A HIGH PLAINS DRIFTER: REMARKS ON ENGSTROM'S THE FORM OF PRACTICAL KNOWLEDGE

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1. Introduction

In the opening frame of Clint Eastwood's *High Plains Drifter*, heat waves rising from the high desert reduce the visual field to an indeterminate blur. Gradually out of this undifferentiation, a distant figure on a horse emerges. It is as though this stranger has willed himself into existence—as though the thought of his mission makes itself real though an understanding of its own efficacy, and constitutes the stranger as the subject of the film that follows. Moreover, since the efficacy of this thought originates in the consciousness of its own goodness—his mission is for good—this judgment constitutes an audience who can share the same volition and wish for its success. A morality tale follows in which the self-conceit of the people of Lago is humbled by a figure whose identity is at some level familiar, but obscured by their own misrepresentations of self-worth. In the closing frame, unhappiness now reapportioned to vice, the stranger recedes back into the same undifferentiation, his mission complete—brought to fruition but not to an end, since 'true ends', as it were, 'never bring themselves to an end' (48).

In the *Form of Practical Knowledge*,¹ Stephen Engstrom does not drift, but he does traverse the high plains of Kant's practical philosophy by a path that lifts our understanding of Kant to a higher plane. He connects Kant's Categorical Imperative with reason by showing how it can be unfolded out of the very idea of practical knowledge of objective good, where the idea of *practical knowledge* leads to the conditions of universal validity expressed in the Formula of Universal Law. He then traces its substantive implications for conduct through its application in the 'primitive act' of making happiness an end.

The Form of Practical Knowledge is a remarkably rich, insightful and deep book, and many ideas in the book deserve attention. With some difficulty, I limit myself to two—his innovative interpretation of the Categorical Imperative, and a conception of certain cognitive acts that offers insight into Kantian spontaneity as norm-guided self-determination. I'll begin with the latter.

- 1. Harvard University Press, 2009, citations in the text. Citations to Kant are given in the text by Berlin Academy volume and page, using the standard abbreviations:
 - G Groundwork of the Metaphysics of Morals
 - KpV Critique of Practical Reason
 - MdS The Metaphysics of Morals.

All are translated in Kant, *Practical Philosophy*, tr. and ed. Mary J. Gregor (Cambridge and New York: Cambridge University Press, 1996).

2. Engstrom on the Nature of Spontaneity

Engstrom attributes a kind of self-referential structure to cognitive acts such as intention, judgment, and volition (which includes wish and choice). Part of their representational content is that they take themselves to have a certain form, and this tacit self-understanding provides internal normative guidance for these activities. I'll briefly lay out the common structure of these cognitive acts: roughly, their self-understanding gives rise to an internal constitutive principle that both describes the operation of the relevant capacity and functions as its regulative norm. This structure gives us a way to conceptualize the nature of spontaneity as activity that is both self-determining and norm-guided.

Intention is self-consciously efficacious thought or 'action specification' (64). It is a representation of an object or action (that I do X) that can bring that object about (my doing X). Moreover, its efficacy lies in its 'understanding itself to have such efficacy' (30). As Engstrom says, 'when I mean to cross the street, my intention includes the implicit understanding that I therein can cross it' (30). This self-understanding of intention serves as its internal constitutive principle—roughly, to be efficacious in producing the object of one's representations (35). It leads to two conditions of rationality—that an intended object must be possible and that intention be specified in terms of means sufficient to produce the object (40–1). These conditions of rationality describe the operation of intention: when an end that one has adopted is seen to be achievable and sufficient means are found, action normally follows. But because the internal principle is based in the self-understanding of intention, it also serves as its regulative norm.

