In *The Crime of Complicity: The Bystander in the Holocaust*, Professor Amos N. Guiora addresses these profoundly important and timely questions: If you are a bystander and witness a crime, should intervention to prevent that crime be a legal obligation? Or is moral responsibility enough?
Commentary: Predators depend on bystanders to do nothing

There is often a third actor who facilitates the predator-perpetrator. That actor is the bystander.

By Amos N. Guiora

More than 200 victim impact statements by women sexually assaulted over the course of two decades when they were girls, some as young as 6 years old, by a Michigan State University physician.

The Ingham County, Mich., judge, in her words, signed his death warrant in sentencing him up to 140 years.

Administrators, coaches and others were told what Dr. Larry Nassar was doing to the girls. All turned a blind eye.

So did those who knew what Harvey Weinstein and Matt Lauer were doing.

The above are predators. The sheer number of sexual assaults reflects perpetrator impunity. Their power is unchecked. That needs to be stopped.

The victims are permanently scarred, their damage immeasurable and unimaginably painful, their anger, sadness, and despair palpable.

While the victim-predator dynamic is, naturally, the focus of public and media attention, it is an incomplete configuration. In reality, the correct metaphor is a triangle, rather than a straight line connecting two actors. Why a triangle? Because there is often a third actor who facilitates the predator-perpetrator. That actor is the bystander.

The bystander is you or me.

My conviction regarding bystander centrality to the perpetrator is largely formed by my parents’ Holocaust experiences.

My mother hid in a Budapest attic until “outed” by a neighbor. My father survived two death marches. In my father’s case, Serbian villagers taunted him with water, never offering haven or solace. In my mother’s case, Hungarian Gentiles turned their backs on a 12-year girl, with her mother, frantically searching for safe houses.

For me, the contemporary bystander is legally complicit in the perpetrator’s actions.
The perpetrator is dependent on bystander inaction. That inaction facilitates the perpetrator. It is the crime of omission. While the bystander is not responsible for the initial harm, the conscious decision not to act enhances the vulnerable victim's peril.

What does this mean practically?

Democratic House Minority Leader Rep. Brian King’s House Bill 125 — Duty to Assist in an Emergency -- was voted out of the House Judiciary Committee, 9-3, last week and will come to a vote before the House of Representatives this week.

King’s bill would require Utah citizens to assist those suffering serious bodily injury associated with a crime or another emergency. King’s bill does not require anyone to take actions that would put themselves at risk or in danger to help another human being.

“We’re not asking anyone to be a hero,” said King. “This is just codifying our society’s reasonable expectation that you should take reasonable action, such as calling 9-1-1 when you see someone who is hurt, or if you see something that you know is a crime.”

According to King, “If a person sees a crime being committed, or sees someone in dire need of help, but that person intentionally chooses not to call for help, that may make them complicit. In those circumstances, I think it is appropriate to give our prosecutors tools to ensure there are consequences.”

Critics suggest, “We know to do the right thing” and that bystander obligation must be viewed through the lens of morality exclusively. Others argue bystander obligation law will overwhelm law enforcement with frivolous claims by busybody neighbors. The bill as drafted makes that very unlikely. But it is a possibility. To outright dismiss that concern is fool’s gold.

However. There is a compelling response: The victim — whether at the hands of Harvey Weinstein or an unfortunate fall -- lying on the ground hoping you will push 9-1-1 on your cellphone.

Calling law enforcement, drawing their attention to a human being in peril, is a low bar. There is no requirement you physically intervene. Actually, the only physical act required of you is to pull your cellphone out of your pocket, push three numbers and inform law enforcement.

Ask victims of sexual assaults, ask yourself if you have had a bad fall, ask your family member who was in peril.

The requirement King’s legislation proposes really is minimal.

Just dial 9-1-1. If you see suffering say something. It’s that simple.
Commentary: Dealing with the world right now is exhausting, but the consequences of being a bystander are too high

By Amos N. Guiora

The 24-hour news cycle is exhausting. News fatigue is an increasing malady. Thoughtful, engaged people raise their hands and, like Roberto Duran, say, “No mas.”

