’t know how to work it into the dialogue. You see, when you sent me the prison material, I thought solving the paradox would seem either forced or callous.
**Kedar:** Eh, prisoners shouldn’t worry about seeming unseemly. Let’s hear the paradox.

**Ram:** OK. A condemned prisoner is told by the hangman on Sunday that in the coming Monday through Friday, he’ll be executed, but the day will come as a surprise to him. The prisoner, mulling this over, reasons as follows: I know I can’t be killed Friday because if I haven’t been killed through Thursday, I’ll know that I’ll be killed Friday so it won’t be a surprise—and the hangman has said it would be a surprise. But if I can’t be killed Friday, I can’t be killed Thursday either: Friday is already eliminated, so if I haven’t been killed through Wednesday, I’ll know that I’ll have to be killed Thursday but that won’t be a surprise either so I can’t be killed Thursday… This reasoning backward can be continued throughout the week so the prisoner concludes he’ll not be executed at all. But of course we know that the prisoner can be surprised—so where’s the error in his reasoning?

**Kedar:** What you’ve described is the Unexpected Hanging Paradox. The Prisoner’s Dilemma, which has two prisoners and a warden and is not a paradox, is something else. I’ve heard the Unexpected Hanging Paradox before and I must confess, I’ve never really gotten it. The moment the prisoner thinks he can’t be executed on any day, he can be executed on any day and be surprised to boot.

**Ram:** You’re right in a way, though I must point out that you haven’t pinpointed the prisoner’s flaw in reasoning.

**Kedar:** I gather you have. Go on. Tell me. I know you’re ‘dying’ to. I promise to ‘hang’ on your every word.

**Ram:** The hangman has made two statements: the prisoner will be executed between Monday and Friday; and whichever day is chosen, the prisoner will be surprised it’s that day. Ruminating on these two statements, the prisoner is right to conclude that he won’t be surprised on Friday but wrong to conclude that he won’t be unsurprisingly killed on Friday or surprised anytime between Monday and Thursday.

The flaw in his backward reasoning is that he’s only ruled out the possibility that both the hangman’s statements are true; he hasn’t ruled out the single statement he will be killed between Monday and Friday. Remembering logic, denying a conjunction only entitles you to deny one of the conjuncts, and you don’t know which one, though both may be false. The prisoner’s conclusion that he won’t be killed Monday through Friday rejects both of the hangman’s statements since if he won’t be killed he won’t be surprised either.
But there is a more charitable interpretation of the hangman’s conjunctive sentence. Only one part is false. What’s false is that whichever day is chosen, the prisoner will be surprised it’s that day. This is false since if Friday is chosen, the prisoner won’t be surprised. That doesn’t mean he won’t be killed Friday, just that he won’t be surprised.

What this observation does is if the prisoner can be unsurprisingly killed on Friday, Monday through Thursday remain open as surprisable days. The hangman could’ve made this clearer by saying: You’ll be executed Monday through Friday; and you’ll either be surprised on one of Monday through Thursday or it will be Friday and you won’t be surprised. There would not be even the appearance of a paradox if the hangman had put it thusly. This is a more charitable interpretation of what the hangman said—it makes his statements most true: the prisoner will be killed between Monday and Friday and most likely he’ll be surprised. The hangman’s original statement is just a quick and dirty way of expressing this more charitable interpretation.

**Kedar:** Hmm Christianity does exhort us to be charitable even unto our hangmen... But seriously I wasn’t listening through half of what you were saying. But as long as you’re satisfied...

Speaking of satisfaction, perhaps like most prisoners, I’m beginning to miss the light conversation of women. Where are the others?

(as if on cue, the ladies Sushama Karve, who we’ve met before, Geeta Bhave, a former professor of hers, and Arpita Gokhale, Ram’s new wife appear from the kitchen where they’ve been tending to dinner—Ram and Kedar aren’t really in prison: they’re all really in Ram’s living room where a buffet dinner is about to get under way.)

**Sushama:** We’ve been listening to your dialogue and we feel we must interrupt this supposed prison scene. I mean how realistic is it that you prison ‘lifers’ will be discussing the hangman’s paradox?

**Kedar:** Philosophy is the luxury of the idle. And prisoners are nothing if not idle. Anyway, if you want the prison scenario to be realistic, I’m afraid you have to be the jailer, Geeta, the warden and Arpita...let’s see, she can be here on a conjugal visit.

