Protecting good Samaritans *from* the law

Several countries have a Good Samaritan law that protects a person who tries to rescue a victim in an urgent situation, even if that act of helping causes harm to the victim.[1] For example, assume a car accident occurs and the car catches fire. A man who comes upon the scene gets the driver out of the car; however, moving the driver causes a spinal injury. If this event occurs in a country where rescuers can be accused, people might be reluctant to help victims in an emergency.

From a utilitarian perspective, a Good Samaritan law is completely reasonable. Basically, the idea is that legally protecting a rescuer will save more lives. Without such protection, many victims might be abandoned on the road. A slightly stronger version is a negligence law, where a person who sees a victim "should" help; otherwise, the person might be punished. Of course, the Good Samaritan law protects the helper.[2]

Thus far, everything seems crystal clear, but once regional and cultural differences kick in, we may fear potential harm to ourselves; that is, we may fear that the Good Samaritan law will not fully protect us. Let us consider a few factors. We do not identify a region intentionally. Such specific information is not the point of this editorial, and we do not want readers to think in stereotypes about any region or country.

First, in some countries and states, medical professionals are banned from practicing outside their workplace. That is, once a doctor calls it a day and leaves her office, providing any medical treatment is illegal. This policy is understandable. Otherwise, many doctors would moonlight, which naturally causes fatigue. Without a doubt, such rest deprivation would contribute to an increased possibility of malpractice.

Now, put those two laws on the opposite arms of a scale—please disregard the origin of the laws—then the comparison simply boils down to "ignore and be punished" or "help and be punished." This circumstance is certainly a catch-22. Even if a person can't breathe and the doctor has a ballpoint pen with which she can perform a tracheostomy, she might not be able to take action. If the result is bad and the Good Samaritan law protects her, the "oh, you practiced outside a hospital!" part is waiting for her. If she follows the second law, then the question of negligence arises. This dilemma quite often occurs in countries with under-developed legal systems.

Another issue is that some regions give a victim's legal guardian discretion to have somebody render aid or not. The problem here is that the operational definition of legal guardian varies by region. Thus, if a helper possesses a large amount of experience in emergency situations and is quite capable of saving a victim, once the guardian says no, the mission should be aborted. However, what if the self-claiming guardian is not considered a legal guardian in that region?

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Many more factors can come into play, and the number of situations stemming from the various combinations of such factors grows exponentially. Imagine that you are traveling abroad, where you are not at all aware of the rules of the region (honestly, most of us are not even aware of the rules in our home region). Imagine that you see a car accident. How should you react?

This question involves a highly philosophical issue, and thus it can never be fully sorted out. It will need endless discussion. At the international level, the chasm in the fundamental way of thinking may not be closed. Today, people can take advantage of biometrics and global positioning system (GPS)-based features that are built into mobile devices. With these features, people can, for example, set up their medical experiences, such as licenses or cardiopulmonary resuscitation (CPR) training. The main server in such systems contains all the different rules for the various regions and any related precedents; by utilizing them, the server can guide people in what action to take and what action to avoid. The beloved finite mixture model approach will certainly help classify past cases. Biometrics will allow access to the database, and if any legal issue is brought up, especially in a civil case, the biometrics-based authentication will serve as evidence for an insurance company regarding practice.

Society needs to advance a good distance to arrive at the place where saving lives can truly be the top priority. Yes, it will be a difficult journey. However, we do not have the right to give up. We will find a way to save lives, as we always have. We hope this short editorial provokes debate in this complex area.

References

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