On the one hand, this is understandable. After all, how much news can an individual digest in one day? ICBM’s from North Korea. Matt Lauer’s endless sexual assaults only pale in comparison to Harvey Weinstein’s criminal behavior. General Flynn “flips.” Jared Kushner appears to be implicated in serious legal issues. Tax cuts — are they good or bad for me?

Whew. That’s a mouthful.

On the other hand, passivity in the face of extraordinary events comes with a cost. History has, repeatedly, demonstrated -- tragically and compellingly -- that disengagement clears the playing field for extremists. There is great danger, obviously, in the middle — whether right or left leaning -- metaphorically muting the sound button.

Regardless of one’s political slant, politics in America these past few years has been ugly. This is, unfortunately, not new. One recalls Sen. Joseph McCarthy. The assassinations of President John F. Kennedy, his brother, Sen. Robert F. Kennedy, and the Rev. Dr. Martin Luther King Jr. The race riots of 1964, 1965, 1967 and 1968 and the violent actions of the Weathermen. These are but examples of hatred and violence that traumatized the U.S. in a different era.

However, there is -- I suggest -- a difference at the moment that requires our attention and makes “couch sitting” fraught with danger. The distinction between the contemporary era and years past is the power — positive and negative -- of social media.

Growing up in Ann Arbor, Mich., in the 1960s, a hotbed of student activism -- after all, the editors of the Michigan Daily were leaders of the Students for a Democratic Society (SDS) --the news arrived via TV, radio and the Ann Arbor News. There was a reassuring and predictable pattern and rhythm to how news was delivered. Not that the news was necessarily soothing.

For many, Walter Cronkite -- the iconic CBS newscaster -- was the avuncular uncle calmly informing his public what they needed to know. There was something reassuring in his measured, controlled, serious, yet comfortable, tone and delivery. We were assured.
That is no longer the case. News comes in all forms. Some of it accurate; some of it simply false and incorrect. Those who convey false information -- such as Brian Ross of ABC News -- must be sanctioned. The information-disinformation “tit for tat” exacerbated or facilitated -- depending on one’s perspective -- by the anonymity guaranteed by social media is a profound game-changer. It has a direct impact on the political culture and our obligation in the face of hate.

Words have meanings.

I know this because I have been the target of death threats. The threats were in response to some of my writings. It is most unsettling. It is also empowering. It presents a “black-white” narrative: Will racism, extremism and violence prevail, or will the voices of reasoned, civil debate carry the day. Reasonable minds can disagree.

However, reasonable minds do not write (as was the case with me): “You f——— Jew bastard, the f------ train is waiting to take you to f------ Auschwitz.”

My parents are Holocaust survivors. My mother hid in a Budapest attic similar to Anne Frank. My late father survived two death marches. Passivity would not have enabled them to survive the horrors of Nazi Germany and its virulently anti-Semitic Hungarian collaborators. The murder of 450,000 Hungarian Jews in six weeks speaks for itself.

Survival required action. Hitting the mute button was not an option.

By analogy, that metaphor applies today. The political battleground is, frankly, nasty, sometimes violent. Racism and violence are clearly in the air. To gainsay that is fraught with danger.

To be a bystander is, presently, a dangerous option. Its consequences are significant. In that spirit, public engagement — on whatever level and whatever one can do in the context of daily life and its stresses and complexities -- is, truly, the call of the hour.

We need not agree, but we sure as hell must engage.
Commentary: Bystanders who watched as Weinstein abused his power are complicit in his harassment

By Amos N. Guiora

I have never met Harvey Weinstein. I have no interest in talking with him. If half the stories circulating in the media are true, then Mr. Weinstein represents the very worst of male behavior. His actions are best left to prosecutors and the courts.

The allegations against Mr. Weinstein are horrific. What is of equal concern, however, is the behavior of those who stood by to let the abuse of power by Weinstein continue for decades.

At the moment, those who enabled and facilitated Weinstein’s abhorrent behavior are trying to lessen their role by issuing self-serving reports of surprise and disgust through their various spokespeople, agents and representatives. Each statement presents varying justifications for the enabling behavior. Some suggest they were forced to standby because of Mr. Weinstein’s financial power and ability to make — or break — a career.

Those enablers and facilitators — whether they saw, heard, understand — are complicit in Weinstein’s egregious behavior. Some of them, as we have come to learn, bystanders. Many knew but made the deliberate decision to ignore.

