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PRICE OF KINDNESS

With the fear of police harassment preventing many people from coming forward to help accident victims, there's a growing demand for a good samaritan law to protect them. **Smitha Verma** reports



being human: Thousands took to the streets to protest against the December 16 gang rape in Delhi. But when the battered and bleeding girl and her friend lay on the road, no passer-by came to their aid.

When Colonel Ritwik Kumar (name changed) picked up a road accident victim and put him in his car, little did he know that his journey wouldn't end at the hospital. The good Samaritan in him had rushed the critically injured young man to the nearest hospital in the cantonment area of Delhi. Four years later, in 2012, Kumar received a summons to appear before a district court in Delhi. Posted to Manipur now, he makes visits to the capital whenever the case comes up for hearing.

"Kumar is an example of how good Samaritans get harassed by our legal system," says Piyush Tewari, founder president, Save Life Foundation, a Delhi-based non-government organisation working on community-driven emergency medical response. "It's time we had a good Samaritan law to protect people from such hassles," he adds.

▶ Tewari has a point. Had such a law been in existence, Jaipur may not have witnessed the shocking incident of citizen apathy that was criticised widely and reported internationally. A fortnight ago, a motorcyclist who was hit by a truck lost his wife and eight-month-old daughter because he could not get them to emergency medical care on time. His pleas for help fell on deaf ears as passing motorists slowed down to look but did not take the victims to hospital. Evidently, they all felt that the legal complications of lending a helping hand weren't worth getting into.

Again, when the December 16 Delhi gang rape victim was left battered and bleeding on the road, no one came forward to help. The victim and her friend were taken to hospital only after the police arrived.

According to Keya Ghosh, director, CUTS International, a civil society organisation working on public interest issues, it is "fear" that stops people from helping. "Most accident victims die in the zero hour for lack of emergency medical aid. People often don't help as they fear the police will harass them unnecessarily," says Ghosh.


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Last May, Save Life Foundation filed a public interest litigation (PIL) in the Supreme Court requesting it to provide guidelines for the protection of good Samaritans who help accident victims. The court sought suggestions from the government, the National Highways Authority of India and others for framing the guidelines. "The report recommended complete immunity to good Samaritans. It was submitted in the court and is due for a hearing soon," says Tewari.

Activists feel that a good Samaritan law should not only give citizens total immunity from police questioning and detention, it should also ensure that no citizen is forced to become an eye-witness in the case. The place of questioning should be according to the choice of the good Samaritan as well.

Indeed, even existing laws do not insist that a witness needs to appear in person for every hearing of a case. Section 296 of the Criminal Procedure Code says that a witness's affidavit can be treated as evidence, points out Tewari. The section states: "The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read as evidence in any inquiry, trial or other proceeding under this Code." The court may summon the person only if there is a specific need to. "Why isn't this followed," asks Tewari.

The police are also recognising the fact that people are becoming indifferent to those in distress, and that perhaps the heavy-handedness of its own personnel has something to do with it. To counter the trend, the Delhi police launched an aggressive campaign in January with the slogan, "When seconds count, questions don't". It promised citizens that they could rush trauma victims to a hospital and leave immediately with or without revealing their identity. "The priority is the victim. So, now save a life readily, it is free of harassment" — said the advertisement.

Some say rising citizen apathy is due not just to the fear of police harassment. "Society has also lost its values and morals. Maybe a good Samaritan law will put kindness and helpfulness back in society," says Colin Gonsalves, a Delhi-based human rights lawyer.

However, most feel that it's really the attitude of the police that keeps citizens from coming forward to help. Tripti Tandon, member, Lawyers Collective, a group that provides legal aid on human rights issues, says: "It is the whole manner in which the police investigate a case that amounts to fear and harassment."

Ask Chandrika Kurup (name changed), who had a brush with police intimidation when she wanted to help an accident victim. "A couple of years ago, I saw an injured man lying on the road. When I went to a PCR van to report the matter, the cops started interrogating me," says the 57-year-old from Delhi. "I gave them my contact details and walked away, telling them to help the victim first rather than ask unwarranted questions. Perhaps a law is required to keep kindness alive," she adds.

Various forms of good Samaritan laws exist in several states in the US, and in Canada, Australia and Europe. "The laws are such that they inspire people to help accident victims or those in distress. In fact, in some countries not helping an accident victim could result in punishment," says lawyer Praveen Agarwal of Agarwal, Jetley & Co.

However, even if such a law were to come into being, without effective public awareness, it would have little impact, say activists.

Laws need to be implemented too, says Ghosh. "Take the Motor Vehicles Act. Though it was amended in 1994 to make sure that no hospital turned away an accident victim in an emergency, doctors continue to wait for the police to arrive before starting treatment," she says. So more than new laws, we need awareness and execution of the existing laws, she adds.

In a country where a road accident occurs every four minutes, the demand for a good Samaritan law is growing. "Such a law is of paramount importance in India, which has little emergency care on highways. Our lawmakers should take this up as a priority," says Neeraj Kishan Kaul, senior advocate, Supreme Court.

Otherwise the tragedy that happened in Jaipur will be repeated again and again.

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