The Veraswami Story

Norval Morris†

I told the story of the accident, if it was an accident, as starkly as I could. I suppose I hoped I could unburden myself to Dr. Veraswami and yet not allow him to see immediately what a fool I had been.

The jungle in Burma can be very dense, particularly in areas close to rivers and streams, where there is never what passes for a dry season to reduce the bursting luxuriance. None of us had seen the cliff beside the overgrown path. We were aware only of the unbroken ceiling of trees above us, the taller trees at the foot of the precipice reaching to share the tropical sun equally with their shorter brethren beside the path. I was daydreaming when I heard the Burmese policeman’s cry, the noise of branches breaking, and then a thud as he struck the ground some thirty feet below.

We were on a routine visit to an outlying village, the regular duty of every district officer throughout the vast territories of the Raj. Burdensome though some of these journeys were, they did force one to have some sense of the villagers’ concerns.

The last few miles of this trip had to be made on foot, the rains having made the path impassable for a truck. I was walking ahead, followed by the driver, who had decided to come with us rather than wait at the truck. The Burmese policeman-interpreter was in the rear. He too must have been daydreaming, paying too little attention to the path, so that he stepped on the wrong side of a tree, slipped off the path, and plunged to pain.

I told the driver to stay where he was, found a nearby palm tree, and climbed down to the policeman.

He had fallen heavily. His head had struck a substantial branch near the ground, knocking him out. The policeman lay

† Julius Kreeger Professor of Law and Criminology, University of Chicago. This is the fifth of a group of short stories by or about Eric Blair (George Orwell), which Professor Morris claims (although this claim has not been verified) are based upon a set of manuscripts he discovered while retracing the travels Blair made while serving in Burma between 1923 and 1927. The other four stories are The Brothel Boy, in Norval Morris, Madness and the Criminal Law (1982), The Planter’s Dream, 49 U. CHI. L. REV. 609 (1982), The Best Interests of the Child, 51 U. CHI. L. REV. 447 (1984), and Ake Dah, 52 U. CHI. L. REV. 553 (1985).
twisted awkwardly, his left leg grotesquely skewed under him. My guess was that he had broken his hip and possibly his collarbone. I knew we would have to get him to medical help as quickly as possible.

I shouted to the driver to hurry the mile or so to the truck and to bring back the first-aid kit and two blankets it carried and the ropes that were to be found in all trucks in Burma to help pull them out from their frequent boggings. He took an eternity, or so it seemed.

I made the policeman as comfortable as I could, but even unconscious he jerked in pain as I moved his arm and leg. I found a reasonably straight branch of a tree and then another, and with my jungle knife, a kris—sharpened at both edges and slightly curved, which the training school had recommended for patrol duties—I trimmed them for the blanket-and-pole makeshift stretcher I planned. The driver had not returned. All I could do was fume.

I must make a stretcher, perhaps one pole with a blanket hung like a sack under it. Then, on the path, I could fashion a better stretcher with both of the poles, so that the driver and I could carry the policeman to the truck. At last I heard the driver’s returning trot.

With difficulty I climbed a tree to the path and took stock. The ropes were new and strong. The blankets seemed in good condition. I tied a rope to a tree on the other side of the path and climbed down the cliff again, carrying the blankets. The driver followed.

When I had recovered from my unjustified rage at the driver for his slowness—he had in fact been swift and sensible—I found him a great help. Together we fashioned a sling from the blankets, eased the policeman into it, and attached it firmly to the stronger of the two poles.

Near the bottom, the cliff jutted out over the fallen policeman. I could not at first see how I could lift him to the path without injuring him further by bashing him against the cliff face. So I told the driver to stay below and ease the sling away from the rough edges of the cliff as I pulled the rope from above to haul the policeman up. I then clambered back to the path.

All went well at first. I looped the rope around another tree near the edge of the cliff so that I could take in the slack as I dragged him up. The driver helped from below with the first lift, but then the strain was on me.

"And it was a great strain, Dr. Veraswami, believe me. I did try. As I gained a few feet I took in the slack as I recalled moun-
tainers do. But then it was too much. The policeman was within feet of the edge of the cliff. The rope slipped. I stumbled. The policeman fell—this time to his death.”

Dr. Veraswami had been quite still during my narrative. Now he wandered about the veranda, looking out toward the hospital. I broke the silence. “May I have a beer, Dr. Veraswami?”

“Of course, Mr. Blair. Please help yourself.” This was unusual—he usually liked playing the fussy host. He must have been wondering how to let me down as lightly as honesty would permit. When he did speak I could not at first follow the drift of what he was saying, but it was clear that he recognized what I had done wrong.

“In medical school, Mr. Blair, the instruction iss that in a crisis you first take your own pulse, not that of the patient. But I do verry well understand how your solicitude for your policeman led you astray. Many of us make errors like that. It iss so easy to err under the pressure of anxiety for a patient; I did so many times in France during the war.”

I doubted that this was true, and I was annoyed at him for saying so—but also grateful. “Both of us know, Dr. Veraswami, that I killed the policeman. Apart from my stupidity it is almost certain that he would have been alive now. He might have been injured a bit more while in the sling, hitting the face of the cliff, but had the two of us been on the path above to pull the rope, we could have got him up and back alive to you.”

Veraswami was again silent. After a moment or two I added: “I have reported it in detail to Mandalay. I wonder what they will do?”

“They will think of it only ass an accident—no more—you can be sure. And you must try to do so also, though I know it will not be easy. It iss painful I am sure, but you must try to avoid self-flagellation. It iss too pleasurable.”

* * * *

Veraswami was right about Mandalay. My report on the policeman’s death was noted. I was directed to convey sympathy to his family and was advised that a replacement would soon be on his way. My stupidity was apparently ignored, though I am sure it had been noticed.

I found that one effect of this death was to lessen my inclination to visit Veraswami. I felt I had diminished myself greatly in his eyes, and I did not relish the sentiment. And then an event occurred which forced me back to an even closer relationship with
him—one that for different reasons gave me more anxiety.

* * * *

It had never happened before: a dusty, leather-helmeted military motorcyclist roared up to the Moulmein police station, stamped into the office, saluted in all directions, and announced a message for the district officer. On the opened page of a substantial book he pulled from his haversack and held out to me, I signed for a brown, heavily sealed envelope marked "DISTRICT OFFICER ONLY." The saluting and stamping were repeated, and I stood, slightly bewildered, and watched him roar off.

I retired to my office, anxiety beginning to churn within me. And when I saw that the message was from Burma Army Headquarters in Rangoon, rather than from my Regional Headquarters in Mandalay, my anxiety intensified.

It was a brief message:

To: District Officer, Moulmein.
From: OIC, Imperial Forces Burma.
Date: 26/6/1926.
Copy: OIC, His Majesty's Military Forces, Moulmein.
Classification: CONFIDENTIAL—READ AND DESTROY.

Re: Prohibited Drugs.

It has been reported to this headquarters that quantities of heroin have been distributed through Moulmein Hospital in the past three months.

The informant is Kau Reng, a male nurse working at that hospital. He is attached to the Intelligence Section of this Staff. He must not be exposed. He will establish contact with you.

The possibility that prohibited drugs are being distributed through an Army Hospital is of particular concern. This investigation will require sound judgement and the utmost confidentiality.

You are directed to assist Kau Reng and to keep this headquarters advised directly, not through regional channels. You are authorised to use military communications for this purpose. Telephonic communication should not be made except in emergency.

I had the immediate and overwhelming sense that I was already involved beyond my competence. To bypass Mandalay in this way and reach down directly to a fledgling District Officer for a task that might challenge a trained detective—what must they
be thinking of? Why not send someone of experience to help me in such a matter? Unless, of course, they thought to do so would increase the risk of exposure of their agent, Kau Reng.

I read and re-read the memorandum and then burned it in my wastepaper basket, which caused quite a conflagration and brought the duty NCO into my office—I suppose to ensure that the message had not precipitated my self-immolation.

I returned to my bungalow with what materials and notes I had from my training course dealing with illegal drugs.

* * * *

I learned that the Shans, in the far east corner of Burma, live in a region more hospitable to the Eurasian poppy than any other on earth. They, and the other hill tribes of the area where China, Siam, Laos, and Burma intersect, had for centuries grown the poppy as their staple crop. I had always thought of poppies as the Flanders Field variety—narrow stemmed, spindly flowers with small red petals and black stamens. But the opium poppies of the Burmese hills were quite unlike their decadent European relatives. These were grossly luxuriant, thick stemmed, with many standing to eye height and their blossoms larger than a man's hand.

Until 1906, the cultivation of these larger-than-life poppies and the consequent trade in opium had been encouraged by the colonial powers, but in that year the House of Commons suffered one of its occasional bouts of self-denying virtue and declared the opium trade "immoral." Inexorably, "illegal" soon followed "immoral." As a result, steadily increasing efforts were made to reduce cultivation of the poppy, to limit the opium trade, and to prohibit the sale or purchase of its refined derivative, heroin.

But even the Raj had to recognise the limits of the possible. For centuries there had been many Burmans, many Indians, many Chinese, and very many Shans who were habitual consumers of opium; to enforce absolute prohibition would have required armies of detectives. Hence in Lower Burma, where I served, the law entirely prohibited heroin but allowed registered consumers to purchase and possess opium for their own use. The latter provision, even my generally idealistic teachers at Mandalay admitted, was unevenly enforced; many Burmans used opium without bothering to be registered. Indeed, few even knew of these registration provisions, the ways of the Raj in such matters being a mystery to them.

I wondered how many registered consumers there were in my district. That seemed easy enough to find out, since it was the Dis-
strict Officer's task to keep the register—and the somewhat depressing thought came to me that since I had been in Moulmein I had never looked at the register. I did hope it was to be found in the files and cabinets that Captain Humphreys had left me.

* * * *

I rode my bicycle to work early the next morning, meaning to try to find the opium register before anyone other than the duty NCO was present. I thought I might be able to conceal from him, if he were alone, the direction of my search and thus avoid revealing anything of what was in the message from Rangoon—for I knew my police would be consumed with interest in what it contained.

I checked the index to our files and found the register, which contained very few names. Apparently Humphreys had at first made some effort to keep it up to date, hoping to have some sense of the extent of opium use in the Moulmein area, but he had gradually relaxed his efforts. The name Kau Reng did not appear—I don't know why I thought it should—nor did the name of anyone I knew to be working at the hospital.

What to do next eluded me. It would be helpful for me to be better informed than I was about illegal drugs and their distribution in my district before Kau Reng contacted me, but such knowledge was not entirely easy to obtain without compromising the confidentiality Rangoon and Kau Reng expected of me. If I asked any of my police about drugs in Moulmein they would immediately guess more than I ought to reveal—I had never made such an enquiry before. Perhaps my best course would be to start with Dr. Veraswami. Maybe I could lead a conversation with him to the subject of illegal drugs and their control, without having to disclose my hand. It seemed an uneasy course, but none other appeared. I would call on him in the late afternoon—a social call, just for a beer and conversation; he would not be suspicious. There was the difficulty, however, that since telling Veraswami of my failure to save the fallen policeman I had not visited his veranda. I would just have to do the best I could when I got there.

The day passed slowly. I felt so ill-informed; I didn't even know if we had an opium den in Moulmein—presumably the Chinese community knew, but now I couldn't enquire about it for a few days.

In mid-afternoon I decided to walk around the market area to fill in time before calling on Veraswami. The market was always colourful and sometimes amusing. I enjoyed hearing and watching the high-pitched and apparently acrimonious haggling culminating
in warm and laughing settlements. Negotiation seemed more a sport than a business.

As I left the market, I saw a procession approaching, a straggling, uneven group, shepherded by one of my policemen, who saluted me as he drew near. It was really less than a procession: about eighteen or twenty men, ranging in age from the early twenties to the mid-fifties, wandering along in loose congruence, with a boy ahead beating a drum to an imprecise rhythm and another boy behind wheeling what looked like the base and wheels of a cheap English pram on which was perched a tawdry, over-decorated statue. But procession or wandering group, they certainly caught and held my shocked attention.