Engstrom characterizes judgment as self-consciously self-sustaining. As selfsustaining it involves a claim to validity that excludes incompatible judgments and is the mark of knowledge. It is self-consciously so because it sustains itself through 'understanding itself to be self-sustaining' (104). It is thus a formal feature of judgment that it understands itself to be making a universally valid claim, a claim to knowledge.² Here Engstrom distinguishes 'subjective' and 'objective universal validity'—a judgment understands itself to hold for all judging subjects (subjective) and of all objects falling under the concept employed in the judgment (objective) (115-6) (e.g., if I judge that the pond is frozen, I suppose that my claim is valid for all judging subjects and that any body of water in the same conditions as the pond would freeze). In the case of theoretical judgments, this self-understanding gives rise to internal principles of judgment that are conditions of agreement in one (universal) selfconsciousness—roughly the categories and principles of the understanding. These principles describe the operation of judgment in that one judges by applying the categories and principles of the understanding with the aim of making claims that stand together with all other judgments. But the internal principle based in this self-understanding also functions as a regulative norm that sets a standard of normative success—that the content of the judgment

^{2. 132: &#}x27;the form [of judgment] is just the self-recognized condition of self-agreement under which judgments can sustain themselves at all.'

agree with its form. A judgment that cannot stand with all other judgments in one body of knowledge does not meet the conditions of universal validity that are part of its own self-understanding and must be withdrawn.

Let me now turn to practical judgment—the judgment about good that is central to Engstrom's 'practical-cognitivist' conception of volition. Practical judgment has the self-conscious efficacy of intention, except that 'consciousness of efficacy, and therein the efficacy itself, originates in the consciousness of goodness' (50). That is, a practical judgment is efficacious in bringing its object about (ceteribus paribus . . .) by representing the object as good. Further, being a species of judgment, it is also self-consciously self-sustaining and understands itself to have both subjective and objective universal validity. Because such judgments are practical, they represent 'knowledge cognizing subjects have of what *they themselves* are to do' and subjective and objective universal validity coincide: a practical judgment is a claim about what any subject in the relevant conditions is to do that is valid for all judging subjects with the capacity for practical knowledge (121,123).

This 'double universality' is 'the form of practical knowledge' (123–4). And on Engstrom's reading, it is what the Formula of Universal Law (FUL) expresses: that one is to act from maxims that are such that all can agree that anyone in the same conditions is to act from the maxim (126). It is important to note that it is a formal feature of any practical judgment that it understands itself to have both subjective and objective universal validity. Engstrom calls this 'the presupposition of universality' (125–6). Thus, he accepts a strong guise of the good thesis, to the effect that all rational volition carries an implicit claim to its own universal validity.

Because the FUL gives the form of practical judgment—that is, rational volition—it serves as its internal norm. Since practical judgment understands itself to satisfy the presupposition of universality, this principle tacitly guides all exercises of the will. Further, the internal norm sets a standard of normative success—that the content of a practical judgment agree with its form, or in other words that the volition satisfy the conditions of universal validity that are part of its own self-understanding (132–4).

These different acts—intention, judgment, and practical judgment (volition)—have a common structure. There is a self-understanding that is a necessary element of each kind of cognitive act, without which it would not be that kind of act. (Practical judgment takes itself to satisfy the presupposition of universality...) The self-understanding can be expressed as an internal constitutive principle that describes the operation of the relevant capacity and, because it is based in the self-understanding of that kind of act, tacitly guides all its instances (even those that are defective). It also serves as a regulative norm that, again because it is based in the self-understanding of that kind of act, sets an authoritative normative standard, that of agreement with its own self-understanding, or agreement of the content of the act with its form.

Two observations here: First, this structure offers insight into the nature of spontaneity, because it forges a link between self-determination and normative guidance. Intention, judgment, and practical judgment or willing are self-

determining because their operation is guided by their own self-understanding. (Intention is efficacious through its taking itself to be efficacious, judgment is self-consciously self-sustaining, practical judgment is efficacious through its taking itself to satisfy the presupposition of universality, etc.) This kind of self-determination is possible because the self-understanding of these cognitive acts leads to an internal principle that both describes their operation and functions as a regulative norm. So the self-determining character of spontaneity can be conceptualized as normative guidance through the self-understanding that characterizes (is the form of) a kind of activity. Second, the possibility of there being a subject of the cognitive act (a subject who intends, or judges, or determines himself to act on a conception of good, etc.) would appear to depend on their being cognitive acts with this structure. That is, where there are acts whose self-understanding serves as an internal norm that guides the operation of the capacity, we can talk about the subject of that act with the capacity for spontaneity.

3. Engstrom on the Categorical Imperative

Engstrom has some genuinely new ideas about the Categorical Imperative (CI), and to bring out what is novel, I'll contrast his with a familiar account of the CI that has been developed by O'Neill, Herman, Korsgaard, and Rawls. (For purposes of exposition, I'll refer mainly to Rawls's account.)

