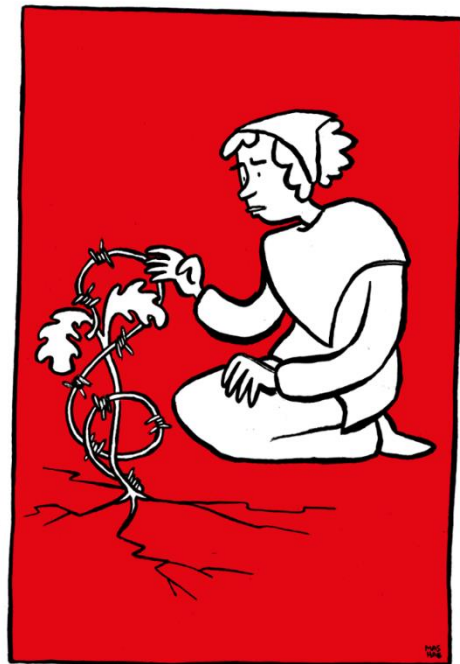


A deeply imperfect reality

KUNO Masterclass on Humanitarian
Ethics by Hugo Slim

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KUNO is an initiative of ten NGOs and seven knowledge institutes from the Dutch humanitarian sector. KUNO's goal is to strengthen the humanitarian sector in the Netherlands. KUNO is a platform for joint learning, reflection and debate. We organize expert meetings, working sessions for professionals, webinars, training and public debates. All of our events are cross-sectoral and organized in cooperation with our partners.

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1. Introduction

i. An accidental ethicist giving a masterclass

‘Who can write a paper about ethical dilemmas in humanitarian response?’ A question put to Hugo Slim to evaluate the humanitarian response to the Rwandan genocide (1994). One decade and one paper later, Hugo wrote a book about the same topic: *Humanitarian Ethics - A Guide to the Morality of Aid in War and Disaster*. It marked a trend in public thinking on humanitarian ethics¹, in which people have been able to talk openly about their own ethical difficulties.

“What is left is our ability and tools to discuss our struggles openly and thoroughly, and to agree on one of the ‘right’ answers.

On 28 January 2019, KUNO and Red Cross Netherlands organized a masterclass for humanitarian professionals. An afternoon crash course in humanitarian ethics and a discussion about people’s own moral dilemmas experienced in the field. Hugo Slim provided participants with tools on how to think about ethics and ways to address ethical dilemmas. In his words, in the end there is no ‘right’ answer in an imperfect reality, with limited power and non-ideal choices. What is left is our ability and tools to discuss our struggles openly and thoroughly and to agree on one of the ‘right’ answers.

The masterclass participants were senior humanitarian practitioners from the Netherlands Red Cross, St. Vluchteling (IRC), ZOA, MSF Netherlands, Cordaid, ICCO, Save the Children Netherlands, CARE Netherlands and Oxfam Novib, senior policy makers from the Ministry of Foreign Affairs, and senior academics from Clingendael Institute, Van Hall Larenstein University, International Humanitarian Studies Association (IHSA).

During the course, Hugo Slim often used the word ‘we’, referring to the community of humanitarian practitioners, policymakers and academics.

¹ See, for example, the books by Fiona Terry, Jennifer Rubenstein, and ‘MSF: negotiations revealed’.

2.A Crash Course in Humanitarian Ethics

ii. What are the 'ethics' in humanitarian ethics?

When we are talking about ethics, we are talking about a mixture of ethics:

- Deontological part: There are some things that are *absolutely* and *always* important. These are real commitments and values. This is mirrored in the humanitarian principles and the humanitarian imperative (i.e. the right to offer and receive assistance); we are very determined in the deontological ways. A core example is the principle of humanity: the absolute value of a human life and of the dignity of a human life. Another important principle is impartiality: we must value that humanity in everyone, everywhere. This results in an ethical commitment to respond based on need only, without any discrimination based on politics, religion or on any other ground, to every population and all people.
- Utilitarian part: We care about numbers as well. Reality forces us to make choices; we cannot cover everything or save every person in need, but we want to do that for as many people as possible. This adds a consequential utilitarian element to our ethics: numbers count. Based on utilitarian ethics, it would be wrong to spend so much time and money on just ten people if there were another 100 we could reach.
- Virtue ethics: We care about being a certain way with people and treating them accordingly, thereby showing a certain moral personality. For example, being wise, seeing things clearly, and making good judgements.
- Ethics of care: a large part of our humanitarian works is performed by caring professionals (e.g. medical, social). We have an ethic of caring for the individual and expressing humanity inter-personally. We live in tension with the big numbers (absolutes) and the need to care (what ICRC calls proximity).

All the above is structured in a principles-based framework of ethics instead of one 'Golden Rule'. A mixture of ethics: from humanity and impartiality to accountability, participation, value for money, efficiency, effectiveness, and being a good employer. Humanitarians have set themselves an enormous task in an ethical universe where we want to do good. Finally, the most profound thing about our ethics, according to Hugo Slim, is a teleology of a person not politics. Our goal (the Greek word *telos*) is 'only' the person. We are not concerned with creating the ideal political system or the way governments are organized to deliver that system. On the contrary, we are concerned with the human person and many persons, and that is the core of our ethics.

iii. Ethical Resources at our Disposal

How do we decide what is right or wrong, and what is good or bad? We have several resources at our disposal:

- (1) We have our reason as human beings. We can use it to work out what is right or wrong, good or bad. There is a long tradition of trying to reason out ethics.
- (2) We also have our emotion; we feel things, we are a sentient ethical creature, not just a rational calculating machine. When we are faced with an ethical problem, it is our emotions that prompt us first. Thus, emotion is very important, and we should always listen to that emotional stimulus in any ethical decision.
- (3) The third thing we have are habits. Ways of doing that worked well for us, good ethical rules. We developed habits as organizations and individuals about what is right and what is wrong.
- (4) We also have precedents; we have history. We can discuss the dilemmas of today, but we can go back and find examples of them in WWI (Europe), in the 1990s (Rwanda, Balkans). We can look at history retrospectively and reflectively.
- (5) We have conscience, which is close to emotion. When we start feeling bad or feeling really relaxed when we are doing something, it is usually our conscience speaking to us.
- (6) We have law: International Humanitarian Law, Human Rights Law, and Domestic Law (as an employer). Law is there to guide us because we assume law is a set of rules that is reasoned out reasonably, sensibly and ethically, by other generations and other people.
- (7) And the largest resource we have is deliberation: the ability and necessity of discussing these issues with other people. It is not like a computer in our heart. One of the best ways of making a good ethical decision is by discussing it with other people, because people experience problems in different ways. Many organizations make time for it during operations: 'what should I do?'. Hugo Slim stressed that we need to work with many communities, to deliberate with them and ask questions like: 'what is important to you?', 'how do you see the problem?', 'what would be best to you?'. Ultimately, we do not want to bureaucratize deliberation, but we want to keep it human, crisp and relational.

iv. The Humanitarian Context: One Full of Ambiguity

What does the world in which we apply humanitarian ethics look like? The answer to this question can be disheartening: our ethical reality is a deeply imperfect reality. The supply and demand for humanitarian aid is rooted in challenging problems and takes place in times of crisis; a space where human behaviour is at its worst and at its best. In this context, one thing can be certain: humanitarian agencies have restricted power and limited control. They cannot be responsible

for everything that is happening, let alone for everyone that is involved: warring parties, people trying to survive, donors, government institutions, and so on.

Thus, a context of imperfect situations, limited resources and where we are dealing with non-ideal choices, which we would never want to be faced with in the first place. In other words, our ethical reality is often dominated by ambiguity. The choices we have to make are not easy to notice. It is often unclear what the best thing or the worst thing is to do, and what will happen after we have taken a decision.

v. Ethics \neq Mathematics

Unfortunately, ethics does not equal mathematics. We do not tend to get singular and right answers to a question. Instead, there may be several answers to an ethical question, as long as we are able to explain and justify its reasoning. Humanitarian organizations may enter or leave a crisis for different but legitimate reasons. The same problem could activate diverse answers for different agencies. It is usually not a question of a 'right' answer, but a question of agreeing on one of the right answers.

vi. Simple rules: how to do ethics responsibly?