**Ram:** OK being newlyweds I guess we should expect a little ribbing. It’s better than comparing marriage to a prison which would’ve been more predictable of you Kedar.
So warden (addressing Geeta), a philosophical question that innocent prisoners must ask themselves everyday: why are we here?

Kedar (addressing no one in particular): I saw this on Facebook yesterday. In India you can be in prison for kissing in public whereas pissing in public is allowed—precisely the opposite of civilized countries. Being newlyweds Ram and Arpita may be in prison in India for the former; whereas judging by how often I’ve been told to ‘piss-off’, I must be imprisoned abroad for the latter.

Geeta: Well, let me first say why we are here—why we’ve chosen this moment to interrupt you two, other than the fact that the food is ready and we should refrain from discussing certain things. Ram and Sushama were at my lecture at the Vidyapith the other day so they probably have an idea about what I’m going to say and Arpita heard me quibble in the kitchen so I guess I’ll just repeat it for the benefit of Kedar.

Basically your paradox/resolution exchange is too cerebral or detached to be in an ethical dialogue about prison which is a serious topic. Uh, ‘Man who outthinks man; Creates for others too impenetrable a secret(???)’ if I may borrow Ram’s anagram scheme.

That’s OK. Philosophers do tend to get bogged down in logical meta-questions instead of discussing practical issues that most need discussing. In my lecture I mentioned as examples G.E. Moore’s atomism about the good and A. J. Ayer’s emotivism, which consigned ethics to be a subsection of either psychology or sociology. I’m sure you can think of others.

Thankfully that is changing. Practically-minded philosophers like Peter Singer, I would say, have rescued philosophy from its traditional doldrums to address issues like animal rights, our duties toward the environment, abortion, euthanasia etc. Philosophy is much more dynamic now, more engaging. I for one welcome the change.

Sushama: That’s why you two are here—if you want to style yourself in prison. You are in prison (giggle, giggle) for not asking soon enough why you’re in prison.

But seriously, ‘Why are we here?’ in the sense of ‘what functions are prisons meant to serve?’ is a serious philosophical question prisoners may realistically ask themselves.

Kedar: Don’t look at me! With two prisoners and a warden in place, Ram probably wants to discuss the real Prisoner’s Dilemma next. I for one would
welcome a discussion of what purpose prisons really serve. Maybe house-arrest would serve the purpose in my case.

**Arpita:** You know, Ram and I discussed this just the other day. We both agree that the only real purpose of prisons is reformative. Prisons are correctional facilities; they fix or rather ought to fix faulty attitudes and tendencies.

**Ram:** That’s not quite right Arpita—leave it to a wife to emphasize correction! I also thought a major function is as a quarantine; separating the dangerous elements from the rest of society.

In fact I read a comic-book story once. A prisoner is miserable in his cell. Later another prisoner shows him a tunnel he’s dug. The two use it to escape into the outside world after a thrilling, cathartic adventure with giant reptiles, etc. The next scene in the comic strip has the prisoner still idiotically smiling in his cell but with two workers in labcoats looking at him. One of them says, “Now that he’s completely hypnotized, he will be happy for all his days with us.”

The story is an interesting parable of how prison could serve only the quarantine function.

**Kedar:** Interesting. But if prisoners through hypnosis can be completely happy where they are, everyone would want to be in prison. Hmm, that’s an interesting variation on Ram’s ‘prisoner of the present’ phrase: the hypnotized prisoner is present in a present that’s not present. Maybe Ram can write a poem about that.

**Arpita:** You know I read your research Kedar. As overcrowded as prisons are, I can only imagine what would happen if more people were incentivized to be in prison. Did you know, Geeta, in India alone there are about 170,000 prisoners as compared to the official capacity of 120,000 or almost 40% over! I wonder what the ratio is in a developed country like the US...

**Kedar:** It’s interesting. At 220 per 100,000 of population, the U.S. has the highest incarceration rate of any country—almost as if the more advanced the society, the more intolerant it is of deviants. Its occupation/capacity ratio is also one of the highest at 168%. True, India is less at 140%, but Indian so-called capacities are so barbaric that there is no comparison.

