4.5: Discourse Ethics

Learning Objectives

1. Define discourse ethics.
2. Show how discourse ethics can function in a business context.
3. Note an advantage and drawbacks to the theory.

What Is Discourse Ethics?

Proponents of discourse ethics reverse the order in which we normally address ethical uncertainties. Instead of starting with one theory or another and then taking it out into the world to solve problems, they start with a problem and try to create a moral structure to solve it. Ethical solutions become ad hoc, custom generated to resolve specific conflicts. It doesn’t matter so much, therefore, that people come to an issue like bribery from divergent moral terrains because that difference is erased by the key element of discourse ethics: a foundational decision to cut away from old ideas and make new ones.

How Does Discourse Ethics Work?

When a dilemma is faced, those involved gather and try to talk it out. The discussion is constrained by two basic limits: conversation must be reasonable and civil, and the goal is a peaceful and consensual resolution. As long as these ideals control what we say, we can call the result ethically respectable.

Take the dilemma of international bribery: you’ve left your home office in New Jersey and gone to Somalia seeking to win construction business on a new airport. As the recent Transparency International Corruption Perception

What do you do? If you’re playing by hometown, American rules, your responsibility to company policy and to broad honesty and fairness requires you to walk away. But if you’re playing Somali rules where greasing a palm seems fair and acceptable, your obligation to win contracts for the company that’s paying your salary requires you to pass some cash. Discourse ethics comes in here with this: instead of trying to impose one side’s convictions on the other, the effort will be to overcome the divide by constructing a new and encompassing moral framework through common agreement. American rules and Somali rules are both thrown out, and new ones get sought. Here are steps on the way:

1. Define the immediate stakeholders—that is, those who’re most affected by the dilemma and may be gathered to resolve it. In this case, they include you and your client. Since your responsibilities to the company are reported through your supervisor, she too could be included.

2. Establish a language for discussion. In the international world this is actually a real problem. Sensibilities must be respected, and if you’re in Somalia, just assuming that everyone will speak English might be a step backward. On the other hand, you probably don’t speak Somali. This step then becomes a rehearsal for the larger problem—just as you’re separated by moral codes, so too you’re separated by languages—and you’re going to have to find a solution. You may choose a third language, you may hire an interpreter, or maybe your client will be able to speak English. In any case, an agreement must be reached.

3. Establish the goal, which in discourse ethics is always the peaceful and consensual resolution to the dilemma.

4. Define the problem. Here, it’s that when cash passes from you to the client, you feel like you’re handing over an illegitimate bribe, but he feels like he’s receiving a typical and acceptable gift. This stage of the process would require fairly lengthy elaborations by all those involved of exactly what they understand their obligations and interests to be. Your supervisor would need to explain the company policy, why it exists and how she’s responsible for upholding it. Your client might point out that his salary is quite low, and the reason for that is simple: everyone accepts that his income will be supplemented by gifts. (Here, he might sound something like a waitress in New York City explaining to a foreign diner that her salary is absurdly small, but everyone expects there’ll be some tipping, and it’ll be more than two shiny quarters.) You, finally, explain how you’re being stretched between two obligations: the one to respect company policy and the other to do the job of winning contracts.

5. Propose solutions. Discourse ethics is open, a kind of ethical brainstorming: those involved offer solutions, modify each others’ proposals, and try to discern whether a common ground can be mapped. In this case, someone may propose that the prospective client offer substantial evidence that money is expected and customary for someone in his position in Somalia. If the evidence can be produced, if it shows that payments are nearly universal, and it shows about how much they normally are, then perhaps all parties can be satisfied. Your supervisor, seeing that the amount actually forms part of a normal salary and isn’t some extraordinary payment, may be able to reason that the money isn’t a bribe because it’s not doing what bribes typically do, which is afford an unfair advantage. In this case, if everyone’s paying, then no advantage will be had. It’s important to note here that the logic isn’t if everyone does it then it’s all right, because discourse ethics doesn’t generalize like that. All conversations and solutions are about getting agreement on this one case. So your supervisor feels like handing cash over isn’t a bribe any more than tipping a waitress is. Your client, having received the money, will obviously be satisfied. You, finally, will be free to fulfill your professional obligation to win the client without sacrificing your obligation to respect company policy and your obligation to yourself to work in a way that’s honest.

If this—or any—solution is reached, then discourse ethics will have done what it promised: open a way for concerned parties to reach agreements alleviating conflicts. Whatever the agreement is, it’s an ethically recommendable solution because the definition of what’s ethically recommendable is just agreements reached through discussion.
An Advantage and Drawbacks to Discourse Ethics

The main advantage of discourse ethics is that the search for solutions opens the door all the way. Everything’s on the table. That gives those involved just about the best hope possible for a resolution benefitting everyone joined in the discussion.

There are two main drawbacks to discourse ethics. The first is that everything’s on the table. If what’s morally acceptable can be as broad as anything a group agrees to, there’s the potential for ugly solutions. On the face of it, the international bribery resolution—hand some money over because it’s not really a bribe and it’s more like tipping a waiter—seems pretty harmless. But it doesn’t take much to see a slippery slope developing. If this kind of gifting is OK in Somalia where salaries are low, then why not in the United States too if it happens that a particular client has a low salary relative to others in that line of work? Or why not every client because, really, pay in that line of work is substandard? This can go on and on, and before you know it, the entire economy is corrupted. Obviously, that won’t necessarily happen, but it could, and this is one of the reasons so many insist that any serious attempt to do ethics must begin with some basic defining of inbounds and out-of-bounds, some dividing of right from wrong. Discourse ethics doesn’t do that.

The second drawback to discourse ethics is that for every ethical dilemma faced, you have to start over. Since the entire idea is to clear the deck and make a new solution, anyone facing a significant number of ethical dilemmas in their line of work is going to be constantly clearing the deck and beginning anew. Of course there may be some components of past discussions that could be carried forward—what you learned on the trip to Somalia may be helpful in Uzbekistan—but that doesn’t change the fact that the ethical recommendation to start from zero and talk problems out is going to lead to a lot of talking.

Key Takeaways

- Discourse ethics solves dilemmas by asking those involved to discuss the matter reasonably until they can find a consensual and peaceful solution.
- Discourse ethics allows tremendous latitude in the search for solutions to conflicts, but it risks allowing solutions that many would consider unethical.

Exercise 1

1. A five-step process was discussed to chart the advance of discourse ethics. Summarize each of these steps in your own words.
2. Describe a business situation where discourse ethics might work well. Why might it succeed?
3. Describe a business situation where discourse ethics might not work well. Why might it fail?