We just said that there is no singular answer to a question, but there is a clear way to do ethics. There are some simple rules to do ethics responsibly, both as an organization and as an individual.:

- 1) We need to define our purpose: what are we trying to achieve? What is rightly our goal?
- 2) We need to deliberate. What is the difficult context we are faced with? How do we understand the choices available? If you do not give a problem its due deliberation – even in your own mind - you are failing in ethics.
- 3) We have a clear obligation to ourselves and other people to explain our final choices.
- 4) We have the obligation to mitigate the worst (side) effects of our choices.

vii. The Ethical Labyrinth: Problem areas for Humanitarian Ethics

Humanitarians are faced with different types of ethical problem areas:

- Equity: what is fair, what is equal?
- Indirect harm: the risk we might make things worse rather than better.
- Direct harm: sometimes - in our work as humanitarian organizations - we can inflict harm on people.

- Paternalism: what is the right attitude as the powerful outsider towards the less powerful insiders.
- Incomparable values: we are forced to take decisions about the allocation of limited resources (e.g. women's education or food security?)
- Professional-personal clash: the fact that some of us might ethically disagree with what our organizations are asking us to do.
- Entry and exit dilemmas: When should I go into a place? When do I leave and how do I leave in the right way?
- Complicity in associational problems: working with more powerful actors, warring parties in a conflict.
- Working with others, the problem of joint enterprises, when you are constrained by the weakest member of a coalition.
- Moral damage that can happen to us. When people in our team or in the community can be damaged morally by a decision made by us.
- Humanitarian lives versus civilian lives: How should we prioritize our lives as humanitarians, compared to people who are hungry and sick, or in need of protection?
- Accountability: How much do we explicitly need to be accountable to people we are helping and to people that are providing us with money?
- Questions around silences, speaking out, and advocacy.

viii. A, B or C? Six types of choices we are faced with:

If we look at these problem areas, they present six types of choices:

- 1) Obvious choice: the choice you always want to have, because it is the easiest. Between A and B, one of the two is obviously better. A dream scenario in ethics.
- 2) Compromise: a choice that involves losses. A trade-off in which you will achieve some good, but will also lose some good things too. In humanitarian ethics, the compromise is often the best thing you can do. However, the balance must be guarded, otherwise it could turn into a rotten or false compromise.
- 3) Uncertain, veiled choice: you cannot see what will happen; you cannot anticipate entirely the reactions of the parties involved. It is like looking through a veil. You cannot see things clearly, but you are still going to have to make a choice. Very common in humanitarian contexts.
- 4) Slippery slope problem: If you agree to do something now, because it seems the best thing to do at the moment, it could set you on a very slippery downward slope. Example: paying entry fees at the checkpoint. If you pay at a checkpoint once, does that mean that everyone will have to start paying? You could start a new culture of bribes and you will have a real problem.
- 5) Dirty hands: when is it right to do the wrong thing to achieve the right thing? When is it right to be Oscar Schindler and deliberately deceive the Nazis, play a double game, be dishonest, and save 1500 Jewish people? It could be right quite

often, but it is very difficult to say it and to recommend it as a strategy. You must be very careful, because when you have a certain reputation among actors and are seen as someone with dirty hands, it is often irreversible.

- 6) Tragic choices: horrendous choices. Whatever you do, you will not be able to do the right thing, or you will be caught up in a terrible situation. A major moral dilemma, when there seems that nothing good to come out of any decision you make

ix. Responsibility: Setting the Scene

“We have to learn to live with the imperfection in humanitarian ethics.”

If humanitarians work in an imperfect reality with limited control, what are we responsible or accountable for?