All the men had skewered or pierced themselves in some obvious and, one would think, painful way: through the lips, in a fleshy part of the stomach, or on the biceps, thighs, upper legs, or back. The pin industries of the English Midlands, about which Adam Smith had written to such effect, decorated the celebrants. The large safety pin was much in use, a use its manufacturers could not have anticipated. Pins made patterns down chests and backs, the skin being pinched up enough for the incision and exit of the pointed end but not too much to preclude locking the safety catch. They were also used to seal lips and to attach short chains to chests and backs. Bits of wire went through from front to back of several hands; other pieces of metal ran through cheeks and mouths. There was some blood around all these penetrations but not much; mostly the blood had congealed earlier in apparently small amounts around the wounds. Three or four of the men also carried short, knotted-string whips with which they vigourously struck their backs over their shoulders.

The policeman saw my surprise and volunteered that the sufferers were Malays on their annual parade to install one of their gods in a temple—which god and which temple he did not know. Yet there was hardly the atmosphere of a real parade: the participants wandered along unemotionally, seeking no response from the onlookers in the street and getting none.

Though the piercings looked most painful, the men’s facial expressions were of resignation, of duty being done. This was true even of the man with a skewer through the front of his protruding tongue, braced at an awkward angle against his chin and upper lip, the mouth snarling agape. And I saw one of the celebrants with a whip, his lips pin-sealed together, scratch at his crotch with the handle of the whip. What an extraordinary conjunction! Did pain not block minor discomforts? How could such tortures and such
customary relief co-exist?

Distaste and incredulity moved me equally. Old Burma hands had told me that coolies feel pain less than we do. "Look how they squat for hours on their haunches. Have you ever seen a white man do that, Blair?"

Of course I had. And so had they. Every photograph of an English army unit not on parade shows scattered groups of squatters, often clutching their rifles either as balances or as supports; but at the Club such things are not seen or, if seen, are not remembered or, if remembered, are not to be mentioned.

So, I suspect, those Malay stoics felt pain as I do, but custom and experience had trained them to minimise its force and to endure, dull-faced and uncomplaining, their mortifications of the flesh as did the hair-shirted Christians of the Middle Ages.

One of my NCOs must have given a permit for this parade without bothering to bring it to my attention. He must have known that self-injury and self-flagellation would be displayed. And infection and death were thus risked, to no apparent benefit—although one cannot easily weigh religious benefits. Yet he had not thought even to discuss with me whether it should be prohibited. Surely a permit for such a parade would not be given in London. Disturbing the peace, offensive or obscene behaviour, or some such misdemeanour would be the excuse to prohibit the parade or to arrest those who punctured and displayed themselves in this way. Did this mean that the law in London was less tolerant of religious beliefs and practises than the law in Burma? It was obviously different in Burma, but why seemed unclear to me.

So speculating, walking a few paces beside the procession and paying insufficient attention to my path, I bumped quite firmly into Dr. Veraswami, who was standing also watching the procession.

He apologised as if the fault had been his: "Oh, I'm so sorry, Blair, so sorry. Clumsy of me." And he started dusting at my coat with his hands.

I stepped back and made a duet of our apologies, adding "But what an extraordinary sight this is."

"Yess, yess indeed. I have seen many such, but they still amaze me. It seems so..."—and there was a long pause while he grasped at the air with his pudgy hands for the right word—"...so unnecessary."

He told me that he had also witnessed men walking on burning coals in Burma and in India, and mentioned the fakirs who in the name of religion had publicly inflicted severe pain on them-
selves for centuries in India.

We stood talking while the procession moved away. It became awkward, standing in the street, carrying on a ranging conversation—hot and awkward.

"It iss verry steamy here, Blair, isn’t it? Would you do me the honour of coming to my bungalow for a beer so that we might talk more about thiss?"

Indeed I would. I had not even had to make up an excuse to call again on Dr. Veraswami after my recent absence. I began to fancy myself a detective.

* * * *

It was eerie. No sooner was I settled with a beer in my usual rattan chair on Veraswami’s balcony than he started in about the message from Rangoon. “I hear the military might of the governors of Burma iss in close, mechanised, and swift communication with you, Blair. They send men on machines; they do not trust the mails or the telephone.”

I must have blushed. Could Veraswami possibly know the content of the message? I certainly was at a loss for a reply. Veraswami hurried on, seeing my unease, “Oh, I am sorry. It iss none of my business. But you must know that such things cause some stir in our little town—and, for me, memories of the heroic motorcycle messengers of the war cling to such events. I hope it iss not a matter to cause you anxiety.” And he waved the subject away with his left hand, balancing his beer carefully with his right. Still, he seemed ill at ease, even defensive. I thought he might return to the subject, but he dropped it as suddenly as he had brought it up: “Let uss talk about that strange procession. You have seen nothing like it before?”

I asked him if people feel pain differently. Were pin-pricks, a toothache, a skewer through the tongue, similar sensations to all?

Veraswami thought that, broadly speaking, people feel the same sensations, that the nervous systems of humans—black, white, and brown; men and women; adults and children—transmit the signals of pain in much the same way, but that people could train themselves to different responses, to a degree, and to different tolerances without complaint, also to a degree. His reason for believing in the similarity of sensations of pain was that most people subjected to similar “painful” stimuli winced, sweated, cried out, jerked, cried, or screamed at about the same time. People might express pain quite differently, but they usually expressed it at a similar stage in relation to any given stimulus. The drilled
tooth might cause one to cry out, another’s face to blanch, but the
crying out or the whitening of the visage would occur at about the
same time in response to the same intensity of drilling. It was a
subject central to medicine: expressing pain was one
way—sometimes the most reliable way—the patient communicated
to the doctor. And drugs could be used with some precision to vary
the thresholds and intensities of pain.

With the mention of drugs, the discussion seemed to be on
track for my Rangoon enquiry; my detective work was going almost
too well. I pressed Veraswami with a vigorous interrogation, hop-
ing somehow to approach the topic of heroin. But there was only so
much to be said about pin-pricks and pierced tongues. I recalled
that Veraswami had told me that Ake Dah suffered pain when he
understood, at one level or another, that he was mentally ill.¹
“Surely physical pain and psychological pain are different,
Doctor.”

Veraswami paused reflectively. “I am not sure that it iss
proper to call that sort of pain ‘pain.’ I know I did; it iss common
usage. What I think I mean iss that the mentally ill clearly suffer,
feel anguish. I do not think it iss pain like that of a pin-prick or a
dentist’s drill. But it iss verry real—yet it iss not obvious, and it iss
often hard to talk about, ass you and I both find.” Smiling, almost
beaming at me, he continued: “Hass not thiss kind of pain been
keeping you from visiting me recently?”

It took me a moment or two to understand what he was talk-
ing about, but then I did: “You mean my pain at my own stupidity
in the death of my policeman.”

“Precisely, Blair, and your further pain in telling me about it.
Such things are not easy. Emotional wounds can be lastingly
painful.”

I nodded my head in embarrassed recognition. But suddenly,
the ease and confidence of his conversation, his Socratic joy in
leading a student to answer his own question, changed to a silent
immobility; the shaking leg, so favoured by the Indian middle-
class, became still. When he spoke again his voice was quiet, his
eyes averted. “Blair, have you ever heard a brave but torture-rid-
den patient cry out in an agonised plea for relief from pain? I
think it must be even harder for me to endure than for most. Per-
haps there iss a reason for that. Let me tell you, my friend, some-
thing of myself which I think you should know—why I am so

troubled by pain.”

Not wanting to interrupt, I poured myself another beer without asking his permission and sat back to listen. He hurried on with his story: “I must be one of the very few boys from a privileged Indian family who was beaten as a child; I mean beaten severely, not just spanked. It could never have happened in India—my extended family in the Punjab was large, I would never have been so isolated. It was when my father and mother took me with them on my father’s first protracted business trip to England. It was a nurse. She had the very best references, my mother told me, the very best English manners and condescending voice.

“I do not mean to malign them, Blair; I loved them dearly, but my parents were well on the snobbish side, copying English ways, critical of Indian customs, fiercely emulative of the Raj. Many privileged Indians are like that—the school tie, the pipe, the grey slacks and suede shoes. And they spent too little time with me in England, always out and about, he on business, she on social occasions—even a French cooking school in London, isn’t it! No wonder you laugh at me. But, of course, Miss Hutchins, as a nanny, seemed perfect to them. Those were the days, Blair, when Mrs. Beaton, of cookbook fame, would urge her female readers that it was not an excessive burden on them to have nanny bring the children to afternoon tea with their mother. My mother never went that far, but she would leave me with Miss Hutchins so often. And she never did learn to cook, except Indian food, as her mother had taught her.”

Dr. Veraswami fell silent, filled my beer, walked about the veranda fiddling with the fronds of palm rimming the roof. “I have told no one other than my wife about this, Blair, but I want to tell you.

“Miss Hutchins always used her open hand, never anything else to beat me with, her other hand clamped over my mouth to stifle my tearful wails. But she was very strong, or so she seemed to me then, aged four or five. There were never any marks of the beating—I would search diligently for them later—but they hurt, that I knew, and there seemed no limit to what she would do in her rage. And her rage was justified, I felt sure, for there was always some error of mine, some failure, some clumsiness that precipitated these punishments. It was always my fault; I knew that.”

He did not look at me as he told this sad story, walking up and down the veranda in front of me, his hands clenched in front of his chest. Yet for all his movement, he seemed more calmed than agitated by the narration. It must have relieved him to un-
burden himself to me. Finally, he settled on the edge of his chair, facing me.

“I know now that a child in that situation is not helpless. If a child habitually prattles to his parents about whatever comes into his head, and the parents—or any other adults—are at all sensible, the torture will be put to an end. But I also know that a child in that situation really is helpless. You see, fear is very powerful, and it was clear to me then that the punishments I had so far received would be as nothing, nothing at all, compared to what I would receive if I told my parents what Miss Hutchins sometimes did to me when they went out and left me with her.”

I had to interrupt him. What he was now saying didn’t make sense to me. “But all you had to do was tell your parents. You know they would have protected you from further beatings.”

Dr. Veraswami’s head waved gently from side to side in his usual indication of qualified agreement. “A child’s world is not like ours, Blair. I remember that well. What I was trying to say is that the child may never be strong enough to tell his parents what has happened in so many words. My parents knew how I hated to be left with Miss Hutchins. I clung and cried till it annoyed them. But it is like the doctor and his patient, Blair—the patient always expresses pain, but the doctor must be trained to listen. My parents did not listen carefully enough. And for me, the trouble was that, though I loved my parents, and they me, ours was not a relationship in which they customarily heard my childish prattle. They thought it was enough to tell me that Miss Hutchins would take good care of me and not to worry.

“Miss Hutchins was my confidant; there was the rub, as your poet would say. Hers was a world of duty, obligation, discipline, and deserved punishment, but also a world in which much of the time I could play and talk like a child, in which she listened to me and understood me, unless I did something that was wrong, very wrong. If the only adult in the child’s world with whom the child feels free to talk without constraint is his assaulter, the child is lost, quite lost.

“And there was another reason I could never tell my parents. They were gentle and loving, but in my childish mind I believed they must also have intended the disciplinary world of Miss Hutchins for me for my own good. And it had always been my wrongdoing, as I saw it, that brought on the punishments. To resist the correction my parents had set out for me would only have compounded my guilt. No, Blair, logical or not, I know I am speaking the truth of that young child’s situation.
"But let me go on with the story, Blair. I don't know how or why it grew worse, but I know it did. I know my fears intensified, but a kind forgetfulness has veiled the details—though some remain, enough for me to know I wish to recall no more.

"The end came for perfectly sensible reasons after one of these terrible bouts. I was to pour milk into a glass to put on a tray on which she would serve dinner in the nursery. I was allowed to help in this way when things were calm between us. The milk was in a narrow-necked bottle. My childish hands poured too quickly. The bottle made funny gurgling noises and too much milk burbled out into the glass, some spilling onto the neat tray she had set. The gurgling noise was in my ears as the first blow fell on the side of my head. This time she did not worry about my screams. It went on and on, continuing until a woman, a neighbour, could stand it no longer and burst in to find me on the floor sobbing and Miss Hutchins collapsed in a chair also crying in fury. I remember as if it were a photograph how she looked: her hair in wild disorder, torn loose from the tight grey bun at the base of her skull where before it had been neatly pinned; her face dark red and sweaty, as were her flabby underarms with the black hair showing under her blouse.

