



Dynamic Ethics

WIBREN VAN DER BURG

Department of Jurisprudence and Legal History, Tilburg University, PO Box 90153, 5000 LE Tilburg, The Netherlands; e-mail: w.vandenburg@uvt.nl

1. Introduction

Modern societies are rapidly changing societies, and their moralities are rapidly changing as well. Moral views on sexuality and on the treatment of animals have changed considerably over the past fifty years. The introduction of new medical technology, the creation of the Internet, and the globalization of our economies have confronted us with many new moral problems and challenges. Similar problems and challenges may be expected to arise in the next fifty years.

Observations such as these are standard in ethics textbooks and articles by moral philosophers. However, ethical theorists have so far little reflected on the increasingly dynamic character of our morality as such. Whenever this is mentioned, it is usually regarded as an argument for our need of ethical reflection on new problems and, therefore, for the inclusion of ethics in every curriculum. Whenever it is addressed more explicitly, it is usually presented as an example of the problem of moral pluralism in modern societies.

Yet, there are some specific problems and challenges that the dynamic character of our society and our morality poses to moral philosophy as well as to moral thinking in general. How can we learn to adapt and develop continuously our moral views and ethical theories? Moral dynamics is especially problematic for abstract foundationalism, and turns it into an increasingly inadequate position. But it also poses serious problems to what may be called semi-foundationalism, such as the theories of John Rawls, Tom Beauchamp, and James Childress. Even if these philosophers do not aspire to establishing eternal and absolute foundations of morality, they still focus on general principles as relatively stable and secure starting points for moral reasoning.

Reflective equilibrium approaches are the most promising ones to deal with dynamics. The dynamic character of our morality is one of the reasons for their recent popularity. However, this thesis does not hold without further qualification. There are many varieties of reflective equilibrium. Some of them are combined with semi-foundationalist ideas. Dynamic ethics requires not

only reflective equilibrium but also specific types of reflective equilibrium. Too much emphasis has been put on the product of reflective equilibrium processes, as if these processes were merely the instrument for finding eternal or at least highly stable abstract truths. Therefore, we need to determine how to promote the dynamic character of reflective equilibrium processes in order to make them more adequate for dealing with moral dynamics. In order to be able to meet the challenge of dynamics, we should emphasize in our thinking specific elements such as ideals and judgments on concrete cases rather than rules and principles. We should also avoid putting too much stress on methodological requirements such as coherence and impartiality, and we should continuously try to broaden our experiences. Moreover, we should beware of monological models of reasoning and search for open and dialogical models. Moral philosophy and public argument should become more of a continuum. Finally, and most difficult to achieve, we should try to keep our self-understandings, our individual and collective identities, open to change, and make openness to change part of ourselves.

2. Taking Change Seriously

An example may show how complex the phenomenon of moral change is. The changes in sexual morality in the Western world over the past fifty years have been radical. Sexuality and procreation have become largely separated. Homosexuality and sex outside marriage have become more generally accepted. Sexual morality has become highly diverse: people stressing the ideal of monogamous, indissoluble marriage live alongside others advocating free sex. The sexual revolution of the 1960s, with its ideals of free love and free sex, was followed by the AIDS crisis, which led to ideals of safe sex and the partial return of the ideal of monogamy. Consequently, many people who are now in their sixties will have changed their moral views considerably during their lives. A brief comparison between books or articles about sexual ethics written in the first decades and in the last decades of the twentieth century may show that ethical theory has changed considerably as well.

Various factors contributed to the changes. The introduction of the contraceptive pill made casual sex without the risk of pregnancy possible. The introduction of the video and the Internet created hitherto unforeseen possibilities for pornographic material. The trend toward individualization, increased material wealth and the welfare state made independent lives for women outside marriage a more attractive option. Individuals in the feminist movement and the gay and lesbian movements struggled for their goals, and saw them partly enforced by legal means. Nature suddenly confronted us with the AIDS virus. It is impossible to separate these factors from one another and show what factor precisely is responsible for the changes in our moral views.

Moreover, the changes in our moral views are not merely the product of or response to these changes in society, but are often also part of the cause.

Sexual morality is probably the most extreme example of change. But in almost all domains of life, social morality and ethical theory have undergone major or minor changes in the past one hundred years. It would be surprising if this were not the case. Our society and our technology have changed in so many ways that our morality would not be able to give us much guidance if it had not changed too. Yet, this process is full of variation.

Some changes are minor and superficial, whereas others are major changes with a more radical impact, and may even change our self-understanding. Many moral changes take place in the penumbra of our morality. The moral acceptance of *in vitro* fertilization and a growing concern and respect for animals merely extend and refine our moral views, but they do not affect the core of our moral views.

