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GOOD SAMARITAN LAWS: A GLOBAL PERSPECTIVE

I. INTRODUCTION

“Good Samaritan statute. A law that requires a person to come to the aid of another who is exposed to grave physical harm, if there is no danger of risk of injury to the rescuer.”¹

In the wake of Princess Diana’s death,² the “Good Samaritan” parable of biblical yore³ is reiterated in the backdrop of the twentieth century as the world focuses again⁴ on the duty to assist.⁵ Although millennia have passed, the parable remains controversial and relevant. While international attention centers on France’s Good Samaritan statute,⁶ this Comment explores similar statutes in Australia, the United States, and France.⁷ In particular, this Comment considers possible criminal ramifications where a gen-

1. Black’s Law Dictionary Pocket Edition 279 (1st ed. 1996).

2. See William D. Montalbano & Sarah White, *Princess Diana, Friend Killed in Paris Car Crash; Accident: Auto Goes Out of Control While Apparently Being Chased by Photographers. Driver Also Dies. Diana Was to Return to Sons Today After Vacation With New Beau, Harrods Heir Dodi Fayed*, L.A. TIMES, Aug. 31, 1997, at A1.

3. See Luke 10: 25-37.

4. A multitude of news accounts discussed possible charges involving members of the infamous “paparazzi” for their alleged disinclination in aiding the dying Princess Diana, Dodi Fayed, Henri Paul, and Trevor Rees-Jones. See, e.g., P.J. Shuey, “Good Samaritan” Law Different in U.S., CAPITAL (Md.), Sept. 7, 1997, at A6; Brian A. Lapps, Sr., *Good Samaritan Law is Worth Imitating*, NASHVILLE BANNER, Sept. 5, 1997, at A22; Dave Daley, *Few Prosecuted Under State Samaritan’ Law, Like France, Wisconsin Requires Residents to Help Crime, Accident Victims*, MILWAUKEE J. SENTINEL, Sept. 5, 1997, at 9; Mary Hynes, *Nevada Has Different Rules on Rendering Aid*, LAS VEGAS REV.-J., Sept. 3, 1997, at 3A; Charles Bremner & Andrew Pierce, *Princess’s Driver Was Drunk*, TIMES (London), Sept. 2, 1997, at 1; *Lawyers Claim It’s a Witchhunt*, HERALD (Glasgow), Sept. 3, 1997, at 1; John-Thor Dahlburg, *Driver in Crash Reportedly Was Legally Drunk*, L.A. TIMES, Sept. 2, 1997, at A1; Mark Mueller, *Princess Wore Dodi’s ‘Friendship’ Ring*, BOSTON HERALD, Sept. 4, 1997, at 4; *CNN Early Edition* (CNN television broadcast, Sept. 1, 1997).

5. This Comment uses the phrase “duty to assist” interchangeably with “Good Samaritan statute” and “Good Samaritan law.”

6. See CODE PÉNAL [C. PÉN.] art. 63 (Fr.).

7. This Comment does not consider defenses for failing to assist or the effects of botched rescue attempts, but rather the legal impetus to assist in the first place. For an analysis of Anglo-Canadian rescuer defenses, see Mitchell McInnes, *Protecting the Good Samaritan: Defences for the Rescuer in Anglo-Canadian Criminal Law*, 36 CRIM. L.Q. 331 (1994).

eral duty to assist is disregarded.⁸

This Comment contemplates the implementation of Good Samaritan statutes in additional United States jurisdictions by looking at the benefits and shortcomings of current statutes. Part II discusses the relationship between common law and civil law systems with respect to general duties to assist. Part III discusses Good Samaritan statutes in Australia, the United States, and France. Finally, Part IV analyzes the controversy surrounding Good Samaritan laws and rejects their introduction in additional United States jurisdictions.

II. DISTINCTION BETWEEN TWO PREVAILING DERIVATIONS OF LAW

A. *Good Samaritan Statutes and the Common Law Are Not Mutually Exclusive*

There is a distinction in the prevalence of Good Samaritan legislation between common law and civil law jurisdictions. Generally, common law jurisdictions disfavor a general duty to assist,⁹ whereas civil law jurisdictions prefer such a duty.¹⁰ However, there are exceptions to this generalization.¹¹ These exceptions suggest that common law and Good Samaritan statutes may coexist in one jurisdiction.¹²

8. While *civil* liability in tort certainly exists for failure to assist in many instances, an examination of *criminal* ramifications seems more timely and relevant in the wake of Princess Diana's death. Accordingly, this Comment focuses on the criminal aspects of Good Samaritan laws, with little emphasis concerning civil accountability. For a prescriptive analysis of civil liability in tort based on common law principles, see John M. Adler, *Relying Upon the Reasonableness of Strangers: Some Observations About the Current State of Common Law Affirmative Duties to Aid or Protect Others*, 1991 WIS. L. REV. 867 (1991).

9. See Samuel Freeman, *Criminal Liability and the Duty to Aid the Distressed*, 142 U. PA. L. REV. 1455, 1456 (1994).

10. See generally F.J.M. Feldbrugge, *Good and Bad Samaritans, A Comparative Survey of Criminal Law Provisions Concerning Failure to Rescue*, 14 AM. J. COMP. L. 630 (1966) (explaining the duty to assist in many post-World War II European jurisdictions).

11. This Comment discusses some notable examples.

12. See Mary Ann Glendon, *Does the United States Need "Good Samaritan" Laws?*, 1 RESPONSIVE COMMUNITY 9, 11 (1991). Glendon states:

The notion that criminal law, in addition to all the other things it does, both reflects and reinforces certain basic common values of society is much more widely accepted in the Roman-law based systems than it is in the United States and England. . . . That there is nothing 'alien' to American legal values in making the failure to come to the aid of an endangered person a criminal offense, however, is evidenced by the fact that the state of Vermont did so in 1967, in appar-

B. Historical Background

Good Samaritan laws have endured a historic legacy spanning thousands of years. One commentator suggests that early human civilization had a general duty to assist:

The concern of criminal law with the duty of passersby towards other people in danger is not of this century. In ancient Egyptian and Indian law there are provisions which order the punishment of those who fail to aid persons in danger. However, Roman law and scholastic thought were unfavorably inclined toward legislation of this nature. It is only in the nineteenth century that a similar provision reappears, in the Russian Criminal Code of 1845, followed by the criminal codes of Tuscany (1853), the Netherlands (1881), and Italy (the Zanardelli Code of 1889). Other codes in the first half of the twentieth century also conformed to this pattern; but it has been only since World War II that almost every new criminal code contains a failure-to-rescue provision.¹³

Thus, after World War II many civil law jurisdictions introduced Good Samaritan-type statutes.¹⁴

Evidence of Good Samaritan statutes' widespread implementation over the last century settles questions concerning their historic existence in civil law jurisdictions. Debate, however, still surrounds the historic existence of a general duty to assist in common law jurisdictions. One analyst, Steven Heyman, contends that common law jurisdictions required a limited state-imposed duty to assist.¹⁵ Specifically, he argues that "the traditional common law recognized an obligation—or rather a family of related obligations—to prevent criminal violence."¹⁶ Police forces supplanted

ent unawareness of the fact that it thus became the first American state to take such an approach.