"My parents seemed soon to be back with me. I never saw Miss Hutchins again. I have survived, damaged no doubt in ways I cannot know, nor particularly want to. Perhaps I am a little more scared of women, a little more distrustful, than most Indian men of my age, but I don't know if Miss Hutchins had much to do with that. And I have never since much cared for the gurgling noise some bottles make when the liquid is poured from them rapidly—it still causes my stomach muscles to tighten in anticipation of pain."

Veraswami fell silent. It had obviously been a strain. He had not looked at me when he resumed telling about his childhood agony. But now he turned to me, smiling, yet still more subdued than his normal self, and said, "I am glad I told you about that, Blair. Perhaps you understand now why I was so anxious to discuss those self-injuring Malays and your pain in the death of your policeman—why pain worries me so much, perhaps more than it worries others. It is with me so much, as a doctor and as a person; I experienced it first as a child, then in war, and I see it always in my daily work. A doctor should grow inured to pain; I haven't."

I was glad Dr. Veraswami was treating me as a trusted friend, sharing much of himself with me—though I was embarrassed by his confidences and had little to say. I could see why he might
thought it could have lastingly weakened his character. He seemed to feel guilt, much as I had felt when I had confessed to him my stupid failure to save the policeman who had fallen in the jungle. But I did not wish to return to my own failings.

I remained annoyed, I must admit, that my efforts to lead our discussion to the topic of drugs had failed so miserably. It would seem callous to return to that topic now, but equally callous to let our conversation end on such an unsettled note.

Veraswami had spoken of pain in the war. I had not heard him talk of the war before. So I asked him, “You mentioned pain in the war; were you wounded?”

“Yess, a few pieces of shrapnel now and then. Quite painful but not dangerous. Of course, the suffering of the soldiers was very great, very great, and I came to bless morphine for them, and even for me.”

I was dumbfounded. Veraswami had finally mentioned drugs—indeed, his own use of drugs. But, to my frustration, it was growing late; by now we were both too exhausted to pursue it. The stumbling detective had taken too long to get to the point. Veraswami had never confided in me in this way before. On reflection, it seemed that he had been leading the conversation, not I. Why had he confessed to me in this way?—if confession it was. Perhaps it was a result of my telling him about the jungle accident—and that was a confession. And why did he mention his use of morphine during the war? Perhaps he had guessed the contents of the message from Rangoon? In any event, I had found his confidences about the childhood beating quite troubling, like the confidences from a parent to a child which embarrass the child, but I was glad he had trusted me, though I had made little headway as a detective on the heroin trail.

We parted in slight embarrassment, our relationship changed in ways I did not understand.

* * * *

A voice came from the moon-shadow of a palm tree as I approached my bungalow, my mind full of Veraswami’s stories: “May I talk with you, Sir? I am Kau Reng.”

I was startled. I don’t know how I had expected Kau Reng to contact me, but his waylaying me at night near my bungalow surprised me. Also, I had expected him, from his name, to be a Burmese. But this man was Chinese, a short rather fat Chinese, in long uncreased white pants, an open-necked white shirt, and neat sandals—the dress of a hospital orderly.
Recovering from my surprise, I asked if we should talk here or at my bungalow. He apparently had reconnoitred carefully: he said that since only my houseboy was at my bungalow, and asleep he thought, it seemed safe to go inside.

He was courteous—perhaps too courteous—clear, and incisive in what he told me. He knew I had been visiting Veraswami that night and frequently referred to him as “your friend, Dr. Veraswami.”

As we walked towards my bungalow, he told me what to say if we were interrupted by anyone, though I assured him that I had few uninvited guests and was expecting no one to call that night. Nevertheless, if that did occur, or if my houseboy awoke and came to us, I was to say that he had brought an urgent message from the hospital to which I was drafting a reply.

We sat at the table in my dining room, a badly-trimmed kerosene lamp smoking between us, a blank sheet of paper for the hypothetical message in front of me. I did not offer him a drink; it seemed out of place to do so. He did not act as if he were in a hurry, but he came straight to the point. “We have two tasks tonight, Sir: to arrange how we should communicate, so far as that is necessary, and for me to give you some information about this enquiry so that you can assist me in it as headquarters has ordered.”

His manner was not brusque. He treated me with deference as his superior in a military hierarchy. But he wasted no words.

The arrangements for future communication were simple enough. If he wanted to talk to me he would come to my bungalow exactly as he had tonight; if a message would suffice he would have his brother, who kept a wood-carving stall in the Chinese market, arrange for someone to bring it to the police station. It would be marked “Confidential—Mr. Blair Only.” If I wished to get a message to him, I should give it to his brother at the market. His brother knew me and would be at his stall every morning—perhaps I should buy one of the carvings, “to preserve our secret, Sir.” He seemed confident that we needed no more contrivance than this fraternal intermediary to protect his position in the hospital.

He was less precise concerning the background information. Apparently he had been on the staff of the Moulmein Hospital for some time, well before either Dr. Veraswami or I had come to Moulmein. His work for the army involved general intelligence in the region: whatever the army needed to know about attitudes to the Raj and any political rhetoric or action hostile to the administration.

He had, he said, stumbled unexpectedly upon the illegal traffic
in heroin. "As you know, Sir, some opium comes through our mar-
kets to registered users, and of course to many others. It comes
from the hills and is sold in all our markets and at some of our
pagodas. My brother does not deal in opium, but he knows many
who do—my countrymen as well as the Burmese have long been
smokers of opium. Those who deal in betel nut and spices often
also sell opium."

I began to find his manner patronising and interrupted to ask
what all this had to do with heroin being distributed from the hos-
pital. He came straight to the point. "It was reported to my
brother that your friend, Dr. Veraswami, tried to buy heroin from
one of the opium dealers. He had none. He sent Veraswami to an-
other stall where heroin could be bought. My brother tells me that
Veraswami bought heroin at that other stall."

Kau Reng had recounted these rumours in his next report to
Rangoon Headquarters. He had immediately been directed by
Rangoon to give his full attention to discovering whether his report
had been accurate and, if it was, the extent of Veraswami's in-
volvement. He judged that the fact that the hospital administra-
tor—"your friend, Dr. Veraswami, Sir"—seemed to be involved
made the affair a matter of serious concern to Rangoon. The order
to me, with a copy to him, had followed soon after.

It shook me to think of my being so deeply and, it seemed,
inexorably involved in investigating my only friend in Moulmein.
Kau Reng knew this and quietly enjoyed it.

I was unsure whether the responsibility to carry the investiga-
tion further, to confirm or disprove the rumours, was mine or Kau
Reng's. On reflection it was clear that I had been directed by an
authority senior to police authority—though what was being dis-
cussed was a crime and therefore within my jurisdiction—to be of
assistance but not to take the initiative myself. If the army author-
ities in Rangoon had wanted me to lead the investigation, they
would have passed orders to me through the proper channels,
rather than over the heads of my immediate superiors.

"Do you want my help in this investigation, or the help of any
of my police officers?" I enquired.

"No, Sir, except of course that you should say nothing about
this to anyone, particularly anyone at the hospital. I think I know
how to find evidence of your friend's dealing in illegal drugs. I will
keep you informed."

I made no response to his obvious suggestion that I should not
prejudice his investigation. To have made the suggestion was an
insult; it merited no reply. There seemed nothing more to discuss.
I was silent, looking at him somewhat angrily, I suppose. 
"Have you any questions, Sir?"
"No."

As he left, Kau Reng saluted. I made a vague waving acknowledgement. It all seemed so incongruous; I did not feel at all like a detective, more like a traitor to my friend.

* * * *

My inclination was to stay away from Dr. Veraswami until Kau Reng had found out more about the heroin. On the other hand, after Veraswami's telling me so much about himself when we were last together, making such an open overture to a closer friendship, it would be discourteous for me to separate myself from him for any substantial period without explanation. I felt torn.

And I felt torn, too, by Kau Reng's and Rangoon's suspicions of Dr. Veraswami. I found it hard to believe that Veraswami was engaged in anything illegal or unethical—it seemed so out of character. But then there were the hints in Veraswami's confidences at our last meeting: the extreme sensitivity to pain in himself and others, and his use of morphine in the war. He might well have found himself addicted to the drug after the war; he must have thought each day his last during the war, and the anodyne of morphine would have been a huge temptation for both the physical pain of shrapnel and the psychological pain of being unable sufficiently to reduce the sufferings of others. I could well understand how he might have been trapped. And then after the war came heroin, medically supported and publicised as a cure for morphine addiction, its own fiercer addictive penalties not yet recognised. It all made sense. And that must be why such a well-trained doctor as Veraswami found himself in this Burmese backwater. Yes, he must be as guilty as those investigating him thought. But guilty of what? Veraswami was suspected of distributing the drug. Why deal in heroin? To support a political movement perhaps. Or, of course, it may simply be greed—military doctors don't accumulate fortunes; drug dealers do.

But it seemed incredible—the phrase kept pressing itself upon me—so out of character. Perhaps I should turn my suspicions towards Kau Reng and his conveniently well-informed brother. But I had to recognise that I had little more than sentiment to go on.

I let a few boring days pass, swinging from certainty of Veraswami's guilt to certainty of his innocence, unable to do anything about either. No word came from Kau Reng and there was nothing else in the routine of the days to interest me.
The sergeant told me that the letter marked "Confidential—Mr. Blair Only" had been brought to the police station by a Chinese youth late the night before. The youth knew nothing of what the letter was about or from whom it had come; he had been paid by a stranger in the market to deliver it. The sergeant had not thought it necessary to disturb me at my bungalow.

I opened it in my office. Unsigned, in rough print, its provenance and intendment were nevertheless obvious: "Buy a wood-carving for Rangoon."

I found Kau Reng's brother's stall easily enough. Of finished wood and fitted canvas it stood out from the light bamboo and palm-fronded stalls characteristic of these transient markets. I was clearly expected. Kau Reng's brother, larger than Kau Reng and of unkempt peasant dress and appearance, immediately engaged me in haggling about various wood-carvings, forcing one after another on me and exaggerating their value. I played the game for a while, eventually agreeing to buy a small piece, representing oxen pulling a plow, which I paid for and never received; Kau Reng's brother apparently did not wish to serve the Raj gratuitously. He said he would wrap the carving carefully for me and disappeared behind the stall, emerging with a neat parcel wrapped in a colourful piece of cloth.

On examining it at the police station, I saw that the parcel was addressed in clear, precise print, quite unlike the note to me, to "The Officer in Charge, Intelligence Division, Burma Army Headquarters, Rangoon" and was marked "Urgent."

My duty was obvious: get it as quickly as possible to Rangoon. There was no problem in gaining access to the senior army officer in Moulmein; the parcel was on its perilous, motor-cycled way around the Gulf of Martaban within an hour of my masquerade.

I remained troubled by my role; I felt deceitful toward Veraswami. Of course I could see why military intelligence would be concerned if a hospital administrator were dealing in illegal drugs. It would be an ideal cover for a black market operation, linked possibly to anti-Raj political, even terrorist, activities. What was Veraswami doing in Moulmein? He was so obviously over-qualified for his position.

In breach of the spirit of the orders to me, if not of their letter, since I was clearly intended to follow and not to lead, I returned to Kau Reng's brother's stall and asked him to tell Kau Reng that I would be alone at my bungalow that night.
Kau Reng came. I did not hear him approaching the bungalow, though I was on the balcony waiting for him. We went inside, back to the dining table, the smoking lantern, and the blank sheet of paper for the hypothetical note. I told him I felt in need of more information than he had given me: “After all, it is a crime you are investigating, and in my district. I have duties independent of serving as the army’s messenger for you.”