**Sushama:** The comparison may not be so invalid. If conditions in India’s prisons are barbaric so are the conditions of living in Indian free society. And as myriads of prison novels have showed, prisons are a microcosm of the society they serve. There too there are bullies and stooges, saints and sadists, the ‘law’ of the jailer and the ‘order’ of the prisoners’ daily lives.
Arpita: My favorites are novels by Jarasandha several of which have been made into Hindi movies. Very often in them, sinners like murderers are shown to have a saintly side.

Geeta: And let’s not forget Dostoyevsky’s Crime and Punishment, which shows how a murderer is in a prison of his own making in so called free society. At the end, he confesses and goes to a real prison where he’s reformed. Punishment is regarded as a good thing that can liberate your true inner, better self.

Ram: You know something of that came through in the Philosophy Pathways article I reprinted in Pune Journal of Philosophy. Learning that inmates in the U.K. are interested to pursue distant learning, have won PEN awards for their essays made me feel even death-row prisoners may have redeemable features. The Philosophy Pathways article is what prompted me to write a prison dialogue by the way.

Sushama: Before we get carried away, let’s not forget that the outside world may over-romanticize prisons and prisoners leading to unpleasant consequences.

Ram: Sure. There was the case of the writer Norman Mailer who fought for the freedom of a jailed literary type only to have him commit another murder once liberated.

Sushama: Good point. That’s why—as unpopular as it may be with the reformist members of our circle—I’m afraid I’m pretty Kantian about prisons.

Arpita: I’m not much up on Kant. But I’d like to know why you think your view would be unpopular.

Geeta: Kant advocated what is known as the retributive theory of punishment, Arpita.

According to this theory, punishment is given primarily because a crime is committed, not for the effects of the punishment on society as would be the case under a deterrence theory or Ram’s quarantine theory.

The criminal deserves to be punished for his crime and it the duty of others to punish him. Any kind of negligence in this duty will be an injustice.

Arpita: Doesn’t that sanction acts of vengeance?

Geeta: No I think Kant would say an act coming out of a feeling would not be a moral act. To be moral, an act must be done from a sense of duty.
Sushama: Thanks Geeta. I couldn’t have put it better myself. It’s a simple equation: guilt demands a commensurate punishment. And since death is qualitatively unlike anything else, murder requires capital punishment.

Ram: Is it just me or does Kant’s view here seem a bit inconsistent with his own universal maximizing?

Kedar: Kant inkantsistant? Kant be! Oh no, I’m getting as bad as you used to be Ram, while, after marriage, you don’t pun as much.

Arpita: I’m afraid you’ve lost me again.

Geeta: Arpita, Kant’s overall system of ethics is built around a version of the biblical Golden Rule: Do unto others as you’d have them do unto you. Or as he puts it, Do that act which you could by your doing it will to be a universal maxim.

But Ram, I’m curious to hear why you think Kant—or Sushama for that matter—is inconsistent.

Ram: The basic inconsistency is that as Singer points out, universalization involves putting yourself in someone else’s shoes, thereby taking their interests into account. Kant seems a little inconsistent because in deciding whether to vote for the death-penalty, aren’t we obligated to take the criminal’s interests into account?

Sushama: Just now I’m not sure what’s wrong with your argument but it should be pointed out that if correct, it’s an argument against all retributive punishment, not just capital punishment, and maybe that in itself is a reductio.

Geeta: What’s wrong with the argument—why Kant and Sushama can be cleared of the charge of inconsistency—is simply that Kant is not committed to everyone’s interests being harmoniously in sync. Kant has to take everyone’s interests into account but, since interests are bound to conflict, universal maxims are going to cross some people, namely criminals.

Ram: I guess I’m unclear what legitimate interests of honest citizens would conflict with as fundamental an interest as a criminal’s right to continue living. If there’s no conflict in interests great enough to override a criminal’s basic right to life, there would be no universal maxim for approving the death penalty.

Kedar: Perhaps we can follow the example of Ram’s comic book parable. Whether we’re considering deterrence, quarantine, retribution or reform, light
can be shed on the problem by assuming the other aspects of prison are an illusion.

Thus when considering whether reform is the one true purpose of prisons, we can imagine that retribution—the indignation that the righteous feel in punishing criminals—is satisfied by an illusion that the criminals, actually in the process of being reformed, are suffering. If this doesn’t seem unjust, retribution is not an essential characteristic of punishment.

**Ram:** That’s a good point. Why punish by death if everyone’s interests could be satisfied by other means, be they fiction or illusion.