Id.

13. Feldbrugge, *supra* note 10, at 630-31.

14. Good Samaritan laws were enacted during World War II as well. For example, "they first became law in France in 1941 during the German occupation, partly in an attempt to stem terrorism against the German army." Andrew Ashworth & Eva Steiner, *Criminal Omissions and Public Duties: the French Experience*, 10 *LEGAL STUD.* 153, 156-57 (1990). Thus, while the impetus to enact these statutes seems motivated by humanitarian concerns, a warring country can use them to dispel unrest. This illustrates that both altruistic and invidious concerns can motivate the implementation of Good Samaritan statutes.

15. See Steven J. Heyman, *Foundations of the Duty to Rescue*, 47 *VAND. L. REV.* 673, 689 (1994).

16. *Id.* at 685. Heyman bolsters his assertion by examining several learned treatises in addition to case law. See *id.* at 685-90.

this duty by averting criminal violence through their official capacities.¹⁷ This duty, however, does not qualify as a general duty to assist. A general duty to assist might, for example, encompass the obligation to prevent criminal violence and require a passerby to aid in the event of an accident involving no criminal act.

While most commentators do not recognize a historic general duty to assist in the common law, they generally acknowledge a somewhat limited duty in the context of special relationships.¹⁸ United States early case law recognizes this special relationships exception.¹⁹

III. GENERAL DUTIES TO ASSIST AROUND THE WORLD

A. Australia

A general duty to assist in the Commonwealth of Australia exists only in the Northern Territory.²⁰ It utilizes a statute that imposes a duty to assist even in the absence of a special relationship.²¹ A 1994 decision by the Supreme Court of the Northern Territory clarifies the nature and purpose of the statute:

Section 155 of the Code, described by a previous Attorney-General in the Legislative Assembly as "the Good Samaritan provision", provides as follows: Any person who, being able to provide rescue, resuscitation, medical treatment, first aid or succor of any kind to a person urgently in need of it and whose life may be endangered if it is not provided, callously fails to do so is guilty of a crime and is liable to imprisonment for 7 years.²²

Criminal Code section 155 addresses social concerns held in the Northern Territory.²³ As such, it marks a clear departure from

17. See *id.* at 689.

18. See *id.* at 675; Freeman, *supra* note 9, at 1456; Ann G. Sjoerdsma, *Good Samaritan Law? Not In America. Punishing Good Deeds*, ROANOKE TIMES & WORLD NEWS, Sept. 18, 1997, at A9. "A key [exception at common law] was a 'special relationship' between the victim and the would-be rescuer. Certain people have a duty of care toward others because of their relationship, usually one of dependency: the physician toward his patient, the shopkeeper toward his customer, the employer-employee, parent-child." *Id.*

19. See Wayne R. LaFave & Austin W. Scott, Jr., *Handbook on Criminal Law* § 3.3, at 1 & nn.11, 12 & 15 (1986).

20. See THE LAWS OF AUSTRALIA, 10 CRIMINAL OFFENCES, 10.1 HOMICIDE, PART C—OMISSIONS at 45 (John A. Riordan ed., 1996).

21. See Criminal Code Act § 155 (N. Terr. Austl.).

22. *Salmon v. Chute and Dredge* (1994) 4 N.T.L.R. 149, 151.

23. See *id.* at 160 ("Its basis lies in a concept of social responsibility").

most common law systems.²⁴ *Salmon v. Chute* clarifies this departure.²⁵

Salmon v. Chute involved a "hit and run" automobile accident. The appellant driver struck a pedestrian child, and proceeded to drive away without rendering assistance to his victim.²⁶ The child died thereafter due to injuries sustained in the collision.²⁷ Following his arrest, the appellant stated he had simply "panicked."²⁸ In a lower court, the appellant plead guilty to the Code section 155 charge.²⁹

On appeal, the appellant challenged his conviction and sentence under Code section 155.³⁰ In recognizing the "novel nature of the provision,"³¹ the Court divided the statute into four distinct elements. In the words of the court:

The offence comprises [four] elements. It makes it an offence for:

1. any person who, being able to provide
2. rescue, resuscitation, medical treatment, first aid or succor of any kind
3. to a person urgently in need of it and whose life may be endangered if it is not provided
4. *callously* fails to do so.³²

The Court explained each element. Element one contains three particular essentials: (1) adequate mental and physical ca-

24. *See id.* Kearney J. observes:

In short, the common law countries have not as yet introduced a more general offence of "failing to rescue", on the basis that it is both unnecessary and unworkable. Hence the path-breaking nature of the Code § 155: in a jurisdiction whose legal system is based on Australian common law concepts and approaches there now exists an offence otherwise to be found only in jurisdictions based on the civil law. Its basis lies in a concept of social responsibility: where another's life is endangered, it is seen that a person is socially and legally responsible to take such steps as he is able to avert that result, even though the endangered person is a stranger to him, and he had nothing to do with creating the dangerous situation.

Id. Note that while Kearney J.'s observations are largely true, other common law jurisdictions, particularly those in the United States, *do* have Good Samaritan laws. Perhaps more than anything, this illustrates these statutes' low notoriety.

25. *See id.*

26. *See id.* at 160-61.

27. *See id.* at 161.

28. *Id.* at 161.

29. *See id.* at 150.

30. *See id.*

31. *See id.* at 153.

32. *Id.* at 160 (emphasis added).

capacity to assist; (2) some amount of "physical proximity" between the defendant and the victim (either in presence, or by means of communication); and (3) knowledge by the defendant that the victim needs attention.³³ Alone, these elements appear quite inclusive and easily satisfied in application.