- Intentions: we always have to be clear and honest about our intentions to ourselves and to others. We work in difficult places, because we are needed in these places – even when we could work in an easier setting.
- The kind of agencies we have: when do we have direct agency over a situation and ethical dilemma? When are we just dependent on other people’s agencies?
- Voluntarily versus being forced: when are we doing things voluntarily, and when are we being coerced and forced to do something? Because that reduces our moral responsibility.
- Knowledge and ignorance: that we could have in any situation. What can we really know, what do we know now, and what should we have known, and to what extent are we responsible for not knowing? Or worse; when were we negligent about acting upon or finding out information.
- Capacity: If you walk out alone on the street and there are ten people out there beating up one person. In such a case, we do not necessarily have the capacity to get in there and save that person. When we do not have the capacity to solve that problem, we cannot be made responsible for saving that person. Still, we do have the capacity to take alternative measures, like ringing the police.
- Mitigation: we must always mitigate the worse effects of our actions and we must always deliberate. You are not being ethically responsible if you are not thinking things through.

We have to think about our responsibility in any situation. About what we can do, and what we cannot do. And who else is responsible for these difficult things. Therefore, we have to learn to live with imperfection in humanitarian ethics. We are often going to be disappointed by the decisions we have to make. We must always be committed to explaining them. To our own staff, to the people that are

going to suffer or benefit from them, and we must explain them to ourselves as well. Otherwise, we will always have a certain amount of moral anxiety about why we did this and whether we should have done something else.

3. Ethical Dilemmas Humanitarian Practice

The following cases were discussed during a meeting with humanitarian professionals on humanitarian ethics. The aim of the meeting was to deliberate on ethical questions, understand what is at stake and to explain our choices, including possible ways to mitigate the potential harmful consequences of our choices. The notes on the cases reflect the different aspects touched upon during the discussion. The list of considerations is not exhaustive, nor do they represent the final and 'good' answer to a question, as there is not necessarily a correct answer to an ethical question. Case descriptions are altered for the purpose of confidentiality.

x. Sudan: leaving or staying?

In recent years, value for money, cost effectiveness, resilience and indicators combined with an urge for quick measurable results are becoming fashionable. Institutional fundraising may have its focus on the donor public, and its goals and success determined in US dollars, number of people reached, and the amount of positive branding. This means that working in difficult-to-reach and difficult-to-work-in areas may lose out to other and larger groups of needy beneficiaries who are easier to reach, to communities where work is less risky, and success guaranteed.

For example, in an isolated area of a conservative tribe, it is hard to connect with the community and to encourage change. For example, gender separation is treated as an old value and contemporary talk about gender equality will not be echoed in this cultural setting. Due to the lack of immediate results and the challenging working environment, agencies have given up and are leaving. At the same time, the area remains fragile and prone to armed conflict.

Dilemma: How to deal with these areas as an INGO. Will you leave or will you stay?

Several perspectives were given:

- Funding restrictions: donor and institutional fundraising require results. Therefore the NGO faces difficulties in endorsing this project.
- The 'right' allocation of funding: limited funding available. Would it not be better and morally responsible to invest the money in an area where there are more pressing needs and where the money will have a higher return in terms of results?
- Whose moral standards? The western humanitarian community promotes gender equality based on a particular moral framework. Are we allowed to impose our

moral standards on a community that is based on conservative/traditional values?
Is our own moral framework superior to theirs?

- Agreement: we need to consult and involve the community, to uncover their (immediate) needs and wishes. However, assistance is already an intervention, and so is community consultation. They are forced to reconsider their needs and values by an external party.

- i. Other considerations:*
 - Threshold for humanitarian aid. From a humanitarian perspective, is there an acute threat to the loss of lives that legitimizes the presence of humanitarian agencies in this area? Otherwise, development aid would be the appropriate answer in this case.
 - Existence of barriers. If change is slow and difficult, it reflects the existence of barriers that hamper change. In this case, these are cultural barriers.
 - Model case of a complex area. We need 'difficult' cases to work with as well, use them as examples. The question remains if this case is appropriate and well suited to act as such an 'exemplary case'.