He took no umbrage but told me what he had found out. “My brother has confirmed that your friend, Dr. Veraswami, has made another purchase of heroin—he has given me the name of the man who sold it to him. Also, I have kept close to Dr. Veraswami at the hospital and managed to be given the task of sterilising several of the syringes and needles he uses in the hospital and keeps in his medical bag. They are what you sent to Rangoon. I think, when chemically analysed, one at least will show traces of heroin in the solution. There is nothing more to do now. We must wait for instructions.”

I began to feel like a fool. I should have been told how far along the investigation had come—I really was only Kau Reng’s messenger boy. Annoyance made me abandon caution. Unwisely, but the words gushed out, I found myself telling Kau Reng that I intended to call on Dr. Veraswami, that my staying away from him now might itself make him suspicious since we normally met so regularly, that I would not in any way reveal what was going on. I sounded excessively defensive, even to myself.

Kau Reng made no great protest, saying only that he hoped I understood that he could be in some danger if it became known that he was a spy for the British: “Even army headquarters would not like you to inform on me, Sir.” He managed to infuse the “Sir” with some antagonism. This time he did not salute as he left.

I slept well. It was a relief that I could resume my visits to Dr. Veraswami’s veranda. I would have to use some duplicity when we met to avoid endangering Kau Reng and frustrating his investigation, but that was certainly preferable to continued absence after being trusted with Veraswami’s personal confidences.

The next afternoon, I made my usual pre-tiffin way to his veranda. He was there before me and was obviously pleased by my arrival: “It has been too long, Blair. High affairs of state, no doubt, many burdensome duties,” and he kept chattering on in this fashion, waving aside any apologies on my part.
I did not often find myself rehearsing in advance the words I would use to Veraswami, though that is a habit of mine, which does me no good, when I am thinking about discussing something of importance with those who make me ill at ease. But on this occasion, I had rehearsed an enquiry of Veraswami, and when we were settled, our beers in hand, I asked my planned question.

I told him that I remembered that once he had been somewhat annoyed with me for not wondering why he was in Moulmein. So I asked: “How does a doctor with your qualifications and skill find himself in this Burmese backwater?”

It had seemed to me a cunning ploy—an apparently innocent and genuine enough question, yet if Kau Reng’s suspicions of his guilt were correct, it was a question that would surely lead Veraswami into difficulty. But he took a quite different tack, far different from what I had expected. “I am verry glad that you are interested to ask about thiss, my friend, but I fear it will be a long and egoistic story, such ass I inflicted cruelly on you quite a few evenings ago. Let me try to answer you with less wind than I usually blow about myself.”

London had palled for him after the war. He felt alien there and decided that for a few years at least he would serve as a doctor in the Imperial Army Medical Services. Then he would decide whether to return to his native Punjab or become a permanent resident in England.

Since he had served with the army medical corps during the war, his return to service in the British administration in India and Burma was welcomed. His first posting was to the Rangoon General Hospital, on Strand Street just west of Khelly Street, a large, white, wooden edifice, with deep balconies, towers, spires, and cornices—“a verry colonial building” in Veraswami’s phrase—where, I found myself thinking, his syringes were now being tested.

The early months in Rangoon were not particularly pleasant. He was the only Indian among the senior doctors. He was not excluded from their company, but he remained somewhat outside the warmth of their associations. And then a railway accident removed him entirely from any affection the Raj could form for an Indian doctor.

He had been the only medical officer on duty at the hospital one Saturday evening, there being a dance at the Club which all the English doctors and most of the English nurses were desperate to attend. A police call came to the hospital: south of Pegu, the train from Rangoon had collided with an as usual overloaded bus at an unguarded level crossing. Two carriages of the train had de-
railed and overturned. Immediate medical assistance was required. The doctors and nurses at the dance would be notified, but Vera-
swami and any other doctors and nurses who could leave the hos-
pital were asked to come immediately on the first rescue train,
which would be leaving in a few minutes—going by rail was the
quickest way to get there.

Veraswami and a few nurses, Burmese and English, collected
some emergency supplies and, since all motorised transport was
dedicated to the dance, hurried in tongas to the railway station, a
little over a mile away, opposite Shwedagon Pagoda Road where a
special train took them on to the carnage of the accident some
twelve miles up the line.

Part of the reason for the speed and relative efficiency of the
mobilisation was that the injured probably included a senior local
army officer: a colonel returning to Mandalay from home leave who
was a friend of the Medical Superintendent of Rangoon General
Hospital. The railway telegraph had suggested that the Colonel
was in one of the overturned carriages, and this had added urgency
to all responses. Veraswami and the nurses were at the scene
within an hour of the accident, which, all things considered, was
prompt indeed—though the suffering of many of the injured must
have made the hour long for them.

Having been a doctor on the Western Front in 1917 and 1918,
Veraswami was no stranger to mass injury. But this accident, he
said, was in its bloody way as sickening as anything he had seen in
France, with severed limbs and crushed and trapped bodies
pressed under the carriages and the bus.

There was much noise and futile confusion, with no one in
charge until the rescue party arrived. The military officers on the
rescue train with Veraswami fixed lights and organised the unin-
jured into gangs with axes and levers to cut and lift, and generally
brought some order to the rescue efforts. But noise, screams, cries
for help, pain, and death were pervasive.

Veraswami was taken immediately to the Colonel, whose lower
torso and legs had been badly crushed, but who now lay clear of
the train. A morphine injection reduced the Colonel’s pain. Turn-
ing to the officer in charge of the rescue operation, Veraswami said,
“He requires immediate abdominal surgery. Get him into the res-
cue train. I will come soon.” And with that Veraswami scurried off
to do his best with the surrounding suffering.

Within minutes sharp conflict developed. Veraswami, accord-
ing to the military officers who later reported on these events,
would give brief attention to some who like the Colonel were suf-
ferring grievously, limiting himself to an injection to reduce pain; while he gave others, less severely injured than the Colonel, what seemed to his now furious critics to be excessively protracted care.

The officer in charge of the operation eventually gave a direct order to Dr. Veraswami to board the Colonel and those who most needed hospital attention onto the rescue train for an immediate return to Rangoon. Veraswami told him it would take time to treat and select those who should be on the train for the hospital. Asked if the delay would risk the Colonel’s life, Veraswami replied curtly: “Yes, of course it will.”

It was that admission more than any other evidence that damaged Veraswami at the subsequent hearing before the Regional Administrator. The hearing was not, of course, into the link between Veraswami’s behaviour and the Colonel’s death, it was into the accident itself and the rescue operation generally. But Veraswami’s conduct became a focus of criticism. It was hard to pinpoint anything he did wrong, but everyone knew that “Indian doctors are not really balanced, you know. No standards under pressure. Cut corners. Can’t be trusted.”

As Veraswami told me this story, I remembered the death of my Burmese policeman; the authorities seemed quite willing to overlook my error of judgement then. By contrast, these same authorities had gone to some trouble to misinterpret Veraswami’s conduct after the railway accident. Was it because in my case the victim was Burmese and in Veraswami’s case the victim was a colonel of the Raj?

Dr. Veraswami did his best to explain his triage decisions; to explain the need to select neither the most severely injured, who would probably die whatever was done for them, nor those who would probably survive without hospitalisation, but rather the middle group—those for whom care and surgical intervention in a hospital would be likely to make the largest difference for saving lives and minimising lasting incapacities. But he had to admit that in situations of crisis these classifications are chancy and imprecise, and that one can never be sure of one’s true motives. His repeated affirmations of the cold professional calculations which guided him hardly refuted the steadily advanced innuendo that racial prejudice had led him to tilt his judgement against the obviously desperate need of the Colonel.

What Veraswami had done sounded so “un-British,” so vacillating and unsure, when described at the hearing. The Regional Administrator kept enquiring of the degree of danger to the Colonel and several times asked if Veraswami thought the Colonel’s life
could have been saved had Veraswami not imposed nearly an hour’s delay on the return of the rescue train. Veraswami said the Colonel might have lived if he had got to surgery earlier, or even if Veraswami had risked an abdominal operation in the field; he could not be sure, but it seemed likely.

It was never said, but all Veraswami’s talk of triage was seen as evasive; his actions were viewed as a failure to recognise sensible priorities, probably the result of panic. Veraswami’s claim that he had treated all patients equally, white and coloured, sounded spurious since it was clear that Veraswami had spent more time treating natives than Europeans.

I asked Veraswami if there were not many more seriously injured natives than seriously injured Europeans, and if that “might not sufficiently account for the inequality of your treatment?” He bristled at the word “inequality” but admitted that his talk of equality, guided only by professional ethics, was thought by many to be typical of his devious ways. Clearly I had hit a sore spot.

The enquiry made no finding specifically critical of Veraswami, but a series of recommendations was made for handling such emergencies in the future, the tenor of several being that Veraswami and the officers in charge of the rescue had acted without promptness of decision and sufficient clarity of purpose. And it was specifically recommended that, because of the possibility of large-scale emergencies, there should always be a European doctor on duty at Rangoon Hospital.

It was not difficult to understand why Veraswami soon thereafter had accepted the opportunity of a posting to Moulmein. Nor was it difficult to understand that the military authorities in Rangoon would welcome—indeed, eagerly seek—proof of his criminal conduct.

* * * *

The crisis was now upon me. The same beleathered cyclist returned with orders to investigate Dr. Veraswami’s dealings in heroin. Reports of two purchases of heroin by him were set out, as was the fact that one of the syringes I had sent for analysis had contained the residue of a solution of heroin. I was directed to interrogate Dr. Veraswami and to charge him with dealing in prohibited drugs unless an entirely satisfactory explanation for his conduct appeared.

The order added that this was no longer a matter for military authorities, that my civilian superiors in Mandalay had been informed of the prior military intelligence actions, and that I should
telephone Mandalay Regional Headquarters if further orders were
tought necessary.

I doubted that a telephone call to Mandalay would help me
much. I had better take some time to think—as Veraswami had
advised, first take my own pulse.

* * * *

“Bar Chit, Bar Chit,” “Chit Boy, Chit Boy,” the brusque cries
of the thirsty, indigenous as far as I know to the European clubs of
the Indian sub-continent, served as a background to my anxious
reflections. It seemed too lonely to go to my bungalow; there was
no one with whom I could discuss my problem; a few drinks at the
Club, sitting away from the bar so that I could see the two billiards
tables and pretend to be watching, would probably provide the saf-
est haven.

I filled in my “chit” for a cold beer; the “boy” in his mid-
forties collected the chit and delivered the beer, the chit remaining
at the bar to define my bill, the assumption of the lack of memory
and trustworthiness of all “boys” thus reaffirmed.

There were occasional brief interruptions while those who
knew me nodded in my direction or called out a greeting, but I was
otherwise undisturbed. “Would you care for a game of billiards,
Blair?” “Later perhaps, thank you.”

My mind pursued a debate within itself, serving both as prose-
cution and defence: How can Veraswami be innocent? It’s impossi-
ble. Either he is using the drug himself, injecting himself—I
could not bring the scene of such an injection to mind—or he is selling
it. No, that would not explain the syringe and needle, and any-
how it is a ridiculous thought.

Veraswami, an addict? With such sense and kindliness! I sup-
pose it is not impossible after a childhood like his, with the pain
and loneliness he told me about, and the spurs and constant
temptation of the ready availability of drugs in his profession—it
is not impossible. And the agonies of war and the constant use of
morphine on the Western Front, as well as in the treatment of his
own wounds, might have pressed him to that escape. Could that
have been when his addiction began, and he then moved on to
heroin? Yet it still seems impossible. He is so direct, so open, so
gently interested in others, so wise—how could such qualities be
those of an addict? But he purchased heroin in the marketplace
on at least two occasions; why act clandestinely if he is not an
addict? And what should I do if he is using heroin? Arrest him?
Punish him for his own good?
I could not call to mind the scene of my arresting Veraswami. And, if I did arrest him, what should I do with him? Lock him up in the gaol of which he was the medical officer? It all seemed so senseless. But the realities forced me back to my internal debate—clearly something had to be done and equally clearly I had to decide what it was.

