

Challenges and dilemmas in the implementation of ethical standards in humanitarian programmes

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In this new article devoted to ethics, Gwenaëlle Luc-Menichelli ploughs the furrow of an approach to humanitarianism that is respectful as possible of the populations. Establishing the link with the previous contributions she strives to confront even more the rules of ethics with their implementation.

The four fundamental principles of ethics are justice, beneficence, non-maleficence, and autonomy. The first of these stipulates that individuals, in similar circumstances, must have equal access to assistance and care. Following this principle, whenever the allocation of resources to a group has been decided, the impact on other groups must be evaluated. The second and the third refer to the overall moral principle of bringing good to others and avoiding harm. Lastly, the respect of the autonomy of an individual or a population denotes the right to believe, to decide, and to act freely on one's own initiative¹.

Potential paradoxes

It is paradoxical that humanitarian action can find itself at odds with its own ethical principles, with those of the beneficiary, or with the broad ethical principles of the international community.

The term ethics, per se, has been historically confined to the realm of biomedical research. For humanitarians, the notion of ethics generally manifests itself in the form of standards and charters that are intended to represent, by all accounts, "universal" values.

However, in terms of the different cultural contexts of humanitarian interventions, the adoption of an ethical charter by local country personnel can, by itself, generate further ethical questions related to its contradiction with their own cultural values. As an example, an Indian humanitarian worker may have an ethical issue with the understanding of the term justice, which is inconsistent with his own socio-cultural set of values based on the caste system.

In addition, when providing aid, it is important to take into account the beneficiary's point of view to give due respect to the beneficiary's own ethical principles². Operational services generally do their utmost in this regard to act irreproachably vis-a-vis their benefactors. Accountability, though not systematically demanded nor of the highest standard, is also a factor when it comes to helping vulnerable communities and individuals.

¹ www.med.uottawa.ca/sim/data/Ethics_f.htm

² We refer here to the principle of respect of the ethics of the beneficiary, as described by Jean-François Mattei in his book *L'humanitaire à l'épreuve de l'éthique*, Éditions Les Liens qui Libèrent, 2014.

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Finally, when attempting to provide assistance to the most vulnerable, humanitarian organizations are at times faced with making compromises³ that require them to sacrifice certain principles. This occurs in the case of, for instance, facilitation payments at checkpoints, taxes remitted while recognizing the corruption of local authorities, reliance on local militia to secure premises, accommodation of qualifying criteria for targeted beneficiaries, public outcry held back when human rights have been infringed, etc.

It is well recognized that a poor grasp of the background can jeopardize the effectiveness and the legitimacy of a programme that is meant to respond to the needs of vulnerable populations. Or worse, it can bring about negative consequences that compromise the principle of “non-maleficence”.

This article describes cases of operational dilemmas in connection with the above-mentioned four fundamental ethical principles. The examples and case studies are meant to illustrate the relevant challenges and to show restrictions in their implementation. The intent is to help improve our operational practices and to learn from our decisions.

These examples are taken from case studies and testimonials, both internal and external that have been rendered on a no-name basis, and from accounts based on the author’s personal experience.

Justice

The ethical principle of justice applied to humanitarian action does not invoke redistributive egalitarianism, but provides recourse for the benefit of people in the most deprived and most vulnerable situations. The aim of justice is to reduce socio-economic disparities.

One issue that can be raised relative to the ethical principle of justice has to do with choosing a zone of intervention. Such a choice can be influenced by the socio-economic strategy of a donor selecting a priority are based on its own interests, those of a government or local authorities or inspired by security and logistics constraints. In this case, the choice is apt to be made at the expense of the needs of the most vulnerable. This type of dilemma also arises when an unexpected budgetary restriction leads to choose between limiting the scope of an intervention (e.g. helping only half the number of health centers) when needs are actually distributed equally over its perimeter, or otherwise retaining the same area for an aid programme, but with a reduced number of future beneficiaries covered under the programme or included within the scope of assistance provided.

Another type of issue surfaces when a government (or an armed group) restricts the access of humanitarian aid to a sector of the population. This can occur when there is a policy that endorses discrimination or segregation, or when census figures have been tampered (e.g. for electoral purposes). In such cases, decision-makers responsible for implementing programs are obliged to follow given quotas, or else must revise their aid plan so that they can reach out to their intended beneficiaries in spite of prior restrictive measures.

