The Transcendental Foundation of Ethics

Kim Davies
Deputy Principal at Gateshead College

[Note from Stephan Kinsella: This is an outline of talks given by Kim Davies back in 1997: "The Transcendental Foundation of Ethics, First Eidos Lecture Series, Durham Postgraduate Philosophy Group". From an email from Kim Davies: "As you can see from the outline of the talks, the argument was rooted in the discussions on transcendental and first philosophy. I published 4 or 5 articles in traditional philosophy journals (Analysis, Philosophy and Phenomenological Research) but these dealt with the initial ground clearing rather than the key developmental arguments. I am currently working on preparing some of the rest of the material for publication … but that will take a while. My view is that the argument, if successful, provides a deeper grounding for ethical principles than argumentation ethics as it grounds them in the necessary conditions of the possibility of thought. Nevertheless, I find the line of thought in Van Dun's paper appealing, and his criticisms of the authors in his sights compelling. I attach some material which aims to give a clearer summary of my line of thought. Although the argument does not get as far as outlining a position on rights, I think the trajectory is clearly in that direction …."]

1   Structure and Character of the Argument

1.1   The starting point
1.2   The necessary structure of the concept of thought
1.3   The possibility of concepts: general presuppositions
1.4   The possibility of the concept of thought: a transcendental deduction
1.5   The sequence of philosophical analysis reverses the sequence of primordial understanding
1.6   The detail of the deduction is in ruling our alternative accounts of the possibility of the concept of thought

2   The Starting Point

2.1   The critique of critical philosophy: Hegel:
If the fear of falling into error sets up a mistrust of science, which in the absence of such scruples gets on with the work itself, and actually cognizes something, it is hard to see why we should not turn round and mistrust this very mistrust. Should we not be concerned as to whether this fear of error is not just the error itself? Indeed, this fear takes something – a great deal in fact – for granted.

2.2   An unchallengeable starting – point 'There are thoughts, such that how things are maybe different from how they are thought to be'. Any attempts to challenge this starting – points presupposes its truth.

3   The necessary structure of concept of thought

3.1   The necessary structure of the concept of thought is determined by the interest of critical philosophy in questioning claims to knowledge;

3.2   The concept of thought must be such that how things are thought to be, may differ from how they are;

3.3   The concept of thought must be such that thoughts are of items independent to the thought itself;

3.4 The concept of thought must be such that it has a certain positional character, ie making a claim about how things actually are.

4 The possibility of concepts: general presuppositions

4.1 Any thought must be the thought that something or other, that is, it has a specifiable content distinct from other possible contents, and refers beyond itself.

4.2 The component concepts of the though must be differentially linked with this 'beyond', which provides content to the concepts and the thought without which there can be no thoughts at all.

5 The Possibility of the Concept of Thought: a Transcendental Deduction

5.1 The concept of thought and reality are an interdependent pair – neither can be recast in terms of the other.

5.2 These interdependent concepts are possible only through a link, as a pair with situation within which how things are and how things are thought to be are distinct but interrelated aspects: that is, situations of error. (Not by conceptual interdefinition, definition through other concepts, or ostension).

5.3 The primordial grasp of this situation is as a totality (not by synthesising our understanding of its components, namely how things are and how they are thought to be).

5.4 This grasp of error as a totality can only be from outside, in a way which refers to a wider context, as a cognitive failure delimited from unquestioned cognitive harmony.

5.5 This grasp of error as cognitive failure requires a non- conceptual registration of a rupture in cognitive harmony (it cannot be grasped through the concept of thought failing to match reality). It is this rupture which then articulated using the concepts of thought and reality.

5.6 The (unquestioned) harmony cannot be merely a matter of coincidence of thought and reality, or its rapture could not be registered non-conceptually. Thought is not merely a matter of abstract, it must inform a non-conceptual ('practical'/'lived') involvement with reality.

5.7 The reflective articulation of situations of error involved the temporal displacement of how things were thought to be by a (presumed) awareness of how things are. This undermines the 'metaphysics of presence which runs though post Cartesian philosophy.

5.8 'Consciousness is nothing'. The reflective of awareness of how things are thought to be is possible only if the thought is referred to a 'subject' on which it ontologically dependent and which thinks the thoughts of which we can then become reflexively aware.

5.9 The understanding of the subject as thinking is possible only if the subject is grasped in a mode of existence in which thinking is 'embodied', and from which the thinking can be abstracted.

5.10 Abstraction to thinking (and its content) requires that the embodiment of thought shares the formal properties of the abstract thought, in particular the capacity for truth/falsity. Thinking must be predominately understood as the thinking of a 'speaking' subject (non-linguistic behaviour is insufficient).

5.11 The abstraction from speech to thought is possible only through reflection on situations of 'expressive failure' where the content of the thought differs from that of the speech in which it was to be expressed. Such failure requires that the content of an expression is determined independently of the subject.

5.12 The primary group of expressive failure must be of it as a totality delimited from an expressive harmony in which the failure constitutes a rupture (not synthesised from the component of thinking and its expression).

5.13 Expressive harmony consists in a non-abstract agreement in language use. This necessarily involves speakers who understand the speech-acts of others understanding must consist in responses to speech acts which are appropriate in the light of shared beliefs and desires. Agreement in language requires an (initially) unquestioned sharing on awareness of, and practical involvement in, the world. The primary grasp of excessive failure must involve a non-conceptual registration of a breakdown in this pattern of communication.

5.14 The primary grasp of expressive failure as a rupture in the pattern of communication presupposes that communication is a value in the light of which the subject's speech can be grasped as a failure. This in turn makes possible the concept of thinking and hence the critical concept of thought.

5.15 Communication is not a contingent value, since any questioning of this claim necessarily presupposes its truth, as a necessary condition of the very possibility of critical questioning. That communication as a value cannot coherently be questioned: this is a matter of transcendental necessity.

5.16 Communication is not a relative value. It is a primary stage of communication, an unquestionable value revealed as a value only through reflection on its breakdown. It possesses an objective, categorical prescriptivity. It underlies the principle that communication ie the pattern of appropriate speech act and response is to be maintained.

5.17 At the primary stage of communication (before the concepts of thought, belief, and desire are available) the content of shared practical involvement cannot be grasped as relative to the desires or interests of individuals. This context must be apprehended as a set of impersonal practical involvements, carrying non-relative imperatives, which determine what is to be done.

5.18 Communication necessarily presupposes the prior existing of an unquestioning acceptance of what is to be done in the world. This determines a range of appropriate speech acts and the audience to which they are addressed.

5.19 The articulation of a rupture in communication requires negotiation between the speaker and hearer (settled in part in accordance with the power relations between the two) on the responsibility for inappropriate and unacceptable speech act or response. This determines whether there is a case of expressive failure.

5.20 Ethical Consequences: Killing People is Wrong: potential communicants must be treated so as to maintain their status as potential communicants.