On this standard account, one determines whether a maxim is rationally willed as universal law by employing means-end rationality within universalizability. Universalizing a maxim involves converting it into a natural law of human conduct, then determining the equilibrium state that results from adding this 'as if' law of nature to the existing social world. Here, it is important that public knowledge that individuals act according to this maxim is part of the resulting equilibrium state, which Rawls calls the 'adjusted social world' (ASW) of the maxim.³ The CI (the FUL) then rejects maxims that, in the adjusted social world of the maxim, violate standards of means-end reasoning and are thus in some way self-defeating. The deceptive promise generates a contradiction in conception, which can be captured in different ways. In Rawls's account, one cannot rationally intend to act from the maxim of deceptive promising in the adjusted social world. Public knowledge that individuals routinely deceive would undermine the practice, and you cannot rationally intend to perform an action that you believe is impossible or foresee will fail. For Korsgaard, the contradiction in conception hinges on the fact that the maxim would defeat its own purpose in the adjusted social world. Korsgaard suggests a slightly more complex route by which a maxim of violence to advance one's ends would undermine its purpose: in willing this maxim as universal you are willing conditions that undermine security, which is a

John Rawls, Lectures on the History of Moral Philosophy (Cambridge, MA: Harvard University Press, 2000), 167–72.

condition of enjoying any good that you might intend to achieve through the maxim.⁴

The maxim of indifference leads to a contradiction in the will. For Rawls, given our true human needs, it is not rational to place yourself in the adjusted social world of the maxim of indifference. For Korsgaard (and others), universalizing indifference leads to a contradiction in will because it undermines a necessary human end (e.g., the effective exercise of one's agency and ability to pursue one's purposes).

Well-known worries have been raised about this account. For example, once one moves beyond the simple canonical cases, it is not always clear whether a maxim is rationally universalized. Whether a maxim is instrumentally rational in the ASW, or whether it would be consistent with one's necessary human ends to place oneself in the ASW, depend on general empirical and social facts that determine the equilibrium state in the relevant ASW. When such dependence appears in the wrong place, it introduces indeterminacy into the application of the CI. Take, for example, Engstrom's maxim of limiting the outer freedom of others where doing so will increase one's own in order to further one's own happiness (194ff., 224-5). (Call this the 'maxim of interference'.) Since the maxim is to limit others' freedom where doing so will increase one's own, it is not clear that it is self-defeating if made universal. It may well be rationally adopted by people who enjoy advantages in natural ability or social position in the ASW. Or what about the maxim of deceiving to advance one's ends only when one knows one will not be detected, or of deceiving only the gullible? Would public knowledge that people routinely act on these principles undermine the credibility of assertion in the ASW? It is hard to say, and that is the problem.

A second problem is that the familiar account makes the CI a test of permissibility that leads to positive moral requirements indirectly by showing that certain maxims are impermissible. It generates the duties of virtue by showing that the maxims of indolence and indifference are impermissible (and that adopting the ends of virtue is the alternative to these policies). Technically, positive requirements of honesty and fidelity follow from the fact that conceivable alternative maxims are impermissible. Assessments of permissibility are important, but a moral theory should also provide us with a more direct route to positive principles of action.

Engstrom's interpretation of the CI differs in several respects. First, he has an innovative account of the Kant's idea that human beings have happiness as an end through a 'natural necessity' and as 'belonging to our essence' (*G* 4: 415–6) that makes the wish for happiness an a priori source of content for morality. Second, the contradiction that results from universalizing an impermissible maxim is not that the maxim is self-defeating or irrational on universalization. Rather, the CI rejects maxims whose content conflicts with their form—that is, maxims that do not satisfy the presupposition of universality that is part of their own self-understanding as exercises of rational volition. Through these features his reading of the CI avoids reliance on means—end reasoning and accordingly

Christine Korsgaard, Creating the Kingdom of Ends (Cambridge/New York: Cambridge University Press, 1996), 92–101.

the uncertainty introduced by the use of empirical information. (I am not convinced that using means—end reasoning within universalizability is problematic per se. The problem arises when conclusions of means—end reasoning depend upon empirical information that introduces indeterminacy in the ways noted earlier.) Let me comment on each feature of Engstrom's account in turn.