The law must be obeyed. He must be arrested. But why are we British so sanctimonious—so sure of our right, some would say our duty, to punish addicts? Why do we insist on meddling in local customs? I suppose we may have some effect on suttee, or something gross like that, but opium and betel nut and, I suppose, other drugs have been used here for centuries without any apparent harm. And not that long ago, our policy in the East was vigourously to support the opium trade, even to fight a war to preserve it. Is my friend to be sacrificed to our changes of policy, which do not seem to have much effect anyhow on the use of drugs—readily available in every marketplace in Burma?

“Bar Chit, Chit Boy.”

But then my heroic resistance began to fail. These thoughts are well and good for after-dinner discussion, but as a Police Magistrate and District Officer my job is to apply the law as it is written. I should leave to others the policy questions. And how can I really know the long-term effects of registering opium users and entirely prohibiting the sale or purchase of heroin? My simple duty is to arrest Veraswami; he will understand my duty. Then I should help him personally as much as I properly can, but I should not fail in my duty under the law from some misguided sense of friendship.

“Oh yes, Bar Chit please.”

What if he is not using the heroin himself? What if I am wrong about that, and he is using it in the treatment of a patient? If he is just supporting an addict, I suppose he is clearly guilty; but what if he is using it to treat an addict, slowly withdrawing him from the drug? Or what if he is giving it to a patient who is in great pain so as to minimise his suffering? Are these illegal? I suppose not, though they may be. I will have to learn more about the law. But even if they are legal, it is clear that his buying the heroin in the market is a crime. Yet that seems crazy. If that were so he could administer it legally but could not buy it legally—that would make no sense, but the law may come to that.

I suppose that would not be as daft as it first seems. Perhaps that is the only way the hospital authorities and the government could keep control of the supply of dangerous drugs—prohibit
any purchases and then themselves carefully control the supply for legitimate medical use. If that is so, why did not Veraswami get the heroin through the proper channels, why in the marketplace?

"Of course, Bar Chit."

And here I am, like the rest, using my own drug, alcohol, to diminish the pain and loneliness of this place. What hypocrisy, Mr. District Officer! A sozzled child arresting a fine doctor because his habits are different. Have we all got to be peas in a legal pod, conforming even in our vices, our little deaths?

"Bar Chit, Boy."

Eventually I had the sense to realise that this maudlin self-flagellation, lubricated by too many beers, was doing good neither to me nor to Veraswami. The gloom was deep, but at the nadir one sensible thought at last came through: there was now no reason at all why I should not openly discuss all this with Dr. Veraswami. I need not mention Kau Reng—just tell Veraswami everything I knew, refuse to hint at how I knew it, and ask him to explain. Until now, that would have been contrary to my orders; now, to my awakening satisfaction, I realised it was not only the decent thing to do but even the proper thing to do from a police perspective—interrogate the suspect.

I left the bar and its trail of chits much happier than when I had arrived; the point was that Dr. Veraswami could help me, as he always did, with one of my more difficult problems—that it concerned him made his help even more likely to be wise. What a sensible fellow I am!

* * * *

I had the sense, despite the multiplicity of beers I had consumed, to delay calling on Dr. Veraswami until the next day. It seemed to be underhanded, cheating, to confront him with his criminality on his own veranda. So I sent a note to him in the morning as soon as I arrived at the police station, asking if he could spare me an hour during the day. I added that I was not wishing to consult him professionally (which was not literally true, since I was pursuing my profession of the law if not his of medicine).

The policeman returned with the message that Dr. Veraswami thought his hospital rounds would be completed by eleven o'clock and that he would be very pleased to see me then.

I was shown into his office, a scene of barely controlled chaos, with periodicals and papers, books and notepads everywhere. A
few minutes later he bustled in, white coat fanning out, bat-like.

I had no idea how to begin. How to interrogate a friend with a view to his arrest and prosecution baffled me. And I had become accustomed to relying on Veraswami, to remembering what he said and later thinking about its implications, to using him as a sounding board for my own difficulties, but as more than a sounding board—as a surrogate for the guidance and wisdom of the father I had not earlier known, my own father having spent most of my childhood and youth serving in India.

The balance of our relationship was changing. It was like those first occasions when one's parents actually appear to listen to, and to consider seriously, an opinion one has offered. Veraswami’s telling me of his brutal nurse, of the pain of the war, and of the railway accident near Rangoon had altered the flow of emotions between us. That my mentor and adviser should be reaching out to share his problems with me was flattering; but it was also unsettling. That the child had been encouraged to grow from dependence to fraternity was one thing; but that the child should become the stern parent to the father quite another.

And Veraswami seemed, if anything, more strained than I felt. His usual teasing, light friendliness was gone. I cannot say he looked white, but had he not been so dark-skinned that is how he would have looked.

“You wish to see me, Mr. Blair?”

“Yes, Dr. Veraswami,” and I sat like a dummy without anything at all coming to my mind or tongue.

He took pity on me: “What iss it about? I wass told it wass not because you are unwell, though you do not look verry tense, in fact.”

And it burst out of me, a flood of words. I told him that I had been ordered to investigate heroin distribution from his hospital and to find out why he himself had bought the drug illegally. I managed, I feel sure, not to give any hint of the role of Kau Reng or his brother, but all the rest, including that there were witnesses to his having twice bought heroin in the Chinese market, poured out of me.

Veraswami took off his white coat slowly as I spoke, placed it carefully on the couch beside the wall, and sat down on the chair beside mine in the posture of a doctor listening attentively to a patient’s description of his symptoms.

I ended with: “Tell me what you think I should do, Dr. Veraswami,” which, when I thought about it, was an absurd way to interrogate a criminal. But it was right for Dr. Veraswami.
“I cannot tell you, Eric. It is your job, and a difficult one. But I will tell you everything I know about all this, everything, and then you can decide what to do. And I don’t know what I shall do with myself. But I will not deceive you.”

I knew without possibility of doubt that he would speak the truth and that my task of fact-finding as a detective was over; but I hated his uncertainty about what he would do, or rather, what he would do “with himself.” Could he possibly be hinting at suicide?

“It is not as it must seem, Eric,” and again he was using my Christian name which, until recently, he rarely did. “I have an Indian patient here, Mr. Chanduri, who is in the last stages of cancer of the pancreas, a cruelly painful form of that horrible disease. Nothing can be done to cure him. In his now emaciated condition orally administered drugs are completely ineffective, and the pain-reducing drugs we have, all except heroin, have to be injected in massive doses, doses so large as to cause severe nausea and vomiting and to be painful in themselves. I am not sure of the chemistry—there may be little difference chemically between morphine and heroin—but I am sure that for a few patients like Mr. Chanduri, who do not get relief from morphine, heroin is a blessing. I have observed it carefully. I am sure of this no matter what the chemists may say. No Eric, morphine will not do it, and I cannot let him die in agony. Mr. Chanduri tolerates heroin well—indeed, it gives him peace, even pleasure. As your doctors do in England, I have been reducing his pain these past few weeks by intramuscular injections of a solution of heroin. He has probably become addicted, and needs increasingly substantial doses; does it matter?"

I did not reply. Clearly he had more to tell me. “No, I do not use drugs myself. I do not like them. I am too unsure of my brain, even when it is at its best. A few beers only, as you know. I have treated other dying patients the same way and will again if it be necessary, though I have not decided on this easily. From what I have told you, you must know that I am perhaps too sensitive to pain. But I will not let my patient suffer. Yes, I know it is a crime to buy heroin, and I do not like to break the law. But there is no other way to help him since those who supply our drugs in this country do not trust us—they think we will sell the heroin or use it ourselves.”

I interrupted him: “Why did you not come to me about this? Why buy it yourself? Surely together we could have avoided all this trouble.”

“I thought of that, Eric. But I decided that I should not bur-
den you with thiss problem. There are only so many times that one district officer can be asked to save the Raj from itself. It iss fake heroism, I admit, but I am angry that those who govern uss are so stupidly cruel.”

We sat in silence. I did not know what to do. Was I to arrest Veraswami for doing what he thought was right? If I had learned anything from the jungle death of my policeman it was that we creatures of folly often make mistakes of judgement when emotions run high—and they certainly ran high with me now. As Veraswami had said when we discussed that death, “It iss so easy to err under the pressure of anxiety for a patient.” In a sense I saw Veraswami as my patient now. I found it impossible to condemn his breach of the law, yet my obligation to that law and to my superiors seemed clear. I decided I had better follow my mentor-patient’s advice and think as clearly as I could before I did anything, not just leap down the cliff myself—first take my own pulse. “May I call on you for a beer before tiffin this afternoon, Dr. Veraswami?”

For the first time at this meeting, Veraswami smiled at me: “Of course, Eric. Then or at any time it will be an entire pleasure to see you, whether I am in or out of gaol. I will expect you thiss afternoon. Do not be late; I do not think I will find it easy to work today.”

* * * *

I walked to Veraswami’s bungalow by the longer route beside the Salween; I needed to have some idea in my mind of what I wanted to happen before the pressure of decision was upon me.

I started off toward the river in mid-afternoon, the heat of the day abating under a light breeze, the seductive ring of the temple bells calming my anxieties. The scene was more peaceful, the river lovelier, and the greens of the foliage more varied than I had recalled. It was hard to shift my mind to the pain of investigating Veraswami. The wandering and uneven path, and the glimpses of the river through the thick foliage, distracted me—I had never before been so aware of surrounding beauty. But if I were to be of any use to Veraswami and also do my duty as a district officer, I would have to turn my mind to it.

So far, all I seemed to be worrying about was how not to prosecute Veraswami. If I were to be effective, I would have to make myself consider seriously the other side of the argument, the reasons why he should be charged. Perhaps the law I was supposed to enforce did have some sense in it; it was no good just railing at it
in my mind as if that would achieve anything.

Opium had been used for centuries in Burma without ill effects. Already I was deceiving myself—how did I know there had been no ill effects? There must have been. Quite apart from the tyranny of addiction, controlling and warping many lives, the regular use of opium must have had a debilitating effect on the Burmese, individually and collectively. So how could I know that it was not worthwhile to try to stamp it out?

But what if the law tried to stamp out alcohol in England? The English worker would not easily renounce his beer—it would be a revolution, a bloody revolution. And it was unthinkable that the Anglo-Indian would give up his stengah. So there were bad customs which were not easily eradicated.

But (again a “but,” there always seemed to be “buts” in the law) some customs could and should be eradicated by the law and its vigourous enforcement. Suttee, thuggee, infanticide had all been attacked in this way in India by the Raj, and with success—suttee and thuggee eliminated, infanticide greatly reduced. In Sind it had been objected that suttee was a national custom that should be respected by the British. The reply of the Raj had been succinct: “It is your custom to burn widows. It is our custom to hang murderers. Let us both follow our customs!”

But—again—to agree that the use of opium could properly be controlled did not mean that any means to that end were sensible. There had had to be concessions so that the poppy growers in the hills would not be ruined and so that some users could register and get opium for themselves.

So why the ban on heroin for the hospitals? There was only one possible reason: it was thought too difficult, too troublesome, to control that line of supply. It was easier to prohibit heroin altogether than to risk some misuse. In other words, Veraswami was to be sacrificed to the unwillingness of the authorities to make sensible arrangements for the proper medical use of this drug. No, that was wrong; it was not Veraswami who was being sacrificed. There might be only a very few of the terminally ill for whom heroin was the drug of choice, or even the only effective pain-killer, but there were some, and the balance was between their pain and the difficulty of controlling a limited supply of heroin through hospital channels.

And then it struck me. As usual I was being childishly simplistic in my approach. The order to investigate Veraswami and to arrest him if he had bought heroin probably had little to do with any policy concerning drugs; it related back to his behaviour at the
railway accident. It was precisely the excuse the Rangoon army authorities needed to get rid of Veraswami—not for dealing in prohibited drugs but for failing in his duty to save the lives of British soldiers when he could have done so, and for the even worse offence, in their view, of finding a politically effective but morally unsound excuse to escape responsibility. Had any other doctor been involved, Rangoon would have turned a blind eye. I became utterly convinced: It was not the word “heroin” in Kau Reng’s report that had caught Rangoon’s attention but the name “Veraswami.”

Was I to be co-opted into this persecution? And, if not, was there a way out that would preserve my own position in the service of the Raj? The excuse my masters had found to get rid of their distasteful doctor was, after all, of some powerful legal force; it did appear that Veraswami had broken the law. It would not be easy to get behind the excuse to the reality.