**Sushama:** I would say that in most cases, reform is the actual illusion. Most criminals are recidivists. Anyway, leaving aside the fact that some retribution theorists believe it is the right of criminals to be punished, I don’t think an illusion or a lie would satisfy the right of good people to know criminals are being punished. This is like the right that the dead have to have their last will and testament be executed. There too we might say, what does it matter if the deceased is deceived, if the deception is undetected. In both cases, the difference that a lie or illusion would make would be that it would be a lie or illusion.

**Ram:** I look at this way. A man has two sons, one good one bad. Isn’t it more commendable to reform the bad one than simply to punish him because it’s just? If there is a punishment that would be most just but that would harden his son’s heart against all reform oughtn’t he to ‘spare that particular rod’?

**Sushama:** Your example is misleading. A father has certain duties toward the children he has brought into this world.

**Arpita:** I think we have similar if not as strong duties toward our fellow citizens. We have a duty not to hurt them unless the hurt is necessary to make them better persons in the long run.

**Kedar:** In that case you could say our duty to the future good them outweighs our duty not to hurt the bad them. Sushama brought up the rights of the dead; our duty to future good persons may be compared to our duties to the unborn, however you feel about that.

**Geeta:** What an illusion of suffering would do is promote the utility in the sense of pleasure of some good people; it would not satisfy their right to have criminals punished. Utilitarianism may also play a role where punishment is administered to bring about the better, presumably more utility-promoting self. But Kant and Sushama need not be utilitarian about punishment.
**Sushama:** That’s right. Kant thought crime just deserves punishment, independent of any utilitarian considerations. In terms of the illusion parable, there would be an injustice if murderers were not actually made to pay for their crime.

**Geeta:** You know Nietzsche observed that “punishment is overdetermined by utilities of every sort”. The illusion parable is like a philosophic prism that separates each purpose so that it can be evaluated in isolation.

So far we’ve considered the scenario that prisoners’ suffering is an illusion. Maybe we should consider what would be our reaction if their reformation were an illusion.

**Ram:** That’s an interesting suggestion, Geeta. If reformation were always an illusion, surely there would be no point to attempts to reform. The situation is different where the criminals’ suffering is an illusion. There a legitimate purpose is satisfied: to see criminals punished whether they’re actually suffering or not. To put it another way, merely satisfying the desire to reform without actual reform is more pointless than satisfying the desire to punish without actual suffering.

What this shows is that actual suffering is not necessary or at least not as necessary as reform where reform is possible.

**Sushama:** All you’ve shown is that the illusion of reform serves no purpose while the illusion of retribution might serve a purpose. You haven’t thereby shown that real reform is more to the purpose than real retribution.

But lest I sound too stubborn, let me just say I believe ideally we should try to reform criminals. But attempts at reform may cost society too much in the way of resources. If retribution is a more achievable purpose of prison—and nothing you’ve said undermines that—then that may be a more cost-effective purpose to try and satisfy.

**Arpita:** But economics aside, any crime is a bad deed but too severely punishing a person physically or mentally will be adding to the overall bad deeds.

**Geeta:** I think Sushama would say that your statement is another example of the utilitarian calculus. Sushama, like Kant, is not a utilitarian about prisons, and so wouldn’t accept that punishing a criminal would add to the overall bad deeds.

**Kedar:** I thought I missed the light conversation of women. But these women are anything but light.
Ram: Indian women are not all light. Even Sushama who’s fair, isn’t fair when it comes to assessing the reformist case. How’s that for punning Kedar?

Kedar: You were punnier before marriage. Anyway, I don’t think Sushama and Geeta are going to convince you and Arpita or vice versa. Still we’ve made some progress: we all agree that reform should be attempted where possible. It’s just that you and Arpita favor quarantine, I think, as the next avenue to try when reform is impossible, while Sushama favors retribution. Geeta as the senior philosopher is predictably straddling the fence, interpreting others’ statements rather than proposing her own views. What happened to your practical ethics Geeta?

Geeta: Ram was trying to poke theoretical holes in the retributive theorists’ case, while Sushama was trying to defend it on pragmatic grounds. I happen to think retributivists are on a secure footing theoretically but fail on pragmatic grounds...so I guess I would be beset by both parties.

Sushama: What do you mean Geeta?