- ii. Possible answers to the dilemma 'leaving or staying' (can be combined, non-exhaustive)*
 - 1) Leaving: based on the moral ground that we prioritize a situation with the highest need, in this case elsewhere.
 - 2) Leaving: the humanitarian threshold is not reached in this case, insufficient incentives to stay in this area.
 - 3) Leaving: using an appropriate exit plan and try to convince developmental actors to enter the area.
 - 4) Leaving: accepting a moral element of tragedy.
 - 5) Staying: continued threat of the loss of lives and the existence of humanitarian needs.
 - 6) Staying: it already took a long time to establish good relationships within this complex area. There is a moral relationship to stay and to continue the work that has been done, reflecting a human commitment to the people in that area.
 - 7) Staying: this area could be illustrative for a 'complex case' that could be used as an example.
 - 8) Other: the current humanitarian funding system is insufficient to deal with 'difficult-to-work-in-areas' and needs to be changed.

There is not *one* right choice. Different NGOs have different mandates, various experiences and diverse positions: the same context can lead - very rightfully - to different choices.

xi. Yemen: Positioning in the politics of war - calling for a ceasefire?

In conflict areas, humanitarian agencies are not only faced with direct suffering, but also with the politics of war. Could humanitarian organizations take a position on ceasefires or safe zones? These choices relate to the issue of neutrality and political outcomes of the decision. Especially considering the unintended consequences in the form of re-armaments during a ceasefire and other preparations for the renewed fights. Also, is there a difference between calling for something that requires military action (safe zones, humanitarian interventions, corridors) versus calling for something that does not (such as a ceasefire)?

Dilemma: when and under what circumstances do humanitarians permit themselves to take a position on the politics of war?

iii. Perspectives and Considerations

- Already involved in the politics of war. Describing the situation on the ground could already be seen as a political act, giving weight to the discussion and decisions that must be made. Still, these descriptions are often based on the legal framework of IHL, without any underlying political intentions.
- Precedence of failed ceasefires. We could learn from the past. Previous calls for ceasefires have led to even greater suffering. As humanitarian agencies we have limited or even no control on the potential circumstances.
- Obligation to reduce immediate suffering. Ceasefires could be treated as one of the policy options available to reduce the immediate suffering of the population; calling for a ceasefire could be in the best interests of the people.
- Responsibility and commitment. We cannot call for a ceasefire without appropriate follow-up actions or plan. It becomes the responsibility of the humanitarian organizations to take subsequent measures during and after the ceasefire.
- Agreement: humanitarian organizations need to refrain from a call for military intervention, because its consequences are far beyond their control. Conflict cannot be solved by humanitarian organizations.

iv. Clarifications and Assumptions

- Intention to call for a ceasefire. A general call for peace through a ceasefire is not the same as a call for the respect of International Humanitarian Law. For the general call for peace; what would be the default situation? It could probably lead

to multiple calls for ceasefires, because a call for peace is considered to be the desirable solution in almost all circumstances.

- Purpose of a ceasefire. There is an important difference between a call for a ceasefire for humanitarian purposes (e.g. transportation of the wounded, access to people to provide medical and food supplies) and a general call for a ceasefire.
- Political component. None of the ceasefires is for humanitarian purposes only. There will always be a political component and humanitarian organizations have limited agency to cope with this political element.
- No ceasefire without violence. Violence is often inherent in a call for the ceasefire, as it is used to uphold and control the absence of fighting.
- Information paradox. Humanitarian organizations could call for a ceasefire while remaining reluctant to provide detailed descriptions of the field, as it could endanger people on the ground. This leads to a moral dilemma of providing sufficient information to support and sustain a ceasefire, without sharing sensitive information on the whereabouts of the parties involved.

v. *Possible Approaches*

- 1) Call for ceasefire for humanitarian purposes only (such as evacuation of a hospital caught in crossfire). Advocacy could be an important element in achieving this goal, but the advocacy should only serve this humanitarian purpose.
- 2) Indirect tactic: use of direct observations and descriptions for a specific purpose and to show political actors the urgency of acting in the context of a conflict.

xii. Nigeria: transferring risks to sub-contractors.