Personal action or notification of authorities on the part of the defendant in assisting the victim satisfies element two.³⁴ Element three requires that the defendant assist if the victim has a possibly life-threatening injury.³⁵ Element four, however, restrains the broad nature of the previous three elements. The term "callous" in element four requires that there be "more than normal" intent.³⁶ Additionally, this heightened intent is measured subjectively and must be proved by the prosecution beyond a reasonable doubt.³⁷ Therefore, this element tempers what otherwise might be an overly extensive assemblage of culpable offenders.³⁸

Salmon v. Chute is relevant to this Comment for a couple of reasons. It is the first case in which the Supreme Court of the Northern Territory dealt with Code section 155. Thus, the Court's approach offers a stare decisis prediction of how further applications of Code section 155 may be analyzed. Moreover, it illustrates how rarely Code section 155 applies. *Salmon v. Chute* is the sole appellate-level challenge to the Northern Territory's failure to rescue provision.³⁹

B. United States

While there is a general absence of Good Samaritan statutes in the common law jurisdictions of the United States, a duty to assist can be found in a few states.⁴⁰ For example, Minnesota, Ver-

33. *See id.* at 161.

34. *See id.* at 162.

35. *See id.* at 163.

36. *Id.* at 165.

37. *See id.* at 167.

38. Although the defendant allegedly caused the victim's injury which led to the victim's death, it is important to reiterate that section 155 does not require that the accused cause the harm to trigger section 155. Accordingly, had the defendant been a mere passerby at the scene, section 155 would require a general duty to assist.

39. *Salmon v. Chute* was decided over one decade after section 155 became law in the Northern Territory.

40. Subsequent to Princess Diana's death, several publications inaccurately claimed that the United States has no general duty to assist laws. Minnesota and Vermont employ Good Samaritan statutes comprising a general duty to assist. *See* Gloria Allred & Lisa Bloom, *We All Have a Duty to Help One Another*, L.A. TIMES, Sept. 14, 1997, at M5. All-

mont, and Wisconsin utilize them. Each state, however, employs a slightly different variation emphasizing distinct qualifications for accountability under the law.

The statutes, however, share several common factors. For example, there is little evidence of enforcement of these statutes, which creates uncertainty about their application. In addition, a caveat in each statute excuses a potential rescuer from rendering assistance if doing so would expose the rescuer to harm. Moreover, these statutes reject altogether the common law aversion towards the imposition of a duty to assist.

1. Minnesota

Section 604A.01 of the Minnesota Statutes codifies the Minnesota Good Samaritan law.⁴¹ As one reporter comments, "In Minnesota there have been *no known arrests or prosecutions* under the provision since its inception in 1983, causing some to question its usefulness."⁴² Accordingly, Minnesota lacks case law addressing the Good Samaritan law. Nevertheless, while it is difficult to forecast how the statute might work in practice, it is possible to make some general observations.

First, the statute applies to a broad scope of persons under the law.⁴³ Next, the statute requires that the potential rescuer con-

red and Bloom incorrectly state the following: "[I]n the United States, there is *no* civil or criminal law requiring a bystander to come to the aid of another. If the accident had occurred in the United States, the paparazzi could not have been charged with violating *any* law as a result of photographing rather than assisting." *Id.* (emphasis added). Had the unfortunate event ensued in Minnesota or Vermont, the photographers would have been under a duty to render aid; see also Wendy R. Leibowitz, *U.S. Lawyers Puzzled by Laws in Diana Case*, NAT'L L.J., Sept. 15, 1997, at A6 (stating inaccurately that "French Good Samaritan laws impose a duty to aid someone in distress; ours don't.").

41. See MINN. STAT. ANN. § 604A.01 (West 1997). The statute reads in part:

Subdivision 1. Duty to assist. A person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the exposed person. Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel. A person who violates this subdivision is guilty of a petty misdemeanor.

Id.

42. See Allie Shah, *How Good is "Good Samaritan" Legislation? It's Hard to Enforce Lending Helping Hand*, STAR-TRIBUNE (Mpls.-St. Paul) Sept. 18, 1997, at 1B (emphasis added).

43. See MINN. STAT. ANN. § 604A.01 (West 1997). "Person" is defined in the following manner:

Subdivision 2. General immunity from liability. . . . (c) For the purposes of this section, "person" includes a public or private nonprofit volunteer firefighter,

sider the harm that has befallen or will befall the victim while also ascertaining whether, in the rescuer's judgment, the harm exacted is of a serious nature. Also, the rescuer seems to be absolved of a duty if aiding would subject the rescuer or others to danger. Last, although it seems that physically aiding the victim is desired, notifying the authorities suffices under the statute.

In the absence of judicial clarification, the statute leaves many questions unanswered.⁴⁴ For example, it is unclear whether the "danger to self or others" exception is determined subjectively or objectively. The result affects the scope of the statute by allowing a potential rescuer to decide the level of involvement in a rescue. A subjective view might allow such discretion as to render the statute effectively unenforceable despite the "reasonableness" qualification.

2. Vermont

Enacted in the late 1960s, the Vermont Good Samaritan statute⁴⁵ was the first statute of its type enacted in a U. S. jurisdiction.⁴⁶ It is known as the Duty to Aid the Endangered Act.⁴⁷

volunteer police officer, volunteer ambulance attendant, *volunteer first provider of emergency medical services*, volunteer ski patroller, and any partnership, corporation, association, or other entity.

Id. (emphasis added to illustrate the encompassing nature of the definition of "person").

44. The Court of Appeals of Minnesota offered insight into the precursor of section 604A.01 in a civil matter before the court. See *Tiedman v. Morgan*, 435 N.W.2d 86, 88-89 (1989). Therein the court said:

Recognizing the absence of a Good Samaritan duty, the Minnesota Legislature first addressed the topic with a declaration of immunity for those who volunteer to render emergency care. Minn. Stat. § 604.05 (1971) (enacted by 1971 Minn. Laws ch. 218, § 1). The declaration of immunity was later accompanied by a statutory duty to volunteer reasonable assistance. Minn. Stat. § 604.05, subd. 1 (1984) (enacted by 1983 Minn. Laws ch. 319, § 1). It is evident to us that these enactments deal with the historic Good Samaritan law topic of volunteering assistance to one with whom a person has no special relationship. Until modified in 1983, no duty to volunteer assistance existed. This statutory duty contrasts markedly with established common law duties, such as the duty recognized in Minnesota since *Depue* [1907].

Id.

45. See VT. STAT. ANN. tit. 12, § 519 (West 1996).

46. See Marc A. Franklin, *Vermont Requires Rescue: A Comment*, 25 STAN. L. REV. 51, 55 (1972).

47. See VT. STAT. ANN. tit. 12, § 519, which reads in relevant part:

(a) A person who knows that another is exposed to grave physical harm shall, to the extent that the same can be rendered without danger or peril to himself or without interference with important duties owed to others, give reasonable assistance to the exposed person unless that assistance or care is being provided by others.