Engstrom ascribes to Kant the view that pleasure in the agreeable is the 'material condition of the simply good' or 'sensible criterion for the application of the concept of an end' (71, 77). Further, the judgments through which we find particular agreeable activities to be simply good 'depend upon a primitive act of practical judgment in which one subsumes what one finds agreeable in general' under the concept of what is simply good and makes it one's end (82, cf. 70). This means that, given the formal features of ends (as representations that sustain themselves in practical knowledge), the nature of pleasure in the agreeable (as a state that tends to maintain itself) and general features of human beings (our susceptibility to pleasure . . .), we know a priori that human beings judge own happiness to be simply good and make it their end (82–4, 137). Furthermore, the wish for happiness includes 'as part of its form' two components—the wish for agreeable activities, and since we are creatures with limited powers, the wish for 'practical self-sufficiency' to bring about what one finds agreeable (88–90).

The necessary wish for happiness, in conjunction with the form of practical knowledge, leads directly to positive moral requirements without going through the rejection of impermissible maxims. As Engstrom says: laws of natural justice and beneficence follow directly from the 'first application of the fundamental formal practical law' to the act of making own happiness one's end. Since the wish for own happiness is a practical judgment, it carries the presupposition of universality. My judgment that my own happiness and practical self-sufficiency are simply good supposes that (or can be sustained only by acknowledging that) all can agree that anyone's happiness and practical self-sufficiency are simply good. It is a short step from this thought to principles that protect individual practical self-sufficiency by prohibiting interference with others' freedom and the pursuit of their happiness (insofar as consistent with the freedom of others . . .) and to principles of beneficence that support individuals in pursuit of their (legitimate) ends.

In this way, Engstrom argues that by applying the formal conditions of universal validity to what we necessarily will (the wish for happiness and practical self-sufficiency), FUL leads directly to positive requirements. This is an important, indeed a liberating move. Does that mean that we are to give up maxim assessment, which would seem a deeply embedded feature of Kant's conception of moral reasoning? No—Engstrom offers very subtle accounts of the application of the FUL to the standard maxims and at one point suggests that the principles that follow from the 'first and direct application of the moral law . . . constitute a body of background practical knowledge operative in moral reflection' (220). More generally, a theory of good willing assesses action

^{5.} Furthermore, these principles guide us when we 'weigh all cases from one and the same point of view, namely that of reason'—G 4: 424.

and choice by whether it is supported by sound practical reasoning. If so, moral assessment will often focus on the actual reasoning leading an agent to consider a course of action as choiceworthy. These are reasons to retain a focus on maxims.

To see how Engstrom's interpretation of the contradictions uncovered by FUL avoids reliance on empirical information that introduces indeterminacy, let's consider the 'maxim of interference'. To apply FUL, we ask whether all can share the judgment expressed by the maxim that it is good on the whole to limit the outer freedom and practical self-sufficiency of another when doing so augments one's own. Universalization here licenses any other agent to judge that it is good to limit my freedom when doing so augments his and I am to share that judgment. In my maxim (now an instance of the universal principle), I judge it good to extend my freedom, but its universalization implies that it is good (for another) to limit my freedom. I am now very confused, and am not willing any coherent object at all. That is to say that the universal version of this maxim licenses conflicting judgments about good that nullify each other—in which case, the maxim cannot even be conceived as universal. Since I necessarily judge own happiness and self-sufficiency to be good, I must withdraw the maxim to avoid this inconsistency.

As Engstrom understands the maxim of indifference, it involves judging one's own happiness to be simply good without making a comparable judgment about the happiness of others (210ff). Relevant here is that judging that some person's happiness is simply good grounds practical inference directly from facts about that person's needs to acts of assistance (other things being equal...); more simply, it includes recognition of the needs of others as immediate reasons for action. For universalization of indifference to produce a contradiction in will, the agent of the maxim must be committed to judging it good (willing) that others help him in his moments of need, and I see two ways to get there within Engstrom's framework. One (that is close to the 'familiar account') is that because I necessarily judge my own happiness and practical self-sufficiency to be simply good, I judge simply good the conditions (will the means?) that support the effective pursuit of happiness. Given the standing facts of human life—the limited powers and vulnerabilities of individuals, social interdependence, etc.—one such condition is the general recognition of the needs of others as reasons that follows from the judgment that their happiness is simply good. So given the necessary wish for happiness and practical selfsufficiency, I am committed to judging it good that people generally recognize the needs of others as reasons and are disposed to help in my moments of need. Engstrom appears to favor an alternate route: the wish for happiness and practical self-sufficiency carries the presupposition of universality, one feature of which is the tacit supposition that all share my judgment about the simple goodness of my own happiness (212). But this judgment on the part of others includes the recognition of my needs as potential reasons for them to offer assistance. Either way, my wish for happiness includes the practical judgment that it is good that others assist in my moments of need.