The issue of bystanders ignoring moral dilemmas in society is nothing new. I addressed the crime of complicity in the context of the Holocaust in my book, The Crime of Complicity: The Bystander in the Holocaust. I did so for two reasons: to honor my parents who survived the Holocaust and to directly address the question of complicity in sexual assaults. In the crimes I researched — the rape and murder of Sherrice Iverson in Las Vegas and the rape and sodomy of a college student at Vanderbilt University — bystanders willingly chose to turn their backs on victims who were in clear, immediate and acute distress.

For me, the crime of complicity is not a moral crime but rather a legal crime. The bystander, who willingly and knowingly turns his or her back, on the vulnerable victim has committed a crime. The only action I propose be imposed on the bystander is to alert law enforcement or first responders that another human being is in distress.

The failure to render assistance exacerbates victim peril. The requirement to call for assistance — when literally everyone has a cell phone or immediate access to a cell phone — is, frankly, a “low bar.” There is no expectation, much less demand, that the bystander physically intervenes. Heroism is not required or expected. That would impose a duty that goes substantially what I recommend.

Opposition to my proposal focuses on the practicality of implementation. Other voices suggest imposing a duty on a bystander cannot cross from the moral plane to the legal field because, so goes the refrain, “we know what to do.”
Both arguments are logical and understandable.

However, I suggest the following: conversations with prosecutors puts the lie to the argument that the crime cannot be prosecuted. That was made very clear when I discussed the proposal with prosecutors. Regarding the second argument: the age-old parable notwithstanding, history is replete with endless examples where, no, “we didn’t do the right thing.”

Martin Niemoller famously wrote:

“First they came for the Socialists, and I did not speak out —

Because I was not a Socialist.

Then they came for the Trade Unionists, and I did not speak out —

Because I was not a Trade Unionist.

Then they came for the Jews, and I did not speak out — Because I was not a Jew.

Then they came for me — and there was no one left to speak for me.”

That is the essence of complicity and the consequences of willful complicity. The women who were victimized by Weinstein are just that, victims. The enablers and facilitators are complicit in the harm that befell that.

To express regret and remorse in the aftermath of the disclosures is, at best, crocodile tears. The failure to stand up makes one complicit. No more, no less.

And that, to seek to ensure that “enough is enough” is not only a mantra but actually how we live, must be understood to be a crime.
When lives are at stake, should it be a crime to look the other way?

By Brian Dickerson

More than half a million Hungarian Jews were exterminated between May and July of 1944. Amos Guiora’s parents were among the fraction who survived — no thanks to their gentile neighbors in Budapest and Serbia, who offered scant protection from the occupying Nazis’ killing machine.

Alexander Guiora escaped from a German work camp in Serbia, then led four other inmates on a desperate, 81-mile walk to Sofia. They traveled at night after discovering that civilians near the camp were more interested in taunting Jewish fugitives than in sheltering them.

In Budapest, meanwhile, Alexander’s 12-year-old wife-to-be narrowly escaped execution after being flushed from her apartment by Hungarian collaborators. She spent most of 1944 hiding from the occupiers and Hungarian neighbors wary of crossing them.

Now a retired Israeli Defense Forces officer turned University of Utah law professor, Amos Guiora, 60, has spent much of the last half-century thinking about the role bystanders play in perpetuating the suffering meted out by genocidal dictators and small-time criminals alike.

Last spring, after four years of research that included awkward encounters with some of the gentile families who turned a blind eye to the plight of Hungary’s Jews, Guiora published The Crime of Complicity, in which he argues that ordinary citizens who remain passive in the face of evil should face criminal penalties as well as moral censure.

In a phone conversation this week, Guiora said he didn't anticipate the political upheaval of 2016, in which refugees and minority groups have become the targets of nativist resentment in the U.S., the United Kingdom, and other western democracies.

But his book has become a minor sensation in an America where policy makers argue about what should happen to undocumented immigrants and the sanctuary cities that seek to protect them. There have been favorable reviews in the popular press, radio and TV appearances, and even talk of a Broadway play.
Not the Time for the Sounds of Silence

By Amos N. Guiora

My father was on a death march through Yugoslavia when liberated by Tito’s partisans in November 1944. My mother was in a courtyard in Budapest waiting to be executed by a firing squad, when Jewish resistance fighters dressed as Arrow Cross policemen intervened and saved her life. My paternal grandparents were murdered in the gas chamber at Auschwitz on May 26, 1944.