The Supreme Court of Vermont has interpreted Vermont's Good Samaritan statute on only one occasion.⁴⁸ In *State v. Joyce*,⁴⁹ the court refused to require a duty to "intervene in a fight" congruent with the statutory exception that the rescuer not be exposed to danger or peril while rescuing the victim.⁵⁰ In doing so, the court affected a strict interpretation of the narrow confines inherent in the statute.

As the lack of case law indicates, Vermont's Good Samaritan statute is seldom utilized. Although unclear, the record does indicate that a successful prosecution for violation of the statute has not occurred.⁵¹ Confusion surrounding whether the statute is civil or criminal in nature might explain its rare utilization.⁵² Regardless, the words of one commentator written soon after the passage of the statute remain germane: "On paper, at least, Vermont has made history, but the statute's practical effect remains to be seen."⁵³

3. Wisconsin

Since the mid 1980s Wisconsin residents have been under a duty to assist.⁵⁴ Wisconsin's statute differs from other jurisdic-

(c) A person who willfully violates subsection (a) of this section shall be fined not more than \$100.00.

Id.

48. See *State v. Joyce*, 139 Vt. 638 (1981).

49. *Id.*

50. *Id.* at 641.

51. See Lon T. McClintock, *Duty to Aid the Endangered Act: the Impact and Potential of the Vermont Approach*, 7 VT. L. REV. 143, 160 (1982).

52. See *id.* at 144.

The unique character of the Vermont approach is a blend of a civil exemption with a criminal penalty. Both characteristics are intended to promote the altruistic purposes of the statute. In analyzing the scope and application of Section 519, commentators have differed upon which characteristic is more important in achieving the statute's legislative objective.

Id. But see Franklin, *supra* note 46, at 55-57.

53. Franklin, *supra* note 46, at 61.

54. See WIS. STAT. ANN. § 940.34 (West 1997). The relevant part states:

(2)(a) Any person who knows that a crime is being committed and that a victim is exposed to bodily harm shall summon law enforcement officers or other assistance or shall provide assistance to the victim.

....

(d) A person need not comply with this subsection if any of the following apply:

1. Compliance would place him or her in danger.
2. Compliance would interfere with duties the person owes to others.

tions' statutes because it creates only a duty to report a crime or aid a victim of a crime.⁵⁵ The statute does not impose a general duty to assist; it does not obligate one to assist an accident victim where there is no criminal act.

The Wisconsin Good Samaritan statute is limited by additional constraints. It contains several broad exceptions absolving a potential rescuer of the duty if: (1) assistance renders the rescuer in danger; (2) other duties supersede the duty to the victim; or (3) if aid or calls for assistance have been rendered by others.⁵⁶ Because these exceptions seemingly create large loopholes, only a narrow thread of culpability is woven throughout the jurisdiction.

As in other jurisdictions, Wisconsin's Good Samaritan statute is infrequently applied. In *State v. LaPlante*,⁵⁷ the court upheld the first known conviction under Wisconsin's Good Samaritan statute.⁵⁸ *LaPlante* involved an attack on a partygoer conducted with the knowledge of LaPlante, the host of the party.⁵⁹ Although not among those who physically inflicted the injury, the court charged and convicted LaPlante under the Good Samaritan law for failing to offer aid or summon help after having prior knowledge of the attack and witnessing it.⁶⁰ This was the first instance the statute was used in its then eight year history.⁶¹

On appeal, LaPlante claimed the statute was unconstitutional.⁶² LaPlante argued the law, as written, did not create clearly ascertainable standards of guilt, making the statute unconstitutionally vague.⁶³ LaPlante believed the statute's language raised the following questions:

- (1) What is the level of knowledge required to impose a duty to aid;
- (2) Does the underlying crime have to have been reported to appropriate law enforcement authorities in order for the duty to report to attach;
- (3) Does the person witnessing the

-
3. In the circumstances described under par. (a), assistance is being summoned or provided by others.

Id.

55. *See id.*

56. *See id.*

57. *See State v. LaPlante*, 186 Wis. 2d 427 (1994).

58. *See Daley, supra* note 4.

59. *See LaPlante*, 186 Wis. 2d at 430-31.

60. *See id.* at 431.

61. *See Daley, supra* note 4.

62. *See LaPlante*, 186 Wis. 2d at 431.

63. *See id.* at 433.

crime actually have to believe that a crime was being committed; (4) What is the nature of the four exceptions listed in § 940.34(2)(d)(1-4), STATS.; (5) Does the duty to report attach only while the crime is being committed and not afterwards; and (6) When does a person become a victim?⁶⁴

The court addressed these assertions. Regarding the first and third arguments, the court determined the state had the burden of proof to convince the finder of fact that the defendant "believed a crime was being committed and that the victim was exposed to bodily harm."⁶⁵ The court rejected the second argument (questioning whether the underlying crime had to be reported before the duty to report attached) as rarely plausible and simply "absurd."⁶⁶ In the fourth argument, the court placed the burden of proof on the defendant to prove whether an exception applies.⁶⁷ The court did not address argument five because *LaPlante* was present when the attack occurred and thus was within the "prohibited zone of the statute."⁶⁸ Finally, the court addressed argument six by stating that "if a person believes a crime is being committed, then, by definition, the person must necessarily also believe there is a victim of that crime."⁶⁹

While the court's analysis of the Wisconsin Good Samaritan statute is clear, the impact of the *LaPlante* decision is not. It is striking to note that even though the court upheld the statute and affirmed *LaPlante*'s conviction, Wisconsin's Good Samaritan law remains largely unused.⁷⁰

C. France

France, like its civil law continental neighbors, has codified a Good Samaritan statute.⁷¹ It imposes a general duty to assist, re-

64. *Id.* at 433 (citation omitted).

65. *Id.* at 434.

66. *Id.*

67. *See id.* at 435.

68. *Id.* at 435-36.

69. *Id.* at 436.

70. *See Daley, supra* note 4.

