

An Impending 'Good Samaritan' law in the UAE and how it could Impact the Sports Industry

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Recently, iconic Spanish World Cup winning goalkeeper Iker Casillas, during practice for his current club side, Porto, suffered a heart attack. Fortunately, in his case, trained medical professionals employed by the club (and subject to obligations to assist) were at hand and administered appropriate emergency care before he was safely transported to hospital. But what if it had happened to a fan, high in the stands during a match, or travelling to or from a sporting event with no trained professionals on duty? For many people, helping a stranger who requires assistance seems like the natural thing to do, especially in an emergency. This human instinct has been a source of many life-saving interventions and heroic bystander 'Good Samaritan' rescues over the years.

Like a number of other jurisdictions the UAE, with its expanding sports and events market, recognises the need to encourage this type of assistance by alleviating the fear of prosecution or civil liability. This article examines the dynamics relating to the impending enactment in the UAE of a specific 'Good Samaritan' law, which has been anticipated for some time. In particular, it looks at what a 'Good Samaritan' law might entail and the prevailing international standards, as well as the current position in the UAE.

Background

1. What is a Good Samaritan Law?

Good Samaritan laws are statutory provisions that offer legal protection to people who give reasonable assistance to those who are, or whom they reasonably believe to be, injured, ill, in peril, or otherwise incapacitated. The protection is intended to reduce bystanders' (including, in the sporting context, volunteers') hesitation to assist, for fear of being sued or prosecuted for unintentional injury or wrongful death. The principle of the Good Samaritan has developed over time to include first aiders and rescuers providing assistance in the aftermath of an emergency.

The Good Samaritan doctrine, which has developed in common law jurisdictions is a legal principle that protects a responding rescuer, who has voluntarily helped a victim in distress, from being successfully sued for wrongdoing. Effectively, the responder will not be held legally liable for any harm to the person assisted, as long as the responder acted rationally, in good faith, and in accordance with their level of training. The purpose is to keep people from being reluctant to help a stranger in need for fear of legal repercussions should they make some mistake in treatment.

This Good Samaritan scenario applies in all walks of life and can be of particular relevance in the sports and events context, where tens of thousands of participants and spectators travel and gather to enjoy a broad range of active and sometimes risk-involved pursuits.

2. What is the International Position?

Good Samaritan laws naturally tend to vary as specific measures are tailored and implemented to fit specific jurisdictions and account for cultural and historic practices. However, in determining optimal features for a new law in the UAE, it may be instructive to consider what common features appear in similar laws in other jurisdictions. Amongst these common features are the following points:

Imminent Peril – Good Samaritan provisions are intended for specific circumstances rather than minor incidents. In some jurisdictions this is termed ‘imminent peril’. In the absence of imminent, serious danger to life, the actions of a rescuer may be perceived to be reckless and not worthy of protection. However, what if a sports professional (e.g. a boxer) is in immediate danger, what safety protocol should apply? What if the boxer is an amateur, training at a club, without medical professionals on hand?

No Intended Reward or Compensation – Only first aid provided without the intention of reward or financial compensation is covered. Medical professionals are typically not protected by Good Samaritan laws when performing first aid in connection with their employment.

Obligation to Remain – If a responder initiates first aid, he/she should not leave the scene until it is safe to do so, a rescuer of equal or higher ability takes over, or continuing to give aid is unsafe. This can be as simple as a lack of adequate equipment or protection against potential danger to themselves.

Consent – The responder must obtain the consent of the patient, or of the legal guardian of a patient who is a minor, unless this is not possible. Consent may be implied if an unattended patient is unconscious, delusional, under the influence of medication or other chemical substances or otherwise unfit to make decisions regarding his or her safety, or if the responder has a reasonable belief that this is the case.

Duty to Assist – In most jurisdictions with such a statute, unless a caretaker relationship (such as a parent-child or doctor-patient relationship) exists prior to the incidence of illness or injury, or unless the Good Samaritan is responsible for the existence of the incidence of illness or injury, no person is required to give aid of any sort to a victim.

Current situation in the UAE

In the UAE it has been reported by a number of sources in the media that a draft ‘Rescuer Protection Law’ has been prepared with suitable input from the Ministry of Health and the Emirates Medical Association. The authors understand that the draft law has been tailored to ensure that no civil or criminal litigation may be successfully pursued against any person who has, in good faith, provided help to another person in an emergency situation. The UAE would be the first Arab country to introduce such a law.