Nazi extermination of Jews and others would not have succeeded without the complicity of bystanders in Germany and elsewhere in occupied Europe. Their failure to act facilitated the actions of Hitler, Eichmann and Himmler.

The Holocaust is neither the first nor last time bystanders have stood by, complicit in the actions of the perpetrator; silent in the face of victim distress. In the current political and social culture there is a collective need to act against hatred and extremism from left and right alike. There is an absolute need to stop enabling dividers and hate mongerers. Complicity is passivity in the face of potential danger to the other. The bystander is one who stands by and chooses not to act. The combination of complicity and bystanders is deadly. It directly contributes to victim peril.

Bystander complicity is a reality in daily life. It can have horrific consequences.

Recently, in Detroit bystanders watched a 3 year-old child flail and drown in the water. They filmed the event. Not one called for help. Those bystanders made two decisions: to use their Smart phones to film a drowning child and not to dial 911. Fortunately, one person jumped into the water saving the child. Tragically, an adult who was with the child and did not know how to swim drowned.

On June 23, 2013, Brandon Vandenburg, and two other male students sodomized and raped an unconscious Vanderbilt female student in his dorm room. When Brandenburg shook his roommate, Mack Prioleau, by the shoulder suggesting he partake in the rape, Priloux—by his own account—feigned sleep because he was too uncomfortable. At some point in the night, Priooleau got up from his bed, saw the woman and went to sleep in another dorm room.

On May 25, 1997 David Cash watched his friend Jeremy Stromeyer rape seven-year old Sherrice Iverson in a Las Vegas bathroom stall. Cash walked out of the bathroom. Stromeyer strangled the child to death. Stromeyer was sentenced to life imprisonment. Cash graduated from UC Berkeley and has had a successful professional career. As he made clear in a 60 Minutes interview with Ed Bradley, he has no remorse telling Bradley, “hey, I didn’t know her.”

Those filming the child drowning, Cash, and Prioleau are all bystanders. All had the clear, unquestioned ability to help prevent egregious harm to innocent, vulnerable
individuals in profound peril. They all chose not to act.

It is a criminal act best defined as the crime of non-intervention. I believe bystanders have an obligation to intervene predicated on two conditions: victim peril is obvious and the bystander has the capability to act. The requirement to act is met by alerting first responders; actual physical intervention should not be mandated by law.

Some bystanders refuse to be complicit.

They take responsibility to protect vulnerable victims, sometimes at great risk to themselves. Very recently, a rightwing career felon verbally assaulted two women—one wearing a hijab—on a Portland train with what was characterized by a witness as “hate speech toward a variety of ethnicities and religions.” As two male onlookers tried to calm the assailant, he stabbed them to death and seriously wounded another nearby man.

That some of us take action, however, does not—and must not—provide “cover” or justification for those who fail to act. The fact some choose to intervene does not minimize the costs resulting from non-intervention of the majority of the polity. This is all the more true in today’s hyper-partisan climate. Standing against politicized bullying, lies, misinformation, fake news, hate speech, threats and violence is essential. There is no choice.

How individuals, along with leaders and their constituents, are engaging with those with whom they disagree is disconcerting and distressing. I experienced this first-hand when the neo-Nazi website, “Daily Stormer”, hosted death threats against me in response to an op-ed I wrote regarding free speech in an age of hatred. I am hardly the first nor the last to be subjected to threats conjuring up images of trains and Auschwitz.

The present political arena is, to say the least, most unpleasant. However, if there is one lesson history compellingly—and tragically—teaches us it is that the sounds of hatred and violence cannot rule the airwaves. They must be responded to. Forcefully, consistently and loudly. This is not the time for the sounds of silence.

Bystander non-intervention benefits the perpetrator; passivity and complicity are a toxic combination. Engagement is essential; passivity must not be tolerated. The risks are too great. Again.
Why It’s Vital We Remember the Bystanders to the Holocaust as well as the Criminals

By Amos N. Guiora

My new book, The Crime of Complicity: The Bystander in the Holocaust, is a personal journey exploring my parents’ Holocaust experiences. My mother survived the war hiding in a Budapest attic; my father survived both a mining-work camp in Yugoslavia (Bor) and a forced march from which he escaped when Tito’s partisans ambushed the German soldiers.