71. Article 63 reads:

Art. 63 (L. n° 54-411 du 13 avr. 1954) << Sans préjudice de l'application, le cas échéant, des peines plus fortes prévues par le présent code et les lois spéciales, sera puni d'un emprisonnement de trois mois à cinq ans >> (Ord. n° 45-1391 du 25 juin 1945) et d'une amende de 360 F à 20 000 F, ou de l'une de ces deux peines seulement, quiconque, pouvant empêcher par son action immédiate, sans risque pour lui ou pour les tiers, soit un fait qualifié crime, soit un délit contre

quiring no special relationship between the victim and potential rescuer.⁷² For clarity, the statute may be divided into several elements. The law requires that the rescuer be capable of assisting the victim;⁷³ that the rescuer subjectively believe the victim is in danger;⁷⁴ and that the assistance expose neither the victim nor the rescuer to danger.⁷⁵ Furthermore, if a potential rescuer caused the mishap, the rescuer has a duty to free the victim from danger.⁷⁶

French law requires that the victim must in fact be in danger for assistance to be legally required.⁷⁷ Stated another way, the French courts require "that the danger be 'real.' The opposite to real danger is not possible danger, but presumed danger."⁷⁸ As a component of this requirement, "French courts have elaborated the requirement that the danger must necessitate immediate interference."⁷⁹ It appears, therefore, that timeliness serves to narrow culpability under Article 63.

The law's requirements of imminent and actual danger nar-

l'intégrité corporelle de la personne, s'abstient volontairement de la faire.

Sera puni des mêmes peines quiconque s'abstient volontairement de porter à une personne en péril l'assistance que, sans risque pour lui ni pour les tiers, il pouvait lui prêter, soit par son action personnelle, soit en provoquant un secours.

Sera puni des mêmes peines celui qui, connaissant la preuve de l'innocence d'une personne incarcérée provisoirement ou jugée pour crime ou délit, s'abstient volontairement d'en apporter aussitôt le témoignage aux autorités de justice ou de police. Toutefois, aucune peine ne sera prononcée contre celui qui apportera son témoignage tardivement, mais spontanément.

Sont exceptés de la disposition de l'alinéa précédent le coupable du fait qui motivait la poursuite, ses coauteurs, ses complices et les parents ou alliés de ces personnes jusqu'au quatrième degré inclusivement.

C. PÉN. art. 63.

72. See Ashworth & Steiner, *supra* note 14 at 153, 157.

73. See *id.* at 157. "Thus the non-swimmer would not commit the offence by failing to try to rescue personally someone who was drowning, although the non-swimmer would be expected to do any other acts which were possible, such as summoning help or throwing a lifebelt." *Id.*

74. See *id.* at 158.

75. See Feldbrugge, *supra* note 10, at 644:

Here it is argued that one will always be able to offer some help which will not bring with it any risk to the helper; only total inaction on the part of the potential rescuer should lead to criminal liability. The French courts seem to settle for an intermediate point of view: where the help which is being offered exceeds a certain measure of inadequacy, criminal liability sets in.

76. See Ashworth & Steiner, *supra* note 14, at 157. "Thus the Criminal Chamber of the Court of Cassation held in 1980 that a conviction for intentional wounding of a person who runs away after the offence, leaving the victim unattended, does not necessarily prevent an additional conviction under article 63 (2)." *Id.*

77. See *id.* at 158.

78. Feldbrugge, *supra* note 10, at 632-33.

79. *Id.* at 634.

row culpability. Thus, enforcement has generally been limited to distinct areas such as, “motorists who fail to assist accident victims, doctors who fail to assist sick or injured people, parents who for religious reasons fail to call help for their sick children, healers who fail to advise people to take expert medical advice, and people who assist others to commit suicide.”⁸⁰ Scant numbers of recent cases, however, indicate a shift away from the law’s enforcement, coinciding with the French population’s possible unawareness of their general duty to assist.⁸¹

IV. THE DESIRABILITY OF GOOD SAMARITAN STATUTES

A. Good Samaritan Laws Are Undesirable

Many critics question the merits of a general duty to assist. Some center upon theoretical skepticism, while others warn of the practical problems associated with Good Samaritan laws.⁸² In common law jurisdictions, the theoretical problems have been summarized in the following manner:

Four major theoretical arguments have been raised in the legal literature against the duty to rescue. One asserts that omissions cannot give rise to liability because they do not cause harm. Another asserts that all non-contractual positive duties the state imposes are illegitimate. A third asserts that the duty to rescue is a type of forced altruism and that forced altruism is wrong. And the fourth holds that the duty to rescue imposes an undue burden on individual liberty.⁸³

80. Ashworth & Steiner, *supra* note 72, at 158.

81. See *Laying Down the Law*, September 3, 1997, *Newshour Transcript* (visited Nov. 6, 1997) <http://www.pbs.org/newshour/bb/law/july-dec97/french_9-3.html>. In a transcript from the PBS television program *Newshour*, Phil Ponce leads a query into the differences between French and U.S. criminal law. While questioning “Laurent Vonderweidt, a French citizen who is certified to practice law in both the United States and France,” Ponce asks if the Good Samaritan duty is “an obligation that French citizens are generally aware of, their responsibility to help out?” to which Vonderweidt replies “That’s a question that may be difficult to answer, but I do not believe that, indeed, people are aware of this, this provision of the law, so that’s pretty much what I can say. Again, I’m not sure they are aware of that. Now I’m sure they are.” This illustrates the confusion surrounding the general duty to assist in France—a duty that has existed in some form since World War II. See *id.*

82. See Larry C. Wilson, *The Defence of Others—Criminal Law and the Good Samaritan*, 33 MCGILL L.J. 756, 811 (1988).

83. *Id.* (quoting M.K. Osbeck, *Bad Samaritanism and the Duty to Render Aid: A Proposal*, 19 U. MICH. J.L. REFORM 315, 328 (1985)). But see LAFAVE & SCOTT, *supra* note 19, at 296.

These theoretical objections remain controversial after Princess Diana's death.⁸⁴ Most of these arguments focus on the importance placed on individual rights in the United States—rights that allegedly have no parallel in France.⁸⁵

Practical concerns also restrain application of Good Samaritan statutes. For example, it may be difficult for potential rescuers to know whether they are required by law to intervene.⁸⁶ And further, even if the rescuer is required to intervene, it may be tough to determine when the general duty to assist ends. Commentators ask, for example, "[W]ould this obligation include a duty to give money on demand to starving beggars?"⁸⁷ An additional concern is the fear of selective prosecution, resulting from the inherent difficulty of knowing exactly who witnessed a perilous situation and did not assist.⁸⁸

Another argument against a general duty to assist involves the potential sinister abuse of such a duty where false injuries are

Finally, the point is made that, despite frequent avowals to the contrary, we really do not view death-causing omissions in the same way as death-causing acts, so that what is in fact a distinction on moral grounds is appropriately also a distinction in the criminal law. However, this does not necessarily mean that omissions outside existing legal duty categories should be ignored by the criminal law; it may only mean that such omissions should be subject to lesser sanctions than those provided for acts which bring the same results. . . . Some of the European "Good Samaritan laws" operate in this way, and similar legislation has been adopted in a few states.