1. What Can/Can’t a Responder Do Without Fear of Incurring Liability in the UAE?

Until a Good Samaritan Law has been enacted, it is important to keep in mind that there are a number of laws and procedures that could apply to any given set of circumstances that might

otherwise be akin to a Good Samaritan situation, when an individual offers first aid as a rescuer.

Abu Dhabi police have previously stated it is a criminal offence not to immediately contact police in the event of a traffic injury, but pursuant to the UAE Penal Code, it may also be an offence to provide assistance without being trained in first aid. No criminal offence will have occurred, in a broad first aid context, if medical treatment administered has been performed in accordance with accepted scientific principles. The consent of the patient is required (express or implied), unless medical interference is required in emergency cases.

There are certain contexts in which urgent care by non-professionals has been recognised by law. Specifically, in the workplace context, employers will be aware of the minimum first aid requirements under the UAE Federal Labour Law, Law No. 8 of 1980. Sharia law principles do not expect that a rescuer should be competent before assisting someone suffering from a heart attack. In the UAE, a first aid Fatwa allows for a non-Muslim to provide first aid to a Muslim, and for a male to administer first aid to a female. However, employers ought to note carefully in employment files, if there are specific objections to this until the new Good Samaritan Law is fully in force.

With reference to the educational setting, schools in the UAE must have at least one full time nurse and one part time doctor where the school has upwards of 1,000 children. The requirements increase to one full time nurse and at least two full time doctors for schools with up to 2,000 children, in accordance with the School Clinic Regulations administered by the Ministry of Health and Prevention. The Ministry of Interior arranged installation of 82 defibrillators across the UAE during 2016 to ensure lifesaving is a priority. The Abu Dhabi Occupational Safety and Health Centre ('OSHAD') Code of Practice encourages all workplaces, worksites and corporate offices to install automated external defibrillators and install an automated external defibrillator programme.

2. What are the specific risks of acting/not acting for a bystander?

The UAE Civil Code states in part that: "Any harm done to another shall render the doer thereof, even though not a person of discretion, liable to make good the harm." Accordingly, the risks to a Good Samaritan of civil claims and or criminal prosecution are prima facie substantial. In many cases, whether it be at sporting events or in public places, the human instinct to help others will overcome immediate concerns about the potential impact upon one's own position.

If someone refrains from assisting a victim despite being in a position to do so, penalties could apply under the Penal Code. Specifically, the Penal Code provides for penalties if someone "refrained, at that moment, from helping the victim... in spite of the fact that he was capable of doing so". A personal trainer, for example, may accordingly face a dilemma when pushing a client to their limits. At what point, should they stop, and are they aware of the adequate steps which require to be taken to avoid injury?

With health and safety in contemplation, it is important to strike an appropriate balance in terms of policy. Perhaps there is a developmental aspect to this issue to the extent that the timing for a Good Samaritan law is now right; whereas prior to the proliferation of basic first aid knowledge, training and best practices the ultimate concern related to not causing harm. The Penal Code states a person may be fined or imprisoned for a period of at least one year, if they cause the death of another person, or fined or imprisoned for up to two years if an act caused the permanent disability of a victim. A Good Samaritan law could potentially reduce the risk of such provisions being applied in all but egregious circumstances.

Conclusion

We have seen a number of positive legislative steps in the UAE aimed at facilitating improved safety and security at sporting events in recent years. Provided appropriate guidelines are applied to prevent misinterpretation, the authors take the view that a Good Samaritan law would be beneficial for the UAE to promote helpful intervention and potentially life-saving assistance by decreasing bystander hesitation (i.e., to counteract the well documented 'Bystander Effect', the inhibiting influence of the presence of others on a person's willingness to help someone in need) and provide some comfort and clarity to those who may otherwise have liability concerns on assisting in an emergency situation.

Moreover, with a robust and expanding sports and events calendar and an ever-increasing profile as a global tourism hub, residents, tourists and business travellers alike should feel comfortable that this is a step in the right direction as more helping hands will be available if adverse situations arise in public spaces. Those with appropriate skills and training can feel free to follow their best human instincts and provide aid to others in need without fear of legal action.

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