To universalize the maxim, we consider whether all can share the practical judgment that all are to adopt the maxim of indifference. In this case, no one

judges the happiness of others to be simply good, and no one recognizes the needs of others, mine included, as potential reasons for assistance. But I am to share that judgment and its implication that my needs are not reasons, as made by every other person. I now share the judgments of all others that they are not to recognize my needs as reasons, and that conflicts with the judgment the follows from the necessary wish for happiness that others do recognize my needs as reasons and are prepared to offer assistance. ⁶

Let me point to three features of this interpretation of the application of FUL. First, FUL applies the conditions of universal validity that the maxim understands itself to satisfy as part of its form—the form of practical judgment or rational volition. Thus FUL assesses whether the content of the maxim agrees with its form. That means that in adopting an impermissible (nonuniversalizable) maxim, there is an implicit conflict in one's willing that is brought to light by the FUL (Cf. G 4: 424.). On universalization, the implicit conflict between the content and form of one's willing manifests itself in terms of explicitly conflicting practical judgments.

Second, for Engstrom, universalizing involves considering a maxim, not as a law of human nature, but as a practical law that all 'necessarily follow out of their shared recognition of its validity' (161, 202). This is part of his strategy for avoiding problematic reliance on empirical information. To ascertain universalizability, one does not need to figure out the equilibrium state that would result from public knowledge that all may act on the principle and then determine whether the maxim could achieve its purpose in the ASW, or whether placing oneself in the ASW would undermine a necessary end. Rather, contradictions result because the practical law version of the maxim directly warrants inconsistent judgments about good. In the case of contradiction in conception, universalization leads to conflicting judgments that nullify each other. In the case of contradiction in will, universalization leads to a practical judgment (that others not recognize my needs as reasons) that conflicts with a judgment that follows from a necessary end (that others recognize my needs as reasons).

Finally, the necessary wish for happiness and practical self-sufficiency is a source of substantive constraints on rational volition. Given the necessary wish for own happiness, I cannot share the judgment licensed by the supposed practical law (that it is good for another to limit my freedom when doing so extends his, that others not recognize my needs as reasons, etc.).

- 6. I have trouble seeing how to avoid all means—end reasoning here: the simplest way to capture the contradiction in will is to say that I am willing conditions (universal indifference) that undermine what I will in virtue of the necessary wish for happiness. The issue is whether means—end reasoning introduces a reliance on the empirical that introduces uncertainty into the application of the FUL, and I don't see that it will in this case. First, the reasoning relies only on invariant facts about human life including the general fact that no one can guarantee that he will never find himself in a situation of agency threatening need. Second, the contradiction is in what one wills (as Engstrom stresses)—one is willing conditions that conflict with what one wills in virtue of the necessary end of happiness. On this point, I think that Engstrom is close to the familiar reading of the contradiction in will.
- 7. As Engstrom says, the contradiction arises at the level of wish, not choice (195).

Earlier I noted that in the familiar account, it is unclear that the maxim of interference fails of universalizability. Perhaps the advantaged person—call him Joe—could achieve his ends in the ASW of this maxim. How does Engstrom avoid this problem? I take it that even if Joe could achieve his ends in the ASW of the maxim of interference (viz. the maxim of interference is not self-defeating for Joe), universalizing this maxim still produces judgments about good that nullify each other. Given Joe's advantages, a situation in which another person, A, could successfully extend his freedom by limiting Joe's might never arise—in which case no one would have occasion to act on this maxim in a way that adversely affects Joe. Still, universalization licenses any other person to judge it good to limit Joe's freedom in any circumstances where doing so would extend his own, and Joe must share these judgments. So the 'as if' practical law leads Joe to practical judgments that nullify each other, whether or not he is precluded from achieving his purposes in that adjusted social world. Thus, by making universalization a matter of considering a maxim as a practical law and by focusing on the conflicting practical judgments that it licenses, Engstrom's interpretation of FUL avoids problematic reliance on the empirical. I believe that the same reasoning shows that the strong man cannot rationally universalize the maxim of indifference without a contradiction in will. I don't have time to assess whether this solution succeeds in either case, but it seems promising.