Id.

84. See Sheldon Richman, *You Can't Legislate Goodwill*, CHRISTIAN SCIENCE MONITOR, Oct. 2, 1997, at 19. "America was founded on a bedrock of inalienable individual rights. Under that theory, each person is the owner of his life and has no positive legal obligations to others that are enforceable by government except those that are voluntarily accepted." *Id.* As far as the forced altruism argument is concerned, Richman states, "People might find Good Samaritan laws reasonable because they believe people of good will should help others in distress. But where individual rights are respected and government power is limited, good will cannot be enshrined in the law. It would undermine freedom." *Id.*

85. See *Samaritans by Choice*, DENVER POST, Sept. 22, 1997, at B6. "America's legal system, based on English common law, strongly protects individuals' rights and imposes no duty on them to help out unless they choose to." *Id.*; see also Anne Cucchiara Besser & Kalman J. Kaplan, *The Good Samaritan: Jewish and American Legal Perspectives*, 10 J.L. & RELIGION 193, 196 (1993-94). "As a result of this stress upon individual freedoms and fear of governmental oppression, western law as a general rule does not impose liability on the failure to act to help another person, leaving such decisions to individual conscience." *Id.*

86. See Wilson, *supra* note 82, at 811; see also *Laying Down the Law*, *supra* note 81.

87. Wilson, *supra* note 82, at 811; see also LAFAVE & SCOTT, *supra* note 19, at 295.

88. See Wilson, *supra* note 82, at 811-12 (Mark K. Osbeck, *Bad Samaritanism and the Duty to Render Aid: A Proposal*, 19 U. MICH. J.L. REFORM 315, 336-42 (1985).)

feigned to lure good-intentioned rescuers.⁸⁹ This typically involves the following hypothetical situation: A passerby under the obligation of a Good Samaritan law happens upon a stranger apparently in need of medical assistance. After approaching the supposed victim in an attempt to render aid, the Good Samaritan is robbed or violently attacked by the "victim." Essentially, the Good Samaritan becomes the target, or victim of crime while acting in accordance with the law.⁹⁰

Perhaps the most obvious practical argument against Good Samaritan laws is the cost associated with their enforcement. The capital needed to investigate, arrest, and adjudicate violators of these laws could reach exorbitant amounts. This problem becomes apparent when examining the plausibility of enacting a duty to assist in states currently without such laws.⁹¹ Also, when the overwhelming cost associated with prosecuting violators of Good Samaritan laws is weighed against the ill that such laws are meant to curtail, it is not surprising that these laws are rarely enforced in those jurisdictions which employ them. Arguably, the resources saved by not enacting Good Samaritan laws would result in the prosecution of offenders of more serious crimes instead of violators of a general duty to assist.⁹²

B. Good Samaritan Laws Are Desirable

A fervent sentiment among some commentators extols the positive aspects of Good Samaritan laws. In the aftermath of the Princess Diana tragedy, these beliefs remain vigilant. Two general themes emerge—punishment and moral posture.

Being criminal statutes, Good Samaritan laws exact punishment for socially unacceptable behavior. As one commentator

89. See *id.* at 812; see also Sjoerdsma, *supra* note 18, at A9.

90. While this situation is deplorable, an argument can be made that it exemplifies the need for Good Samaritan legislation. Suppose a jurisdiction does not require a general duty to assist. A rescuer, acting out of individual moral discretion becomes the target of a feigning victim. Who would rescue the rescuer? In the absence of a Good Samaritan law, the discretion falls wholly on the passerby. Under a Good Samaritan law, the argument is that the likelihood of rescue is increased.

91. See Hynes, *supra* note 4. In Hynes's interview with Clark County, Nevada's Assistant District Attorney J. Charles Thompson, Thompson states, "We would need a whole new district attorney's office to prosecute those people who don't report crimes." *Id.*

92. See Shah, *supra* note 42. Shah interviews Nicollet County, Minnesota attorney Michael Riley who says, "prosecutors tend to pursue the strongest charges against an offender." *Id.*

states, "the desirability of at least punishing behavior that is outrageous in this regard has also been endorsed by Anglo-American lawyers. The practice of the courts in applying a failure-to-rescue provision shows clearly that it is precisely against outrageous behavior that these provisions are employed."⁹³ While this is true in France, the same cannot be said for Good Samaritan jurisdictions within the United States and Australia.

The problem is that Good Samaritan laws in Minnesota, Wisconsin, Vermont, and the Northern Territory are largely dormant. Accordingly, they punish nothing. This indicates either lack of enforcement of, or the need for such laws. Unfortunately, in the absence of an extremely moral or law-abiding public, the former is the more likely reason.⁹⁴ Justification, however, still exists for Good Samaritan laws beyond purposes of punishment.

Criminal law, and Good Samaritan laws in particular, serve a higher purpose apart from concerns of mere punishment.⁹⁵ These laws provide some sort of "moral compass" that points society in its proper direction.⁹⁶

Nowhere is this argument more relevant than in Minnesota. As mentioned in Part III.B.1, Minnesota's Good Samaritan statute has been fallow since its enactment in 1983.⁹⁷ An original sponsor of the bill indicates that its purpose was largely symbolic, consonant with Minnesota's vision of an ideal society.⁹⁸ Regardless, the message is clear; what at first glance appears to be lack of enforcement might actually be manifestation of legislative intent.⁹⁹

A similar situation exists in Wisconsin. In a newspaper article printed soon after Princess Diana's death, a representative from

93. Feldbrugge, *supra* note 10, at 654.

94. See Shah, *supra* note 42; Franklin, *supra* note 46, at 61; Daley, *supra* note 4.

95. See Feldbrugge, *supra* note 10, at 653-54.

96. See Glendon, *supra* note 12. Glendon declares:

The social effects of such legislation cannot be expected to be direct, or immediate, or dramatic Whether meant to be or not, law, in heterogeneous societies where it is pervasive, is regarded by many citizens as a principal carrier of the few common values that are widely shared. Under such circumstances, even the silences of the law can sometimes speak.

Id.