In addition to researching how they survived, something I knew very little of as a child, the book addresses the role of the bystander – in particular, the complicity of the bystander. I firmly believe that bystander non-intervention enhances victim vulnerability and facilitates perpetrator evil. It is for that reason that I advocate legislation criminalizing bystander non-intervention and am working with a member of the Utah legislature in this effort.

Non-intervention is a conscious decision. The bystander, to meet my proposed definition, must know the victim is in distress and be in a position to alert the proper authorities. There is no need for actual, physical intervention. Innumerable reasons are proffered as to “why not.” I, too, have been guilty of this. I have excuses, none particularly compelling or convincing.

The bystander is a recurring theme in history. The consequences are inevitably tragic. To wit: Pictures of lynchings graphically and convincingly illustrate crowds, enjoying their picnics, surrounded by their children as an African American is brutally murdered. While those iconic and infamous pictures also show the local sheriff casually observing mob rule, my focus is not on individuals in positions of power. They are not bystanders; they are guilty of other crimes including dereliction of duty, if not accomplices to murder.

For a previous writing project, I interviewed a distinguished academic whose beloved grandfather participated in lynchings. She explained to me that her grandfather adored her; she adored him. However, when the truth of his past came to her attention she was repulsed. I assume her anger would be mitigated had he been “in the crowd” watching others murder a fellow citizen.

While researching my present book, I met with children of bystanders who watched the Jews of Maastricht in the Netherlands make their way to the train station to be deported. One was adamant that her father bore no guilt as “he could do nothing”; the second was overcome with emotion when realizing her father’s inaction was akin to that of the bystander. She recalled in painstaking detail taking leave of her Jewish classmates and neighbors who were murdered in Auschwitz. Their faces adorn her kitchen wall.

The same cruel fate awaited my paternal grandparents. Their walk from home to the train station was, as I have come to learn, marked by taunting, hitting, jeering by their
soon-to-be erstwhile neighbors. Not one offered solace or assistance. The same combination of taunting accompanied my father as he and three other liberated prisoners walked 136 km to safety in the dead of winter. No one offered them provisions.

I offer this not to suggest that Yugoslav (they walked through present-day Serbia to Bulgaria) villagers were responsible for their travail but rather to present a compelling historical story from which we can learn much. Simply put: one of the profound lessons I learned while researching this book is that the evil of the Nazis was facilitated by the millions of bystanders. For me, that is not an abstract concept; rather, it is concrete and personal.

The idiom of failing to learn from history is oft-repeated, yet, tragically, not always applied. The book talks I have given since the book’s release have been marked by three important patterns:

- A remarkably wide range of attendees’ ages, 15 to 85 years old
- Powerful questions regarding the bystander today
- Painful sharing of family Holocaust stories

I have been asked whether the current American political climate was “in the back of my mind” when writing my book. The answer is a loud and resounding “NO.” I am not a prophet. However, I do believe that we—individually and collectively—must ask ourselves two questions: what do learn from the consequences of bystander non-intervention 75 years ago and how is that lesson to be applied in 2017?

For me, the answers are remarkably clear and simple: To minimize, if not prevent a recurrence—regardless of degree—we must engage each other and our leaders in a loud, consistent manner in accordance with the finest and time-honored manner of a civic and civil democracy. Exercising the right to vote is obvious (failure to do so is unacceptable); speaking truth to power is essential; understanding that today’s bystander is tomorrow’s victim is a theme that repeats itself; and most importantly that we owe a legal duty to intervene on behalf of another human in distress.

On June 14, 2016, I re-traced my grandparents’ horrible walk of May 26, 1944. I did so with the invaluable assistance of a Hungarian genealogist. My emotions ran the expected gamut. However, the OVERWHELMING emotion was: how could it be that NO ONE offered any assistance. That is the essence of the bystander. That same powerful, overwhelming emotion would be, I am convinced, akin to what descendants of an innocent American strung to a tree would feel were they to visit the spot where their relative was brutally murdered.

With those two awful visions in my mind, I am convinced that the effort to legislate bystander non-intervention is the obvious lesson history offers.