Many NGOs now advocate an integrated approach when conducting their interventions (e.g. by tying emergency responses and sustainable development to the reinforcement of public health systems). Public partnerships thus created strive to develop sustainable solutions. However, they

³ Claire Magone, Michaël Neuman and Fabrice Weissman (ed.), *Agir à tout prix ? Négociations humanitaires : l'expérience de Médecins sans Frontières*, Éditions La Découverte, 2011.

cannot become fully effective, unless, at the same time, they foster programs specifically aimed at helping those who are excluded or who live on the fringe of society. The case of the nomads in Chad, whose mode of existence is incompatible with follow-up therapeutic care in a health center, speaks for itself. The Pygmies of the Congo, widely stigmatized, even by health services, are another example that illustrates the need for sustainable solutions.

Beneficence and non-maleficence

In the case of an emergency humanitarian response, the risk-benefit balance for beneficiaries must first be determined. It is indeed a difficult task for humanitarians to acquire a clear understanding of the risks tied to a specific context, but this is nevertheless essential if any negative effect on population groups is to be averted.

One case in point was the initial medical needs assessment conducted by a non-governmental organization (NGO) on population groups living in western Chad. This NGO, in charge of conducting the evaluation, did not deem it necessary to carry out an in-depth preliminary study of the background context, and this ended up by deeply upsetting the women that had been interviewed. The purpose of the project was to collect data that would help determine the rate of contraceptive use in the area, so that family planning methods could be evaluated. The interviewers asked the women in the households for information on the method they used for the spacing of births. In response to this, some women abruptly stopped the interview: the question was perceived as an insinuation that they had been unfaithful to their husband, or that their actions had gone against their religious beliefs. In this case, the benefit derived from the information gathered must be clearly counterweighed against the grievance inflicted on the respondents.

It is therefore important to bear in mind that understanding the benefits, risks, and damages brought about by a humanitarian intervention is context-specific. It is also essential that a humanitarian organization be fully aware of the risks that it is willing to assume (or unwilling to assume), and to mitigate these risks in terms of the projected future benefits for people.

Another example highlights the extent to which beneficence is related to culture, the problem of excision that is often indicative of a need for a change of approach when assessing the risk-benefit tradeoff. In some countries, excision is traditionally claimed to cure a young girl's bout of diarrhea, but it usually is considered as a prerequisite for marriage or as a social obligation that upholds the family's honour. Therefore, denouncing or preventing this illegal practice can unfortunately lead to harmful consequences for the community as well as for the young girl and her family. This, of course, is not a matter of endorsing excision, but of showing how the principle of beneficence can be conceptually complex and subtle.

Another type of risk, rarely taken into account or counterbalanced in terms of the benefit obtained, is the financial loss borne by communities whose members are enrolled by NGOs in different activities (sensitization, community meetings, analysis of needs, etc.). For example, in the Democratic Republic of the Congo (DRC), an enquiry (a sensitization campaign) was to be carried out as part of a project during the harvest season. Villagers were advised on the preceding day by the village chief that they would have to remain in the village to meet the investigators (or mediators). Following these instructions, the villagers did not show up in the fields or at the market the next day, but lost a day of work.

Furthermore, undue harm may also be caused by an organization's logistics problems, for example when an NGO is unable to assure an uninterrupted supply of equipment and materials necessary for continuing a project or maintaining a structure: stoppages in the supply of medication are, of course, the most critical illustration of this issue.

Breaches in the data protection system of beneficiaries can also seriously undermine the ethical standard of non-maleficence. Here we can mention the case of a cash distribution project carried out in an area under the control of government opponents in a Middle Eastern country. The rebel group conditioned NGO access to the area on the receipt of a list of the beneficiaries of the project. To allow the cash distribution to proceed, the partners and benefactors of the project urged the NGO to accept, but with this breach in the principle of confidentiality, this put the beneficiaries at risk. We can also cite the case of an NGO, whose offices in the Central African Republic were ransacked by an armed group, and whose cameras, which have recorded the testimonials of people subject to religious persecution by this same group, were stolen.