97. See Shah, *supra* note 42.

98. See *id.* (quoting United States Representative Bill Luther, D-Minn., who explains the purpose of the statute.).

99. *But see id.* "Former DFL Rep. Randy Staten, who sponsored the bill in the Minnesota Legislature, is more emphatic in his defense of the law. He wanted it to be used." *Id.*

the attorney general's office stated that little inquiry has been made concerning the Wisconsin Good Samaritan statute since its enactment in 1983.¹⁰⁰ Further, "[i]t's not the kind of issue that we heard a lot about before last Saturday night,"¹⁰¹ and "[w]hile it might be a little rosy-eyed to say this, I think the good people of Wisconsin generally aid victims when they see them in trouble."¹⁰² Whether the statute compels residents of Wisconsin to assist those in danger is pure speculation.¹⁰³ Nevertheless, one could suggest that Wisconsin's Good Samaritan law is an instrument of moral guidance either by legislative purpose or chance.

C. Good Samaritan Laws—A Prescription of Ineffectiveness for Further United States' Jurisdictions

In the aftermath of the Princess Diana tragedy, discussion surrounds heeding the French example by enacting similar Good Samaritan provisions in the United States.¹⁰⁴ Such a "push" for additional legislation in the United States should be reconsidered for a variety of reasons.

The prevailing argument is that the good offered by imposing a general duty to assist is outweighed by its encroachment on individual liberty and freedom.¹⁰⁵ While this argument is meritorious, it ignores that several common law jurisdictions already have Good Samaritan laws that display no glaring deprivation in these areas.¹⁰⁶ Accordingly, this argument amounts to no more than a fear-based hypothesis.

An argument based on practical experience is far more valid. By way of example, the Northern Territory, Minnesota, Vermont, and Wisconsin, all common law jurisdictions, demonstrate they are

100. See Daley, *supra* note 4 (relaying information from Wisconsin Attorney General Jim Doyle's director of research and information, James Haney).

101. *Id.*

102. *Id.*

103. If not, there would have been little need for the Good Samaritan statute in the first place.

104. See Lapps, *supra* note 4. "Now, in the aftermath of Princess Di's death, I have found something about France to truly admire, and the only thing French I think we should imitate—their Good Samaritan law whereby it is against the law not to stop and help an accident victim." *Id.*

105. See Richman, *supra* note 84.

106. Note that these concerns could be problematic under existing Good Samaritan laws if they were applied. Their neglect in Australia and the United States has occasioned only a couple of constitutional challenges. No statute has been deemed unconstitutional.

ill at ease with enforcing duties to assist. While this alone should not serve to proscribe further provisions, it is a truism that cannot be ignored. As stated earlier, common law countries such as Australia and the United States are less inclined to enact Good Samaritan laws than civil law countries such as France. Furthermore, common law jurisdictions are less inclined to enforce such laws should they exist, nullifying any punishment a statute might exact.

Criminal law punishes wrongs and gives moral direction. Because punishment is not served through the use of these statutes in common law jurisdictions, they exist only as moral compasses. This raises a pertinent question: is new Good Samaritan legislation justified in creating symbolic statutes that effect little substance?

To many, the answer is "yes."¹⁰⁷ This, however, accomplishes little. It is indisputable that the paparazzi acted reprehensibly by snapping photographs of Princess Diana and her companions instead of assisting them on that fateful August night.¹⁰⁸ It would be unwise, however, to enact Good Samaritan laws out of impulse—especially when they would amount to ineffective symbolism. An argument could be made, nonetheless, that new Good Samaritan statutes that actually punish can be enacted in the United States.

Such an argument befuddles the history of Good Samaritan laws in the United States. Princess Diana's death is not the first tragedy of its kind to incite outrage toward malevolent conduct. The Catherine Genovese murder¹⁰⁹ encouraged Vermont to enact its Good Samaritan law in 1967. The New Bedford rape incident¹¹⁰ motivated similar action in Massachusetts. Both examples are certainly as vile as the Princess Diana incident because all involve extreme examples of what many consider base moral con-

107. See Daniel B. Yeager, *A Radical Community of Aid: A Rejoinder to Opponents of Affirmative Duties to Help Strangers*, 71 WASH. U.L.Q. 1, 34 & n.160 (offering reasons why symbolic statutes are valuable).

108. See Bremner & Pierce, *supra* note 4. "Photographers are said to have spent up to ten minutes taking pictures of the dead and dying before the emergency services were called and witnesses reported that some were still swarming around the wreckage when the police arrived." *Id.*

109. See Heyman, *supra* note 15, at 677 & n.16. "In 1964, Catherine Genovese was stabbed to death over a half-hour period in the Kew Gardens section of New York City while neighbors watched from the safety of their apartments. Despite her screams and pleas for help, no one called the police during the assault." *Id.*

110. See Yeager, *supra* note 107, at 21. "In 1983, six patrons of 'Big Dan's,' a New Bedford, Massachusetts bar, raped and sodomized a twenty-two-year-old mother of two while other patrons cheered." *Id.*

duct.

Nevertheless, these noteworthy incidents and their resulting laws rest nearly forgotten. So, while commentators pine for more Good Samaritan laws, history affords the knowledge that they will be ineffective. The hope that humankind's latest brush with "Bad Samaritanism" will spawn new statutes that yield different results is unsupported by the experience of all relevant common law jurisdictions.

V. CONCLUSION

Although the public is rightly disgusted by the disinclination of the paparazzi to aid Princess Diana and her companions, the implementation of further Good Samaritan laws in the United States would be wholly symbolic. The common law aversion towards a general duty to assist has no counterpart in France or other civil law jurisdictions. Thus, the urge to emulate the French Good Samaritan law is untenable.

Furthermore, enacting legislation like in the Northern Territory of Australia, Minnesota, Vermont, and Wisconsin is an exercise in futility. These jurisdictions effectively disavow any meaningful purpose behind their duties to assist by largely relying on them as symbols of moral bearing only. What remains is no more effective than the Good Samaritan parable in the Bible itself. We do not need that lesson recapitulated to know right from wrong.

