

Making Good Samaritans: An Exploration of Criminal Liability for Failure to Rescue in England and Wales

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Abstract : In England and Wales, there is no duty to rescue strangers. We will be investigating whether this is correct, and whether we should introduce a Good Samaritan law. In order to explore this, firstly, we will be exploring the nature of our moral duties. How far do our moral duties extend? Do they extend only to our family and friends, or do they also extend to strangers? Secondly, even if there does exist a moral duty, should this duty be enforced by criminal law? To what extent should the criminal law reflect morality? Under English criminal law, the consensus is, that it is not the job of the English criminal law to perfect human behaviour, and whilst the law should prevent us from causing harm, it should not force us to be good. This approach is radically different from many other European countries that actually do have a Good Samaritan law. If there are compelling in principle reasons to introduce a Good Samaritan law how would we deal with the pragmatic institutional constraints? Such a law has been stated as being unworkable in practice and difficult in defining its limits. In order to verify this, we shall carry out a comparative analysis between England and selected states in the US to gauge how successful the Good Samaritan law has been in dealing with these institutional constraints. In terms of methodology, as well as a comparative analysis, we shall also be carrying out a doctrinal analysis exploring what the English criminal law's position is regarding Omissions. In conclusion, the findings so far are, whilst it is not the job of the law to perfect human behaviour, both respect for the law and the level of social co-operation will be greatly improved if the law encourages morally desirable conduct. Whilst it is possible for society to exist without a duty to assist the distressed, a society which ignores the vulnerable is cold, callous, and uncaring. After all, we all need to face up to the possibility that we may be one day be vulnerable and in need of urgent aid, and it is about time English criminal law, catches up with the majority of Europe and protects the vulnerable.

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