Geeta: Well, anticipating the turn that this dialogue would take, before coming I did some research of my own. Amnesty International USA did some comparative statistics between American states that have the death penalty on the books and those that don’t. They found that the projected annual costs of a system sanctioning the death penalty is, at $137 million, more than eleven times the annual costs, at $11.5 million, of a system which imposed a maximum penalty of lifetime incarceration.

And the greatest costs occur before and during the trial, not in post-conviction proceedings. So even if we do away with all post-conviction proceedings, the death penalty would still be more expensive than alternative sentences.

Sort of cuts the rug out from under the pragmatic argument for the death penalty doesn’t it?

Arpita: Whew, not what I’d have expected at all. Did your research uncover the reasons for such surprising statistics?

Geeta: The reason is quite simple. Anytime there’s a death-penalty case, all costs go up substantially because of the severity and finality of the possible sentence.

Arpita: Far be it from me to question statistics that support my position, but are those findings relevant to India where there are no differences by state?
Sushama: That’s a good point Arpita. Maybe the American projected costs of the death penalty are high because it’s not a nationally adopted policy. If the statutes were uniform across the country, maybe the routine-ness of death penalty cases, the lack of alternative venues, would make each trial and pre-trial proceeding less expensive...though I’m not sure an ‘eleven-times’ factor can be overturned. Still I’m sure if you considered differences between countries rather than states within a country like the U.S., the costs of death penalty countries, adjusted of course for differences in the cost of living, would be less than costs of life imprisonment countries.

Kedar: But Sushama, don’t you think the costs should be higher in a death penalty case? The consequences of an improper conviction are so much more serious, so much more necessary to guard against. In fact, improper convictions and improper not-guilty verdicts are probably quite the norm in a caste-dominated country like India where the social standing of the accused plays a big part in determining the conviction and the sentence.

I believe Geeta’s statistics and I believe they are as they should be.

Ram: Having been an actuary in my past life, I know something about statistics. I’m sure you’ve heard the phrase, “There are lies, damned lies and statistics.” Statistics put forward by Amnesty International are going to be different than those put out by the National Rifle Association.

But I too have heard arguments—from one of my philosophy professors—about the greater costs of having the death penalty on the books. So, as intuitive as it may be, perhaps we should simply note that the pragmatic case for the death penalty is controversial to say the least.

Arpita: We haven’t talked too much about deterrence. There too I think I’ve seen some controversial statistics, to the effect that the death penalty doesn’t really deter the sort of crimes it’s supposed to deter.

Ram: Maybe we’re too fixated on the death penalty Arpita. The original question was as I remember, ‘Why are we here?’ in the sense of what purpose are prisons meant to serve. Keeping that in mind, I don’t think there are any statistics against prisons having a deterrent effect.

Kedar: There may be no statistics but I can think of an argument. When considering whether deterrence is the purpose of prisons, we should consider the alternative. If the choice is between an orderly, mostly fair criminal justice system—at least in western countries—and mob justice, it could be argued that prisons actually enable crime rather than deter it because they are less harsh than
the alternatives. The quarantine effect of prisons works both ways: it keeps criminals away from society, but it also keeps society’s vigilantes away from criminals.

**Arpita:** It’s interesting. We can order the purposes of prison on a spectrum, ranging from liberal to conservative: from reform to quarantine to deterrence to retribution. And like language there are those who read left to right and those who read right to left. It’s a good thing that there’s an odd number of us to see which is the majority.

**Kedar:** Yes, I’m always the odd man out. For the record I mostly read the spectrum left to right, being in general more liberal.

**Sushama:** It’s rare that we have a decision in philosophy, even if it’s by as dubious a means as majority rule. Remember Socrates was condemned by majority rule.

**Ram:** Perhaps that’s the just fate of philosophers: noble death like Socrates or prisoners as me and Kedar were styling ourselves. For example, the deterrence purpose is most easily satisfied by a fiction. Things like the Christian myth of hell or karma if you’re a Hindu, deter most ordinary people from committing crimes, as they have throughout history. So it is philosophers like us who argue against hell who most belong in its lowest, hottest regions.

**Kedar:** Then I think you have to modify your poem Ram: man who outthinks man doesn’t rule hell; he should be its most damned denizen.

**Arpita:** Oh my, we definitely need something lighter, even that Prisoner’s Dilemma or hangman’s paradox, whichever Ram didn’t solve.

**Ram:** Don’t worry wifey—philosophers are sometimes most light when they sound dark, something you’ll get used to in our married life.

**Arpita:** How very convenient!