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APPENDIX

EFFECTS AND REQUIREMENTS OF A GENERAL DUTY TO ASSIST

| | <i>Australia</i> | <i>United States</i> | <i>France</i> |
|--|-------------------------------|--|------------------------|
| General Duty to Assist | No, except Northern Territory | No, except Minnesota, Vermont, and Wisconsin ¹ | Yes ² |
| System of Law | Common Law | Common Law ³ | Civil Law |
| Rescuer Must Possess Adequate Mental and Physical Capacity to Assist | Required | Minnesota-unclear, but likely yes; Vermont-unclear, but likely yes; Wisconsin-unclear, but likely yes | Required |
| Physical Proximity Between Rescuer and Victim | Required | Minnesota-required; ⁴ Vermont-no; ⁵ Wisconsin-no ⁶ | Required |
| Knowledge by Rescuer that Victim Requires Aid | Required | Minnesota-required; ⁷ Vermont-required; ⁸ Wisconsin-required ⁹ | Required |
| Personal Action on Behalf of Rescuer | Not Required ¹⁰ | Minnesota-not required; ¹¹ Vermont-not required; ¹² Wisconsin-not required ¹³ | Required ¹⁴ |

EFFECTS AND REQUIREMENTS OF A GENERAL DUTY TO ASSIST

| | <i>Australia</i> | <i>United States</i> | <i>France</i> |
|--|------------------------|--|---|
| Notification of Authorities | Required ¹⁵ | Minnesota-required; ¹⁶ Vermont-unclear, but probably required; ¹⁷ Wisconsin-required ¹⁸ | Required ¹⁹ |
| Victims Injury Must be of a Life-Threatening Nature to Require that Rescuer Assist | Yes | Minnesota-yes; ²⁰ Vermont-yes; ²¹ Wisconsin-no ²² | Yes |
| Callous Intent on the part of rescuer is necessary for conviction | Required | Minnesota-no; ²³ Vermont-no; ²⁴ Wisconsin-no ²⁵ | No |
| Danger to the Rescuer or Others While Assisting Absolves Duty | No | Minnesota-yes; ²⁶ Vermont-yes; ²⁷ Wisconsin-yes ²⁸ | Yes |
| Punishment for Failing to Assist | Up to 7 years | Minnesota-petty misdemeanor; Vermont-fine up to \$100; ²⁹ Wisconsin- "30 days in jail and a \$500 fine" ³⁰ | From 3 months to 5 years or fine of 360-20,000 francs |

1. Wisconsin requires less than a general duty to assist. See generally WIS. STAT. ANN. § 940.34 (West 1997).

2. See C. PÉN. art. 63 (Fr.).

3. All states except Louisiana.
4. See MINN. STAT. ANN. § 604A.01 (West 1997). "A person *at the scene of an emergency* . . ." *Id.* (emphasis added).
5. See VT. STAT. ANN. tit. 12, § 519 (West 1996). Unlike Minnesota law, which requires the rescuer to be "at the scene of an emergency," the Vermont statute only requires a person to have knowledge "that another is exposed . . . to harm." *Id.*; see also MINN. STAT. ANN. § 604A.01 (West 1997).
6. See WIS. STAT. ANN. § 940.34(2)(a) (West 1997). The Wisconsin statute requires only that someone "knows that a crime is being committed." *Id.*
7. See MINN. STAT. ANN. § 604A.01 (West 1997). The Minnesota statute states, "[a] person . . . *who knows* that another person is exposed to or has suffered grave physical harm." *Id.* (emphasis added).
8. See VT. STAT. ANN. tit. 12, § 519 (West 1996). The Vermont statute states, "[a] person *who knows* . . . shall . . . give reasonable assistance." *Id.* (emphasis added).
9. See WIS. STAT. ANN. § 940.34 (West 1997). The Wisconsin statute requires, "[a]ny person who knows . . . that a victim is exposed to bodily harm." *Id.*
10. Not required if rescuer properly notifies authorities.
11. Not required if rescuer properly notifies authorities. See MINN. STAT. ANN. § 604A.01 (West 1997). The Minnesota statute states that "[r]easonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel." *Id.*
12. Not required if other rescuers are providing care or assistance, if danger to self or others arises, or if there is "interference with important duties owed to others." See VT. STAT. ANN. tit. 12, § 519 (West 1996).
13. Not required if others provide or summon assistance, other duties supersede that to the victim, or if aiding would place the rescuer in danger. See WIS. STAT. ANN. § 940.34(2)(d) (West 1997).
14. See Andrew Ashworth & Eva Steiner, *Criminal Omissions and Public Duties: the French Experience*, 10 LEGAL STUD. 153, 159 (1990). "The extent of the duty in each case is an objective question for the court rather than a subjective matter for the defendant alone." *Id.*
15. Not required if rescuer takes personal action to render assistance.
16. It is not required, however, if rescuer takes personal action to render assistance. See MINN. STAT. ANN. § 604A.01 (West 1997). "Reasonable assistance *may include* obtaining or attempting to obtain aid from law enforcement or medical personnel." *Id.* (emphasis added).
17. See generally VT. STAT. ANN. tit. 12, § 519 (West 1996). Although not expressly required, a duty to notify authorities would, in some circumstances, likely provide the "reasonable assistance" obligated by the statute. See *id.*
18. It is not required, however, if rescuer takes personal action to render assistance or if others seek help. See WIS. STAT. ANN. § 940.34(2)(a) (West 1997).
19. Ashworth & Steiner, *supra* note 14, at 159. "The extent of the duty in each case is an objective question for the court rather than a subjective matter for the defendant alone." *Id.*
20. See MINN. STAT. ANN. § 604A.01 (West 1997). The Minnesota statute requires "grave physical harm." *Id.*
21. See VT. STAT. ANN. tit. 12, § 519 (West 1996). The Vermont statute requires "grave physical harm." *Id.*
22. See WIS. STAT. ANN. § 940.34 (West 1997). The Wisconsin statute states, "[a]ny person who knows . . . that a victim is exposed to bodily harm." *Id.*
23. See MINN. STAT. ANN. § 604A.01 (West 1997). Callousness does not seem to be a

requirement, although it may be presumed that offering "reasonable assistance" does not allow callous disregard. *See generally id.*

24. *See* VT. STAT. ANN. tit. 12, § 519 (West 1996). Callousness does not seem to be a requirement, although it may be presumed that offering "reasonable assistance" does not allow callous disregard. *See generally id.*

25. *See* WIS. STAT. ANN. § 940.34 (West 1997). There is no language in the statute that seems to necessitate evil intent for a conviction. *See id.*

26. *See* MINN. STAT. ANN. § 604A.01 (West 1997). The Minnesota statute requires this "to the extent that the person can do so without danger or peril to self or others." *Id.*

27. *See* VT. STAT. ANN. tit. 12, § 519(a) (West 1996) ("[T]o the extent that the same can be rendered without danger or peril to himself or without interference with important duties owed to others.").

28. "A person need not comply with this subsection if . . . 1. Compliance would place him or her in danger, [or] 2. Compliance would interfere with duties the person owes to others." WIS. STAT. ANN. § 940.34(2)(d) (West 1997).

29. *See* VT. STAT. ANN. tit. 12, § 519(c) (West 1996).

30. *Few 'Good Samaritan' Laws in America, September 5, 1997*, THE ASSOCIATED PRESS (visited Nov. 6, 1997) <http://www.sltrib.com/97/sep/090597/nation_w/2594.htm>.