More generally, the mere presence of humanitarians in certain contexts can, of itself, lead to a number of damaging consequences that have been widely reported, such as economic inflation (arising from the supply of local market commodities to NGO personnel), and a worsening security situation (in which humanitarians have been seen to fuel the desires of ill-intentioned individuals).

It is also known that local populations, attracted by the relatively large salaries of NGOs, turn to NGO jobs at the expense of positions in their country's public organizations and civil society, or in the business sector. For example, in the DRC, a job as a cook the operational base of an international NGO may pay more than a job as a nurse in a local health center. At the same time, to overcome administrative, financial and logistics constraints, some NGOs resort to local subcontractors to fill certain jobs (in particular, security guards and drivers). However, employees of local service companies do not receive the same wages or benefits as NGO personnel. Yet even though all NGO staff members partake together in their day-to-day activities, and considering that some members are often responsible for the safety of others, it is not uncommon that local employee salaries are so overdue that a driver cannot afford to buy food, or a security guard cannot afford prescribed medicine.

In interventions carried out in places such as Yemen or Myanmar, the supposed political positioning of an NGO can have negative repercussions on national personnel subject to persecution. An NGO may find itself having to choose between denouncing a policy contrary to its principles, and having to reach a compromise that will assure that it can retain access to the people targeted by its actions and promote solidarity while protecting its employees.

Another unintended side effect of humanitarian action can be demonstrated by the example of a health care center being left to its own devices for several days, because its medical staff has gone to attend a capacity-building training course conducted by an NGO, thus leaving the rural population stranded without any access to care.

In general, the risks, to which communities are exposed, are too often inadequately evaluated before and during the programme implementation. A preliminary socio-anthropological investigation is often viewed as a luxury when there is an urgent response to vital needs, or a financial constraint that requires "doing the most with the least". Even when this type of research has been carried out, the hurdle of rendering operational the socio-anthropologist's conclusions

and of concretely integrating them technically into the project's action plan must still be overcome.

Autonomy

In accordance with the ethical principle of autonomy, humanitarian action has the mission to promote respect, freedom, dignity, self-determination, independence, and to develop the capacities of the beneficiaries. This duty, mandatorily built on representative consultation and informed consent, relies on channels of participation that are sensitive to the power dynamics, the culture, and the language of a community.

Obtaining informed consent is an immensely challenging task for humanitarians. When an NGO carries out a relief project in a territory, local populations find themselves in a position whereby it becomes difficult to refuse something to an NGO that has generated expectations. This issue is particularly striking whenever photographs of the “beneficiaries” taken in the field are exploited by NGO departments responsible for communication. Informed consent is seldom requested from people pictured in the photographs, and if it is, these people must find it hard to refuse. When a photographer affiliated with the organization takes a picture, the people in it often have no idea of where it will end up, or whether it will be stored in a photo library to be later published on websites, in books, on bill-boards, or on awareness-campaign posters. Even if the person has consented to be photographed (possibly after having been pressured), can we really speak about informed consent and individual rights?

Out of respect for local customs in Chad, investigators ask permission from the village headman before carrying out their work. Later, if it comes to interviewing a woman, the husband, who asserts his authority over his wife, must first give his approval. Therefore, bearing in mind the subservient position of women in Chad, even if the investigator formally requests her informed consent, it is clear that she can hardly refuse. Is she allowed to express her disagreement, when the village chief and her husband have asked her to respond to the investigator? In accepting to be questioned, she has given her individual consent “under influence” without her autonomy and self-determination having been taken into account. Thus by upholding this cultural practice, the organization finds itself undermining the principles of equality and autonomy of women, even though its intent is to respect local traditions and the established social order: here again, keen insight is required to put the context of an intervention into its proper perspective.

Promoting the principle of autonomy entails developing the power of local communities and of individuals to decide for themselves with full knowledge of the facts. This means that the “beneficiary”⁴ must stand on an equal footing, via a relationship that is built on compassion, transparency, and honesty. The beneficiary becomes a partner in the project's decision-making process, rather a plain recipient of “aid”. Gathering the beneficiary's input on “the best way to proceed”⁵ is a vital step in this regard.

Despite the remarkable progress that has been realized in getting communities involved and in evaluating the background context of an intervention (through a study of the obstructions⁶, the capacity of resilience, the voicing of complaints, the development of community action plans, etc.), substantial efforts are still yet needed to consolidate and systematize these approaches, and

⁴ A term more and more criticized, by humanitarians themselves, for giving an overly passive image of the person.