4. A Worry

I agree with Engstrom that the CI requires an a priori source of moral content to avoid problematic reliance on the empirical. But is it Kant's view that the necessary end of happiness is a source of content, and is this the best approach for a Kantian theory to take? Passages in both the second *Critique* and *Doctrine of Virtue* argue for the duty of beneficence by applying the conditions of universal validity to the necessary end of happiness (*KpV*5: 34–5 and *MdS* 6: 393). I take it that Engstrom generalizes from these arguments across the board. Beyond these passages, I don't see clear textual evidence for his interpretation. But the texts are not decisive, and the question is how best to reconstruct Kant's theory. A concern here is that if (as Barbara Herman has suggested) moral deliberation and casuistry should be guided by foundational arguments and values, can the end of happiness carry the foundational load that Engstrom's interpretation assigns to it?

An alternative is to appeal to an a priori conception of rational agency as a source of moral content. Various commentators have tried to base perfect duties (duties of justice) in principles that prohibit direct interference with the exercise of rational agency and duties of virtue in principles that support its effective exercise. The wrong in a violation of a perfect duty lies in the attempt to control or undermine another agent's exercise of rational agency, while the

Cf. Barbara Herman, The Practice of Moral Judgment (Cambridge, MA: Harvard University Press, 1993), ch. 6, and Andrews Reath, Agency and Autonomy in Kant's Moral Theory (Oxford/New York: Oxford University Press, 2006) ch. 7.

wrong in a violation of a duty of virtue lies in the failure to support some person's effective exercise of agency. This seems a plausible start on a system of principles.

How might one develop such a system out of a conception of rational agency? Engstrom ascribes to Kant the view that it is a necessary feature of practical self-consciousness that we will *sub ratione boni*. The presupposition of universality is part of the tacit self-understanding of rational volition. But practical self-consciousness also includes a conception of the subject of rational activity—that we necessarily act under the idea of freedom. The Idea of freedom is a necessary feature of practical self-consciousness focusing on our (tacit) self-conception as agents—e.g., that a rational agent necessarily conceives himself to have the capacity to arrive at and to determine his will through sound practical judgments. One might argue—drawing on Engstrom's important insights—that through this practical self-consciousness, we give ourselves the formal end of functioning as free, rational agents, thus that we necessarily judge our functioning as agents to be good. (This is an end that rational agents give themselves through their self-conception as free agents, and not through the sensible criterion of pleasure in the agreeable.) And this formal end could play the role that Engstrom assigns to the wish for happiness.

Applying the conditions of universal validity to this necessary end (again, along Engstrom's lines) leads directly to familiar moral principles that prohibit interfering with the freedom and agency of others, that prohibit deception, coercion, and so on, as well as to the ends of virtue. Likewise, applying the conditions of universal validity to an impermissible maxim produces conflicting volitions through the necessary end of functioning as a free, rational agent. For example, the deceiver (or coercer) judges it good to control the agency of another where doing so will extend his powers. But under universalization, he is to share the judgment that it is good for others to control his agency where doing so will extend their powers. He is now judging it good both that his powers are extended and that they are limited, willing that he control others and that others control him. He is very confused, and moreover he cannot share the judgment that others are to control his exercise of agency since he necessarily judges it good (through his self-conception as an agent) that his own practical judgments guide his choices.

This is too quick, but one can see how this view might go. In fairness, it may not be so different from Engstrom's view. For Engstrom, the necessary wish for happiness includes the wish for practical self-sufficiency, which drives his discussion of the different duties, including the duty of beneficence. But if the wish for practical self-sufficiency provides the normative substance in his reading of Kant, perhaps the foundational value should be the good of rational agency rather than the wish for happiness.