INGOs face difficulties with the transportation of goods in certain areas due to limited access or the risks involved. Sometimes several roads can only be accessed using military armed escorts. Also, INGOs send supplies to areas by using commercial contractors or local organizations, thereby potentially exposing them to risks instead of going themselves.

Dilemma: How to deal with the transfer of risk to contracting parties or the principle of neutrality by using military escorts?

vi. *Considerations:*

- Sensitivity. General unease about the transfer of risk and use of local sub-contractors. Remains a sensitive issue within organizations.
- Discussion is two-fold: duty of care towards the drivers and the duty of risk assessment.
- Identical risks. Is the risk the same for both the INGOs and the local partners/sub-contractors? This is difficult to assess.
- How do we ensure the driver has a choice: Contract of the driver. What are the contractual arrangements for the driver? Was he coerced to do the task, or did he agree with, and was he fully aware of, all the risks involved?
- Motivation of the driver. What are the personal circumstances of the driver? Was he doing it for a good cause and from an internalized belief of humanity, or did personal circumstances leave him no other choice than to take the job?
- Who is responsible? What is the level of responsibility for INGOs? There is no difference in moral responsibility between the INGO and the local contractor.

vii. *Mitigating possible consequences of harm:*

- Higher salary. Is a triple salary the best mitigating tool in this case; or does it just provide such a strong incentive, since a driver will have no other choice than to take this opportunity offered?
- Life insurance. Ensure pooled life insurance within the contract. In this way the families receive a financial compensation for their possible losses.
- Risk assessments. A need for a continuous review of risks and to increase our knowledge about the risks involved. When do the risks become so high that it is no longer responsible to transport supplies using particular roads? When a certain risk is unacceptable for the international staff and the risks are the same for the local population, it is also unacceptable to send local staff on these roads. At the same time, we need to look critically to our own sense of risks (too high or too low) and our behaviour accordingly.
- Safer roads. Start a dialogue with all the parties involved to get the roads safer and to limit the harmful risks involved.

xiii. Nigeria: Food deprivation as a survival strategy

A case in which the INGO works in camps where internally displaced persons live together with host communities. When food is distributed, malnourished children are screened according to Mid-Upper Arm Circumference (MUAC) measurements to assess the nutritional status of a child, to decide if additional care or food is needed. However, there have been worrying signals that some of the families from the hosting communities deliberately decrease the food intake of their youngest children to make sure that their upper arm remains thin and that the children remain eligible for additional food according to MUAC.

Dilemma: How to deal with hosting community families giving their youngest children insufficient amount of food on purpose to be able to access food rations from relief aid to camps / host communities?

viii. Considerations:

- Is this the ethical responsibility and wrongdoing of the families with respect to their youngest children? This depends strongly on the circumstances. It is most likely that the deprivation of food is used as the only survival strategy, leaving parents with no other choice than to starve their own children. In this case, unbearable circumstances lead to tragic responses. Another reason for the deprivation of food could be that they give preferential treatment to elder and more productive members of the family, or even that they act on the basis of bad intentions: using others for their own benefit.
- Reflects the issue of INGOs on how to deal with the limited food resources available and the way these are distributed to people in need. This is a clear signal that additional funding and provision of food is needed from the donors and INGOs.
- → Agreement: the INGO has the ethical responsibility to act upon these signals.

ix. Desired actions to be taken:

- 1) Gather clear evidence about these signals.
- 2) Deliberate on a new project design; more particularly on the targeting and re-distribution strategy.
- 3) Ensure flexibility within programme design and from donors.

The masterclass showed that deliberation is important. People do access and address a dilemma in different ways. These diverse perspectives are valuable and relevant to think through; scrutinize a dilemma thoroughly. And a dilemma seldom has just one right answer.