For once my thoughts seemed to have followed a reasonably logical path, but my feet had not. I found I had walked well past the turnoff to Veraswami’s bungalow. I hurried back; he had asked me to come in the afternoon—I could imagine how troubled he must be.

* * * *

To my surprise, Dr. Veraswami was not at his bungalow when I arrived, yet he had asked me to come early. It was quite out of character. I asked a servant where he was; the servant was unsure—Dr. Veraswami had never left like this before, without a word. Growing unease became hot anxiety. Veraswami had hinted to me, and I had pretended not to notice: “what shall I do with myself?” He had tried to tell me of his fragility, and I had been too obtuse to respond. His stories of his childhood and of the war were also intended to give me a sense of his personal pains and difficulties. And I had left him, had gone off on my own, when what I should have done was stay with him. I had let him down, failed to understand his pain. Why did I always let my selfish immediate needs take such precedence?

At this moment of panic my fears were disabused. Veraswami, wearing sandals, a long white dhoti, and an open-necked white shirt, came happily bouncing up the path and onto the veranda.

“Thank you for coming, Eric. It is good to see you,” and then he caught sight of my face and stopped his ritualistic greetings. “Oh goodness me, you have been troubled. I am so sorry. It is thoughtless of me. But all is well now, I think. Let us talk. Will
you have a beer?"

He seemed to be going on meaninglessly. I found my anxiety for him turned to annoyance, as when a child has caused you to fear for his safety and you discover him safe and ignorant of your fear. How could all be well now? I was coming to investigate a crime, and he was the suspected criminal. But, yes, I would have a beer.

Veraswami beamed at my obvious annoyance, taking it for the caring compliment which I suppose it was. He made more than the usual fuss of having the oval bucket of ice and wire-stoppered bottles of Watney's Ale brought onto the veranda, and of seeing me served and settled.

For my part, I was anxious to get on with our discussion. I found this bouncy bonhomie and his odd dress—a dhoti with a shirt seemed a wild confusion—quite unsettling. His troubles had not caused him to kill himself; they'd driven him daft. And I found I too was smiling in bewilderment.

"Good, Mr. Policeman—and now you really are the policeman—let us talk. But let me tell you that I have come to a firm decision about all this and I am not upset and worried as I was earlier today. And my wife and daughters seem very happy about it and so, I find, am I."

"You mean you have told your family about this, Veraswami! Why did you do that? I still hope we can find a way out."

"Of course you will find a way out for me as far as the law goes. I am sure of it. I have watched you over these years we have been together in Moulmein, and you have become very skillful, very devious with the law. No, you misunderstand; I am not clear with you. For some time, my wife has urged me to return to the Punjab when my present contract with your government is ended—and quite soon it is, only a few months. I have been putting off submitting my resignation. I suppose I had lingering doubts—perhaps I still do not trust the judgement of women. But these events have helped me to put aside my uncertainty. My wife, who does not often say such things, tells me that I must now stop lusting after strange gods. I wonder where she read it. But she is right."

It was happening too quickly; I found it hard to follow. But as his words penetrated I too came to share his sense of relief. It must have been very hard for my friend as a medical student and young doctor in London, very hard to bear the loneliness of isolation in a foreign city while eschewing the comfort of the enclave of Indian students which would negate the value of exposure to English cus-
toms. And these pressures must have intensified during his service in Rangoon, especially after the crisis of the railway accident. Moulmein must have been an oasis of peace for him. But here too he was isolated; I am sure I was his only friend in Burma.

“So because of this damned heroin and Mr. Chanduri you’re going to leave me friendless here, Dr. Veraswami?”

“You are right, Eric; it did force my decision. But I am glad, verry glad, that the matter of the heroin for poor Mr. Chanduri hass brought the boil to a head, so to speak. It hass made me realise that I should be with my people. I have learnt what London and the war and Rangoon and Moulmein have to teach me; now I will go home. If I had been able to become a great doctor, or a creative surgeon, or a great teacher of medicine—and I have dreamed of all those things—or even a great medical administrator, I would have stayed with your countrymen. But I am never going to be more than a competent and considerate doctor. That, I now find, and find to my surprise, iss enough, quite enough. And ass a good doctor I shall go home.”

His mood turned jovial: “Bhatinda iss not Siberia, Eric. My family lives well there, believe me; we are not starving peasants. Bhatinda hass a seventeenth century fort, with walls over a hundred feet high, much admired by English military men, and there iss also a famous shrine to a Muslim saint, Baba Ratan, who iss supposed to have lived to the jolly old age of fourteen hundred years, a feat my wife hopes I shall not try to emulate.”

I realised that his ebullience was in no way a shelter for anxiety about the charge against him. He was genuinely pleased. That was well and good for him, but I still had orders from Rangoon, or were they now from Mandalay, to arrest Veraswami and charge him with a serious crime. He might not care about this, but I did.

I tried to lead the conversation back to the heroin, and kept trying. He was almost impatient with me. “You tell me what to say and do, Eric. It would be better if you can avoid convicting me of a crime, but I do not think even that would stop my being a good doctor in Bhatinda. I will do and say what you tell me to do and say, provided I do not have to pretend not to have been glad to have helped Mr. Chanduri.” And suddenly he was serious and firmly direct with me: “And you should know, Mr. Policeman, that unless you have me locked up I will continue to care for Mr. Chanduri in the same way. It would be verry cruel to increase hiss pain now.”

We talked long, through the downpour of late-afternoon rain and the ensuing gaudy sunset into the first dark of night. The met-
aphor of bringing the boil to a head changed to that of two fishes out of water, an Indian doctor and a somewhat lost young Englishman. I found that we were talking more about me than about Dr. Veraswami and his family—for him all problems seemed to have been resolved.

"I have watched you over these years, Eric, with growing affection, if I may be so bold. You too, I think, should soon go back to your people. Neither of us is comfortable at the Club; at one time I thought it right to try to join, as you know, but it was a silly pretension.

"You have been clever in softening the law for the people of Moulmein, but you have had to be devious and scheming. Too much, and you may grow to like manipulating power in this way. At one time I thought you might become a lawyer, a barrister, a judge. I saw you eating all those dinners in London—I believe they are very bad—but now I do not think so. You do not like executions and prisons; you worry about Ake Dah in my mental hospital; you constantly question the rules of the Raj and try to adapt them to Moulmein rather than just apply them in Moulmein as is expected of you. I think about why you do this; perhaps you wish to write about us. I do not know, but I watch you becoming subtle and manipulative of power, even pulling the wool over the eyes of our friend U Tin Hlang. You do it well, Eric, but it is not a life for you."

We parted with nothing further resolved in the matter of Veraswami's purchase and administration of heroin. As far as he was concerned, that was my affair; he would, within the limits he had defined, do and say whatever I suggested. I suppose he had to trust in my manipulative powers, of which he was otherwise so critical—no, that was not fair, it was rather that he feared their effects on me.

I walked on the road back to my bungalow; the path by the Salween was difficult by night.

* * * *

I awoke clear-headed, knowing exactly what I must do. Dr. Veraswami had irked me by calling me "manipulative" and "devious." I would do my best to live up to his worst expectations. I thought I saw how to persuade Rangoon to leave Veraswami alone by a mixed argument of politics and law. Although I would make

* See Morris, supra note 1, at 597-98.
an error or two in the law, that would not matter. They knew I was not a lawyer; but neither were the senior officers who would make the decision, though they would be advised by lawyers. I would do precisely what I was told to do when in doubt: set out "an appreciation of the situation"—it had a euphonious lilt which pleased me. But this "appreciation" would be different: it would be for Rangoon rather than for me, and it would be stronger on politics and weaker on the law. And if they sensed a tinge of dissimulation, so much the better.

* * * *

To: OIC, Regional Headquarters, Burma Police.
From: District Officer, Moulmein.
Date: 6/7/1926.
Copy: OIC, Imperial Forces Burma.
Classification: CONFIDENTIAL.

Re: Prohibited Drugs.

I have completed the investigation of the purchase of heroin by the Superintendent of the Moulmein Hospital, Dr. Veraswami, as directed by the Commanding Officer of the Burma Imperial Forces.

Dr. Veraswami has confessed to having made two purchases of heroin in the Chinese market in Moulmein. He advises me that the heroin was used—and will continue to be used while he is medical superintendent—to alleviate the agony of a patient, a Mr. Chanduri, who is terminally ill with cancer of the pancreas. I have no reason to doubt the truth of Dr. Veraswami's story. I am satisfied that Dr. Veraswami neither uses heroin himself nor sells it.

Despite this apparently clear breach of the criminal law, it is my advice that Dr. Veraswami should not be prosecuted. Contrary to orders, I did not arrest him. Two considerations led me to this decision: one legal, one prudential.

First, I believe Dr. Veraswami has a more than colourable argument that his purchase of the heroin was not illegal. As I understand it, otherwise illegal actions may be justified under section 81 of the Penal Code if the evil of the accused's act is less than the evil sought to be prevented by the law, and there was no less injurious method of reaching that result—the doctrine of lesser evils or of necessity. I do not pretend, of course, to be well versed in the details of this doctrine or of the cases applying it, but if the matter came before me as a magistrate, as I now understand the facts and
the law, I would hold that Dr. Veraswami's otherwise illegal act was justified by that section of the Code. I believe that his buying and using the heroin was a lesser evil than letting Mr. Chanduri suffer avoidable agony and, further, that there were no otherwise legal means of achieving that end.

Though untrained in the law, I have not reached these conclusions lightly. I enclose with this message an “appreciation” I have prepared for myself (as instructed in my training course at Mandalay) of the considerations which would lead me to allow a defence of necessity to Dr. Veraswami if it were advanced before me as a magistrate. I believe the same considerations would allow a spirited defence of this nature by Dr. Veraswami were he put on trial before the Supreme Court.

I appreciate that I may well be wrong in law, but I have become sufficiently convinced of the appropriateness of the defence that it would be better that Dr. Veraswami should not be tried before me in Moulmein Magistrate's Court should you decide to prosecute him. I therefore await your order to arrest him with a view to his indictment for trial before the Supreme Court in Mandalay or Rangoon.

Dr. Veraswami tells me that it is his intention vigourously to press the defence of necessity if he is charged with this crime; he believes that it is a scandal, a grave reflection on the administration's medical services in Burma and India that merciful treatments used in England are in effect prohibited in this country. He intends to seek the assistance of leading counsel to present this argument if he is charged with a crime. His attorney is Mr. U Tin Hlang, who may be counted upon to recognise the damage to the administration that would result from a necessity defence, whether successful or not.

My other reason is prudential. Dr. Veraswami advises me that he intends to offer his resignation from government service to take effect at the end of his present tour of duty four months hence. He plans to return to his home at Bhatinda in the Punjab and to enter private practise there. He has discussed his reasons for this with me. Quite apart from his present difficulties, they seem to me to reflect a firm intention. The four months may be a desirable period in which to arrange for a successor to Dr. Veraswami as the Medical Superintendent of Moulmein Hospital. Further, if he changes his mind and does not resign, the present charges could then be brought against him should you so direct; the evidence is adequate and is unlikely to dissipate within four months, and we would be well within the limitations period.
I therefore urge that it would be unwise now to precipitate a public trial of a contentious and sensitive issue. I shall take no further action in this matter unless directed to do so.

**Appreciation: Heroin Charges Against Dr. Veraswami**

At the Mandalay Police Training College we were instructed that in our judicial work in the Districts we should be chary of expressing in the courtroom our reasons for a decision; but, by contrast, we were urged—if the time allowed or if the issue we faced was sufficiently important or difficult—to try to set out in writing for ourselves what weighed, and how it weighed, in our decision. I find Dr. Veraswami's purchase of heroin and his injection of a solution of heroin into Mr. Chanduri of sufficient difficulty that I will try to write such an "appreciation" of the law in order to guide myself on the question of Dr. Veraswami's culpability.

The facts I assume for purposes of this document are these: on two occasions Dr. Veraswami bought heroin in the Moulmein market. On one occasion he injected a solution of heroin into a terminally ill patient to reduce that patient's suffering.

