

The Good Samaritan Bill

Introducing immunity for rescuers

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&

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The Value of a Human Life

- Key question asked by many in public life
- Should a value be put to a human life?
- The notion of **Value of a Statistical Life**
 - US EPA computes it for impact assessments
 - US c. USD 9.2m
- Consensus that human life is priceless and invaluable, hence no monetary value can be attached to it
- **Life is not a commodity and it follows that this should be translated into political and legislative agendas**
 - Hence legislative proposals to save lives

Good Samaritan Concept

- Inspired by the Parable recounted in the Bible
- Legislative principle found in most developed countries
- Application varies significantly
- Internationally, three salient components of the concept:
 - **Duty of care/rescue:** wherein it would be a criminal offence for a person to fail to help someone needing rescue
 - **Protection of rescuers:** from both civil damages and criminal liability for any consequences arising out of the act of rescue itself
 - **Compensation to rescuers:** for damages they incurred in helping someone in need

Varied Application of Concept

- Although legislative concept and objective are identical (ie protecting someone in danger), concept is applied differently across countries and states.
 - **UK:** no duty of care, with exceptions to the rule.
 - **France:** no duty of care + no immunity to rescuer.
 - **Germany:** duty of care + immunity to rescuer.
 - **Italy:** similar to Germany but with complex considerations for immunity.
 - **Ireland:** no duty of care + protection to rescuer, excluding gross negligence or bad faith
 - **Belgium and Finland:** duty of care.
 - **US and Canada:** all States have concept with varying implementations.

Situation in Malta

- **No direct reference** to Good Samaritan Concept.
 - Reference made by the Courts in a specific drug overdose case.
- **No duty of care to assist persons in rescue** exists.
- **No immunity from liability** or damages exists.
- **The risk exposure may serve as a deterrent for the provision of rescue**
 - Even for those trained and qualified to provide aid.
- Hence the **enormous benefit** that can be derived out of the introduction of the proposed legislation.

Situation in Malta /2

- The only explicit legislative reference is found in Cap. 537

11. (1) Any person who provides assistance to another person suffering from a drug overdose by taking such person to a hospital or to a place where he can receive appropriate medical care or who seeks the assistance of the competent authorities for such a purpose shall, without prejudice to his liability for any other offence, not be liable to be prosecuted for having shared or consumed a prohibited drug in a quantity for personal use with the person suffering from the said overdose.

(2) Where the person providing assistance in accordance with sub-article (1) shall be liable to prosecution for any other offence directly connected with the overdose of the assisted person the punishment to which such person shall be liable on conviction shall be reduced by one degree.

Relevant Local Information

- Health professionals insurance covers **insured persons only whilst on duty.**
- No insurance policy for other public officers.
- **First-aid:**
 - Subsidiary Legislation in force. Difficult to assess compliance.
 - Police Officers: recruitment, in-service and 'lock-up'.
 - CP Officers: regular cycles for certification.
 - 737 out of 1700 AFM Members certified.
 - 116 out of 270 Correctional Officers certified.
 - 100 certified first-aiders at Gozo Channel.
 - Defibrillators available across most schools.
 - Limited number of defibrillators in Police Stations.

Proposed Bill

- Bill 47 *'An Act to amend the Civil Code, Cap. 16 and the Criminal Code Cap. 9, in order to make provision for immunity from liability in cases of rescue or attempted rescue.'*
- **Three amendments** intended to introduce immunity from liability:
 - Introduction of a new article 226B in the Criminal Code to protect rescuer from criminal liability.
 - The introduction of two new articles in the Civil Code to protect a rescuer from civil damages and to entitle the rescuer to claim for actual damages sustained in rescuing a third party.

Points to Highlight

- Model being adopted is to **introduce immunity/ protection from liability/damages** for a rescuer.
- Key objective of the legislation is to **remove any possible deterrent for a person to help another person who is in present or imminent danger.**
 - Few minutes of hesitation are vital.
- **No duty of care** is being imposed.
- **No additional duties for public personnel** are being implied.

***“We’re all human, aren’t we?
Every human life is worth the same,
and worth saving.”***

JK Rowling