⁵ Jean-François Mattei, « Haïti, ou l'éthique humanitaire en question », *Alternatives Humanitaires*, n° inaugural, février 2016, p. 96-107, <http://alternatives-humanitaires.org/fr/2016/01/18/haïti-ou-lethique-humanitaire-en-question/>

⁶ Bonnie Kittle, *A Practical Guide to Conducting a Barrier Analysis*, Helen Keller International, 2013, www.coregroup.org/storage/barrier/Practical_Guide_to_Conducting_a_Barrier_Analysis_Oct_2013.pdf

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to include them in all stages of the project cycle. It is a matter of developing and utilizing simple tools that can be adapted to ensure that an ethical questioning remains compatible with the requirements of humanitarian action.

Tracks for thought

By the very essence of their work, humanitarian organizations are faced daily with difficult choices, some of which may represent ethical dilemmas. Humanitarians are sometimes compelled to decide between two unattractive options when two moral imperatives contradict each other. Their final decision is often made under pressure: urgently respond and take action, sustain vital needs, rapidly deliver results to increasingly demanding donors, etc.

Operational staff members are the ones who must mainly cope with these dilemmas and most often decisions are taken by national employees, junior staff, or local partners without a prior three-way discussion with on-site supervisors or with the organization's headquarters. There is a tendency to keep these dilemmas and decisions confidential, both internally and externally, as if there were a culture of "omerta", with an implicit "Don't ask, don't tell" habit. One reason for this lack of communication between parties seems to stem from a misunderstanding or a lack of knowledge of fundamental humanitarian principles and of their ethical implications. To remedy this situation, teams in the field not only need to be sensitized to these principles, but a discussion platform ought to be set up, if need be, on a no-name basis, to focus on these matters. This platform could be moderated by one or more committees composed of senior members who would take responsibility on a case-by-case basis, and who would document the most difficult cases, along with the motivating factors, the background context, and the consequences of their decisions.

Another recommendation would be to reduce the deference to the constraints imposed by institutional or private benefactors, whose self-interests may be in contradiction with the ethical principles of humanitarian aid. Their financial support may actually be given unconditionally, but experience in fact shows that this is just as difficult to define as it is to implement. In most cases, NGOs, in responding to tender calls from donors, align their intervention policy with those of their sponsors.

NGOs generally have the never-ending duty to acquire a thorough understanding of the context of their interventions in a way that will allow them to anticipate, monitor, and mitigate risks on behalf of the communities they are ready to help. They have the responsibility of taking into consideration and accounting for the positive and negative repercussions of their actions (and those of their employees and subcontractors). NGOs need to adopt policies and mechanisms that protect the personal data of individuals benefitting from their interventions. In addition, they must minimize the power-differential inherent to situations implicating a humanitarian aid organization and vulnerable individuals. While such power-differentials are difficult to fully suppress, certain measures can be taken to identify them and minimize their impact at the start through close, transparent, and culturally adapted cooperation with the community and individuals. The most ethically pertinent suggestion would be to negotiate and strengthen community involvement in the approval process during the lifetime of the humanitarian project. An ethical and respectful humanitarianism would then ideally tend towards a system where communities lie at the heart of the decision-making process, whereby communities, and no one else, are in a position both to refuse or accept aid from an NGO and to have their own say on projects. Donors may therefore need to demand "ethical assurance" stemming from community approval/negotiation while taking on the responsibility of providing NGOs with the necessary means for an ethical humanitarian practice.

Translated from the French by Alain Johnson

Biography • Gwenaëlle Luc-Menichelli

Socio-anthropologist, specialized in applied research. Gwenaëlle has been a coordinator of humanitarian projects for international non-governmental organizations in Cameroon, Chad, Niger, Burkina Faso, Kenya, Senegal, and the Democratic Republic of Congo. Her areas of expertise lie in the analysis of the causes of undernutrition, community management of diabetes, and the prevention of sexually transmitted diseases. She works in the research department of Action against Hunger on the subject of Ethics of Humanitarianism, and is also a member of the Unit for Analysis of the Causes of Malnutrition, which prepares applicable humanitarian responses.

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