Dr. Veraswami knew these actions were prohibited by statute. Unless he has a valid defence he has committed three felonies. I must determine if he has such a defence.

Having consulted by telephone with his attorney in Rangoon, Mr. U Tin Hlang, Dr. Veraswami tells me that justification of what he has done is to be found in section 81 of the Indian Penal Code, which, he is advised, provides that an otherwise criminal action is not an offence if it is done to avoid a harm greater than the harm the statute seeks to prevent. Section 81 is inartfully drawn, but I believe Veraswami's summary is an accurate representation of how the section is interpreted and applied.

Of course, the accused cannot become the lawmaker, and section 81 or any necessity defence is unavailable if the legislature has already made the choice of evils faced by the accused. The citizen cannot find justified what the legislature has determined is unjustified.

The central issue, then, is whether the legislature has spoken on the use of heroin for terminally ill cancer patients. If it has, Veraswami's justification defence should be rejected as a matter of law. If not, it becomes a jury question.

There are some indications that the legislature may have spoken. The statute prohibiting heroin in India and Burma is absolute in its terms, making no exception for the medical administration of heroin.
heroin, either as an analgesic for the terminally ill or as a treatment for heroin addiction, though at the time of the passage of the relevant legislation both these problems were understood. The lack of exceptions may therefore be due to a legislative intent to disallow such use. Parallel English legislation allows for the medical administration of heroin in both situations. It was perhaps thought unwise to extend these medical exemptions to the different circumstances of medical practice in India and Burma. If this was the intent of the legislature, then Veraswami’s contrary belief that his act was justified can have no legal effect. But on the other hand, the lack of exceptions may mean nothing more than that the legislature failed to address this issue.

It is no use my straining further at this question of whether the legislature has spoken; I have to do my best with it, inadequately trained and advised as I am. I have come to the conclusion that the decision Veraswami made, involving the rare patient not responsive to alternative and legal means of reducing pain, was too unusual to have attracted the attention of and to have been rejected by the legislature.

Dr. Veraswami, therefore, seems to have a right to have his defence of necessity put to a jury. After all, when the legislature has been silent on an issue, a defendant can argue that society should give him a chance to have his choice ratified by a jury—next to the legislature, the body most representative of society.

This is not to argue that what Veraswami did was right. It is to suggest, however, that Veraswami probably has the right to have his choice of evils considered by a jury of his peers. And I think it probable that Veraswami will win his case if he can get it to the jury. Asian jurors—some of whom may well be antagonistic to our administration—will likely view Dr. Veraswami as protecting one of their own, Mr. Chanduri, from the tyranny of our hypocrisy.

And even if at trial this defence of necessity is withdrawn from the jury, many of the same issues could be aired at sentencing, since Veraswami’s purposes and motives are then clearly relevant.

I am confident that, either way, U Tin Hlang will insure that the trial will be much publicised, and I fear embarrassment for the administration.

* * * *

I did what my grandmother had told me always to do with such missives; I kept it overnight and read it carefully the next day before sending it. I sent it off, not by leather-helmeted speedster,
but through ordinary channels. This too would probably be thought indiscreet, but I felt indiscreet, indeed outraged—outraged and smug.

It was clearly time that I too should take Mrs. Veraswami's advice, and stop lusting after strange gods.
The Veraswami Story

In The Veraswami Story, Blair encounters several different situations in which arise legal or moral issues that relate to the legal doctrine of necessity.

In practice, the necessity doctrine is used to determine whether an individual's apparently criminal or immoral conduct can be excused as the product of an unavoidable choice of evils. Uneasiness about the doctrine stems from two questions: First, should an individual be allowed any discretion about whether to violate the law? Second, if such discretion is allowed, when can one be satisfied that this discretion was not abused—for example, that the individual was not responsible for creating (perhaps recklessly) the choice of evils? Dr. Veraswami's use of heroin to treat patients raises those questions.

Triage and prosecutorial discretion also involve necessary choices among evils. Limited resources, whether of time (as in an emergency), money, or manpower, correspond to the "unavoidable" element in the necessity defense. The difference is that these acts do not violate the criminal law. Yet they could conceivably involve violations of legal duty—such as a duty of due care in tort law or the proper performance of official duties. The underlying issues thus are often the same: Should individuals have discretion about whether and how to fulfill a legal duty? And, if such discretion is allowed, how can its abuse be detected and prevented?

For those wishing to pursue the legal issues raised in The Veraswami Story, the following is a short guide to the cases, statutes, and commentaries.

I. CASE LAW

A. Traditional Necessity

United States v. Holmes, 26 F. Cas. 360 (C.C.E.D. Pa. 1842) (No. 15,383). After the shipwreck of the William Brown, thirty-two of its passengers, its first mate, and eight of its seamen were forced into a leaky, overcrowded longboat. After a day and a half of rain and rough seas, the boat seemed lost. The first mate twice ordered his men to "go to work"—and fourteen male passengers were thrown overboard in an effort to save the rest. Holmes, a member of the crew who had helped jettison the passengers, was convicted of manslaughter.

The trial court instructed the jury that the "law of necessity," of which ordinary self-defense is an example, might apply to such a
case. "The peril must be instant, overwhelming, leaving no alternative but to lose our own life, or to take the life of another person." *Id.* at 366. But in applying the law of necessity, the jury was instructed that the law looks to "the relations in which [the parties] stand." *Id.* A sailor "is bound to set a greater value on the life of others than on his own"—sailors and passengers are not equals. *Id.* at 367. Among the passengers, "there should be consultation, and some mode of selection fixed, by which those in equal relations may have equal chance for their life." *Id.* That mode of selection should have been lots—"as an appeal to God, for the selection of the victim." *Id.*

*Regina v. Dudley & Stephens*, 14 Q.B.D. 273 (1884). Dudley and Stephens, along with another sailor and a cabin boy, escaped to an open boat after a shipwreck. After twenty days in the boat and eight without food, Dudley and Stephens killed and ate the steadily weakening cabin boy. The defendants would likely have died had they not so acted; the cabin boy probably would not have survived in any event. The defendants were rescued four days later.

In their murder trial, the defendants raised the defense of necessity. The jury found the facts of the case by special verdict. Applying the law to these facts, Lord Coleridge found the defendants guilty and condemned them to death. He took note of the Holmes decision but stated that English law did not recognize a principle that would allow the taking of an innocent life in order to save one's own life.

It is not needful to point out the awful danger of admitting the principle which has been contended for. Who is to be the judge of this sort of necessity? By what measure is the comparative value of lives to be measured? Is it to be strength, or intellect, or what? . . . In this case the weakest, the youngest, the most unresisting, was chosen. Was it more necessary to kill him than one of the grown men? The answer must be "No" . . . .

*Id.* at 287-88. Lord Coleridge was not daunted by the fact that his decision probably would not deter similar choices in the future: "We are often compelled to set up standards we cannot reach ourselves, and to lay down rules which we could not ourselves satisfy." *Id.* at 288.

The death sentence was commuted by the Crown to six months' imprisonment.

13, 1919). The basic facts of this unreported case, which is better known as the *Bisbee Deportation* case, can be found in Comment, *The Law of Necessity as Applied in the Bisbee Deportation Case*, 3 Ariz. L. Rev. 264 (1961), and are as follows. On April 26, 1917, soon after the United States entered World War I, the Industrial Workers of the World (IWW) called a strike of copper miners in Cochise County, Arizona. On July 12, 1917, the county sheriff led a posse that rounded up and deported over 1,000 members of the IWW. One of the posse was brought to trial on charges of kidnapping. He offered to prove that the strikers were trying to obstruct the war, had stored up a large amount of ammunition, and had threatened citizens; that help from federal troops had been sought to no avail; and that the leader of the local strike had told the sheriff he could no longer control his men. On these facts, he asserted the defense of necessity.

The judge recognized the defense. He ruled that evidence of necessity could be excluded only if it were completely inadequate as a matter of law to establish the defense, and that the weight and sufficiency of the evidence were for the jury to decide—even in a case which “aroused great public interest.” *Id.* at 273.

The jury heard the evidence, deliberated for fifteen minutes, and returned a verdict of “Not Guilty” on the first ballot.

B. Prisoner Escape

*People v. Lovercamp*, 43 Cal. App. 3d 823, 118 Cal. Rptr. 110 (Ct. App. 1974). In this case, the defendants, inmates in a women’s prison, were apprehended after escaping from the prison. The defendants offered to prove that they had been subjected to repeated sexual threats by a group of lesbian inmates, that the authorities had done nothing about the threats, and that escape was their only alternative. The trial court rejected the offer of proof, and the defendants were convicted of escape. The appellate court reversed, holding that necessity is a viable defense to an escape charge. Lest “*Lovercamp* become[] a household word in prison circles and . . . hordes of prisoners leap[] over the walls screaming ‘rape,’” *id.* at 831, 118 Cal. Rptr. at 115, however, the court required that strict conditions be met in all escape cases, including that the prisoner immediately report to the proper authorities once reaching a position of safety.

*United States v. Bailey*, 444 U.S. 394 (1980). The defendants sought to justify their escape from a federal prison by invoking the necessity defense. The United States Supreme Court held that a prerequisite to an instruction on necessity is an effort by defen-
The University of Chicago Law Review

C. Medical Necessity

Rex v. Bourne, 1 K.B. 687 (1938). A fourteen year old girl—a "normal" girl, neither "feeble-minded" nor of "the prostitute class," id. at 694-95—was brutally raped and became pregnant. Defendant, a leading obstetrician, felt that an abortion was necessary to protect her mental health and performed the operation. He was prosecuted under a statute making it a felony "unlawfully" to use an instrument with the intent to cause a miscarriage. The judge instructed the jury that the term "unlawfully" meant "not done in good faith for the purpose only of preserving the life of the mother." Id. at 691. Bourne was acquitted.

Butterfield v. State, 167 Tex. Crim. 64, 317 S.W.2d 943 (Tex. Crim. App. 1958). The defendant was convicted of driving while intoxicated. He argued on appeal that the trial court improperly refused to submit as a defense that he acted out of necessity in order to obtain medical aid for a serious head injury. The court upheld the conviction, noting that state law recognized no such defense. A vigorous dissent analogized to self-defense, noted the availability of the necessity defense in other jurisdictions, and argued that the defense was particularly appropriate in the case of regulatory statutes because "[n]o individual suffers any injury in the mere violation of that law." Id. at 68, 317 S.W.2d at 945.

City of Chicago v. Mayer, 56 Ill. 2d 366, 308 N.E.2d 601 (1974). The defendant, a third-year medical student, tried to prevent police officers from moving an injured protester without a stretcher. He was convicted of disorderly conduct and of interfering with a police officer in the performance of his duties, in violation of a municipal ordinance. The Illinois Supreme Court held...
that the defendant was entitled to an instruction on necessity and that the defense was available in a case brought under an ordinance as well as in one brought under a penal statute.

*United States v. Randall,* 1976 Daily Wash. L. Rep. 2249 (D.C. Super. Ct. Nov. 24, 1976). Randall was arrested and charged with unlawful possession of marijuana. At trial he admitted growing and using the marijuana but argued that he used the drug because marijuana, unlike conventional medications, helped relieve his glaucoma symptoms and prolong his eyesight. His defense of "medical necessity" was accepted by the court, which found, among other things, that medical evidence suggests that marijuana is not a danger to health and that defendant’s production of marijuana for his own use raised no danger of drug trafficking. These findings disproved the prosecution’s contention that “[t]he evil sought to be averted was less heinous than that performed to avoid it.” *Id.* at 2252. The court rejected the view that necessity is not a defense to “so-called strict liability statutes.” *Id.* at 2253.

*State v. Tate,* 194 N.J. Super. 622, 477 A.2d 462 (Super. Ct. Law Div. 1984). The defendant, a quadriplegic, was charged with unlawful possession and use of marijuana. He sought to raise the defense of medical necessity at trial, claiming that he used marijuana in order to ease his pain from spastic contractions. The court held that he would be entitled to invoke the necessity defense if he were able to present competent evidence demonstrating that he suffered from a “sense-threatening” condition, the effects of which were safely alleviated only by marijuana. *Id.* at 633, 477 A.2d at 468-69. The court noted that it had no difficulty with using the defense in the context of continuing conditions.

*State v. Diana,* 24 Wash. App. 908, 604 P.2d 1312 (Ct. App. 1979). Defendant was convicted of possession of marijuana, a controlled substance. On appeal, he raised the defense of medical necessity, claiming that he needed marijuana to alleviate his multiple sclerosis symptoms. The court remanded the case for consideration of this issue, noting that the state’s controlled substances statute permitted the medical use of marijuana in some circumstances.

*United States v. Richardson,* 588 F.2d 1235 (9th Cir. 1978), *cert. denied,* 440 U.S. 947. The defendants were convicted of conspiracy to smuggle Laetrile into the United States and of conspiracy to receive and distribute the drug. The defendants invoked the defense of necessity, offering extensive proof that Laetrile is needed to help cancer patients. The court rejected the defense since legal courses of action, such as challenging the FDA’s classification of the drug, were available to accomplish the same ends.
Medical emergencies like those faced by Blair (the policeman's fall) and Veraswami (the railroad accident) raise issues of civil as well as criminal liability. A close analogy to the decision Blair should have made may be found in Stratis v. Eastern Air Lines, 682 F.2d 406 (2d Cir. 1982). Stratis, a survivor of a plane crash, was rendered quadriplegic as a result of failure to treat his cervical fracture. Stratis was brought into the hospital "dying from shock" and "leaking like a peeled orange" with multiple contusions, extensive burns, and possible inhalation injuries. *Id.* at 416. The hospital's failure to X-ray and immobilize him was held not to have been negligent because "first priorities involved saving his life," not preventing further injury. *Id.*

D. Political "Necessity"

*United States v. Kroncke*, 459 F.2d 697 (8th Cir. 1972). The defendants forcibly entered a selective service office at night, forced file drawers open, and removed draft cards in an effort to disrupt draft operations. They were convicted of hindering administration of the Military Selective Service Act of 1967. The defendants argued that their actions were necessary in order to alert the public to the "illegal and immoral" war in Vietnam. At trial, expert witnesses were permitted to testify as to the damage caused by the war, but this testimony was not permitted to go to the jury. On appeal, the court affirmed the convictions, noting that the connection between the defendants' acts and their aims was "tenuous and uncertain." *Id.* at 701.

*Commonwealth v. Berrigan*, 325 Pa. Super. 242, 472 A.2d 1099 (Super. Ct. 1984). The defendants were convicted by a jury of burglary, criminal mischief, and criminal conspiracy after they entered a private plant and damaged nuclear missile components. They appealed from the trial judge's refusal to allow them to present expert testimony on the dangers and imminence of nuclear war. The court held that under Pennsylvania's necessity statute a defendant is required to show that his belief in the necessity of his actions was reasonable, and that the exclusion of expert testimony had in effect precluded the defendants from making such a showing. The court also rejected the argument that a statute making the destruction of nuclear defense materials a crime indicates a legislative intent to exclude the defense. The court reversed the conviction and remanded for a new trial.

*United States v. Dorrell*, 758 F.2d 427 (9th Cir. 1985). The
defendant vandalized an MX missile installation and was convicted of knowingly injuring United States property and of knowingly entering a military establishment for an unlawful purpose. On appeal the court held that the defense of necessity failed because the defendant had recourse to other means of challenging the development of the MX, and because his act—spray-painting a building—could not reasonably be expected to lead to a termination of the missile program. The court admitted that defendant offered to prove that the political process had been ineffective in blocking the MX missile, but stated that the principle that an "individual may assert a defense to criminal charges whenever he or she disagrees with a result reached by the political process" would "force the courts to choose among causes they should make legitimate by extending the defense of necessity, and transgress the principle of separation of powers." Id. at 432.

United States v. Best, 476 F. Supp. 34 (D. Colo. 1979) (memorandum opinion). The defendants were accused of trespass against a nuclear power plant. On various pretrial motions, the judge ruled that a defense of justification would be considered only if evidence was proffered to show: (1) a direct causal relationship between the blocking of the entrance to the plant for one day and an end to federal nuclear policy; (2) that the government action sought to be prevented was criminal under federal law; (3) that the federal crime was being committed in defendants' presence and subjected them to immediate harm; and (4) that no forms of non-criminal protest were available. No evidence was admissible to prove the morality of nuclear power or weapons, to demonstrate defendants' motives, or to show the correctness of any legislative or executive action.

Hoffart v. State, 686 S.W.2d 259 (Tex. 1985). The defendant was convicted of criminal trespass against an abortion clinic, and he appealed. The court held that the trial court did not err in excluding medical evidence concerning the point at which life begins, and that the defendant was not entitled to a defense of necessity.

Sigma Reproductive Health Center v. State, 297 Md. 660, 467 A.2d 483 (Ct. App. 1983). The defendant, who was charged with criminal trespass against an abortion clinic, sought to subpoena clinic records in support of a defense of necessity. The court of appeals dismissed an interlocutory appeal challenging the denial of a motion to quash the subpoena. The court went on to conclude, on the basis of an extensive review of the case law, that the defense of necessity was unavailable as a matter of law in cases involving protests against abortion clinics. The court reasoned, as had the
cited cases, that to the extent that abortion is constitutionally protected under *Roe v. Wade*, 410 U.S. 113 (1973), it cannot be considered a "harm" the prevention of which would justify trespass.

*State v. Culen*, Chicago Tribune, May 18, 1985, § 1, at 6, col. 1 (Cook County Crim. Ct. May 17, 1985). Eight people who were arrested for protesting at the South African consulate, one of them a Chicago alderman, were acquitted of criminal trespass by a jury. The defendants invoked the Illinois statutory defense of necessity, "saying, in effect, they had no choice but to trespass to express their beliefs." *Id.* Their defense included testimony by two members of Congress, "both of whom said peaceful demonstrations were an effective way to get laws enacted." *Id.*

* * * *

Government responses to legal violations may also raise "necessity" questions. Prosecutorial resources are scarce, resources must be allocated, and outsiders are hard put to evaluate the choices made. Both the decision to investigate Veraswami after the railway accident and Blair's use of his office to resist prosecuting Veraswami could be subject to challenge as abuses of discretion. For a discussion of the problems raised by calls for judicial review of administrative and prosecutorial discretion, see generally 2 *Kenneth Culp Davis, Administrative Law Treatise* §§ 9:1-9:22 (1979).

**II. LEGISLATIVE MATERIALS**

*India Penal Code* § 81 (1860), *reprinted in* 1 *Gour's Penal Law of India* 457 (S.C. Manchanda & R.B. Sethi 8th ed. 1966), provided: "Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property."

*Model Penal Code* § 3.02 (Proposed Official Draft 1962) provides:

(1) Conduct which the actor believes to be necessary to avoid a harm or evil to himself or to another is justifiable, provided that:

(a) the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by the law defining the offense charged; and

(b) neither the Code nor other law defining the of-
fense provides exceptions or defenses dealing with the specific situation involved; and

(c) a legislative purpose to exclude the justification defense does not otherwise plainly appear.

(2) When the actor was reckless or negligent in bringing about the situation requiring a choice of harms or evils or in appraising the necessity for his conduct, the justification afforded by this Section is unavailable in a prosecution for any offense for which recklessness or negligence, as the case may be, suffices to establish culpability.

N.Y. PENAL LAW § 35.05 (McKinney 1968) provides:

Unless otherwise limited by the ensuing provisions of this article defining justifiable use of physical force, conduct which would otherwise constitute an offense is justifiable and not criminal when:

2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this subdivision is offered by the defendant, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a defense.

ILL. ANN. STAT. ch. 38, §§ 7-13 (Smith-Hurd 1972) provides:

Conduct which would otherwise be an offense is justifiable by reason of necessity if the accused was without blame in occasioning or developing the situation and reasonably believed such conduct was necessary to avoid a public or private injury greater than the injury which might reasonably result from his own conduct.


III. Commentaries

George Fletcher, Rethinking Criminal Law § 10.4.1 (1978). Professor Fletcher compares the development and current status of the necessity defense in German and Anglo-American law. He notes that the defense found its way into the German legal system through judicial recognition of transcendental norms, whereas the defense took shape in Anglo-American jurisprudence as a result of utilitarian notions.

Wayne R. LaFave & Austin W. Scott, Jr., Criminal Law 381-88 (1972). In an oft-cited summary of the necessity defense, the authors distinguish necessity from related defenses, give examples of the kinds of cases in which it has been invoked, and outline the elements of the defense.

Arnold S. Trebach, The Heroin Solution (1982). The author traces the history of the medical use of heroin, surveys the scientific evidence on its medical value, and compares the British and American experiences with the control of heroin addiction and its use to treat addicts and the organically ill. He advocates making heroin available to addicts in the course of medical treatment for addiction, as well as to medical patients under the care of a doctor—including those not terminally ill. The paucity of evidence on the medical value of heroin is acknowledged, but the author argues that the perceptions of patients that they are greatly helped by the drug support lifting the prohibition on its use.

Glanville Williams, Criminal Law: The General Part 722-
The Veraswami Story

50 (2d ed. 1961). In chapter seventeen, Professor Williams cites the early English authorities on necessity, discusses the theoretical basis and limitations of the defense, describes some of the codes which provide a necessity defense, distinguishes necessity from other defenses, and discusses necessity as it relates to a series of individual crimes.

Glanville Williams, Textbook of Criminal Law 597-623 (1978). Professor Williams engages here in a Socratic dialogue in order to show the theoretical framework and limitations of the necessity defense. He includes some new thoughts on necessity as it relates to such matters as starvation, driving offenses, the prevention of crime, and impossibility.

Gerald R. Winslow, Triage and Justice (1982). The author examines the morality of triage—the rationing of scarce, life-saving medical resources—in light of theories of justice. In his fifth chapter, he discusses the Holmes and Dudley & Stephens cases as illustrations of the kinds of issues raised by the attempt to articulate a method of selection in emergency situations. He concludes on the basis of Rawlsian principles that a presumption should be established in favor of equal access to medical care, with limited exceptions on the basis of utilitarian considerations.

Arnold & Garland, The Defense of Necessity in Criminal Law: The Right to Choose the Lesser Evil, 65 J. Crim. L. & Criminology 289 (1974). In this frequently cited article the authors advocate the codification of the defense of necessity in the proposed Federal Criminal Code. By way of background, they provide a history of the defense and cite the leading cases. The authors note that defendants are often prosecuted for political reasons. Since jury nullification is rejected by our legal system, the defense of necessity serves as a "'safety valve,'" id. at 299, to protect against the use of "the technicalities of the law . . . to harass political persons for conduct the community might not consider criminal," id. at 298.

Fuller, The Case of the Speluncean Explorers, 62 Harv. L. Rev. 616 (1949). Professor Fuller develops a hypothetical case involving explorers who, trapped in a cave, kill and consume the flesh of one of their number in order to survive. The hypothetical case differs from Holmes and Dudley & Stephens in two ways: the explorers had contact with the rescue workers who told them that help was certain not to arrive before they would starve to death, and the explorers cast lots to determine whom to sacrifice. Professor Fuller presents the opinions of five hypothetical justices who deal with the case, providing an overview of the ways in which one
can approach a case dealing with necessity.

Note, Necessity as a Defense to a Charge of Criminal Trespass in an Abortion Clinic, 48 U. CIN. L. REV. 501 (1979). This note discusses the history of the common law defense of necessity and examines the question of whether the defense should be used to justify trespass aimed at preventing the performance of abortions. The note concludes that the defense should be excluded in such cases, reasoning that the Supreme Court's decision in Roe v. Wade precludes a defendant from arguing that he chose the "lesser evil."

Note, Medical Necessity as a Defense to Criminal Liability: United States v. Randall, 46 GEO. WASH. L. REV. 273 (1978). The note discusses the Randall case, in which a defendant who suffered from glaucoma was acquitted on charges of possessing marijuana on the grounds that he used the drug to treat his disease. The note argues that this case establishes a defense of medical necessity, and endorses its result despite the flawed reasoning of the opinion.