However, other changes are more substantive and far-reaching. Sexual morality, traditionally one of the core elements of morality, is a case in point. The major changes in this field have affected moral norms that used to be central to morality. But the changes have gone further. They have deeply affected the ways of life and the self-understanding of many people, especially women and homosexuals. Many women no longer primarily define themselves as spouses and mothers who loyally support the careers of their husbands and stay at home to raise their children. Many homosexuals no longer regard themselves as burdened by morally reprehensible inclinations that they should try to resist. In connection with this, their views of their moral obligations and rights have changed as well. When we are taking the first steps of change, we cannot determine whether these will lead to a minor revision or to a major and even radical change. The pioneers in the Dutch churches in the 1960s who cautiously advocated a little more sympathy and understanding for homosexuals, certainly did not envisage such a major shift as the introduction of same-sex marriage.

Some changes can be regarded as instances of moral progress, but many other changes are neutral adaptations to changing circumstances. Progress certainly is an idea that applies to our development from childhood to maturity. Our moral beliefs develop toward higher levels. In the past one hundred and fifty years, there has certainly been moral progress in Western societies in our moral views regarding the way in which colored people, women, and homosexuals should be treated. However, not all changes are of this type. The morality adequate for a highly industrialized information society is different from that of a rural society, but it is not better or worse. If traditional family and friendship ties of a small-scale rural society do not exist in the anonymous industrialized society, our concepts of friendship and family obligations may have to be adapted to these new contexts. The introduction of modern transport and information technologies has strongly influenced our concept

of ourselves and of society, and has led to new moral views. For example, conceptions of privacy have changed in many ways in response to the new information technologies. The new contexts require and constitute different concepts of personal identity, different concepts of society, and also different concepts of morality. The new concepts may be very different, but not better. They simply may be adaptations to new circumstances. We cannot tell, while in the process of change, whether the change is to be a form of progress, or decline, or neutral adaptation, if only because we lack an Archimedean point to measure progress. For example, new insights regarding the influence of alcohol and nicotine on the development of a foetus lead to an increasing awareness of the responsibility of a pregnant woman for the health of her child. Who can tell whether this only leads to minor, largely neutral refinements in our moral views or that it will ultimately lead to a major change which, in hindsight, will be heralded as a form of progress or decline?

There is moral change, but continuity and stability are predominant. We cannot change our morality wholesale and need not do so. Only some elements of it change. Especially if we focus on the more general norms, the general pattern in social morality is that of continuity. The fact that Aristotle, Mill, and Kant are still widely discussed is a testament to a similar continuity in moral philosophy. There is certainly a stable part of morality. Prohibitions of killing, stealing, and cheating have not disappeared in the past century. Even so, we do not know in advance which parts of our current morality will remain unchanged. A century ago, the prohibition of homosexuality and extramarital sex would certainly have been considered one of the stable elements of morality; yet, it has proven otherwise. Moreover, changes in the penumbra may influence the core too. The acceptance of abortion and euthanasia does not invalidate the prohibition of killing, but it certainly is connected with a different conception of what killing implies. Although, *in abstracto*, we may say that the major part of our social morality and our ethical theories will not be changed in the next century, we cannot determine which part of our morality is completely or even largely immune from future change.

We cannot tell which elements of our morality will change and which will not. Yet we may be certain that in the future our moral views will undergo change and continuity, and progress and neutral adaptation. While we cannot predict the future, we may safely extrapolate from the past. In the past century, Western social morality has undergone some radical revisions. They include a more egalitarian view regarding the position of women and ethnic minorities, a more liberal attitude toward homosexuality and extramarital sex, and a growing recognition of the moral value of animals and nature. These radical changes occurred both at the level of more general principles and views of life, and at the level of concrete judgments. The changes in social morality have been reflected in and have also been partly influenced by similar changes in the work of academic ethics. Apart from these more visible radical changes,

there have been many minor revisions, including the application of existing moral views to new phenomena such as new medical cures.

It would be naive to expect that we have now lived through the major changes, and that therefore the dynamics of our morality will come to a standstill. We may expect other major and minor changes to take place in the future, even if they cannot be predicted. It is likely that phenomena such as globalization, the introduction of new biotechnology and information technology, and the emergence of a risk society will have important implications for our societies, our views of ourselves, and, consequently, for our morality.

3. The Challenges of Change

The fact that our moral views are highly dynamic may give rise to a number of interesting issues. If our morality varies with our historical context, we need to determine what this implies for claims to objectivity and universality. If our moral views change so rapidly, we need to see if we can still uphold a belief in universal moral norms, or if we have to accept moral relativism or even scepticism. If various moralities coexist alongside each other, we need to see how we should bridge the differences. These familiar issues are usually discussed in connection with the problem of pervasive pluralism in modern societies. Though there may be different emphases when we focus on pluralism over time rather than on pluralism within one society at a certain moment, the problems discussed are not fundamentally different.

More interesting are the implications of the fact of dynamics for our views on morality and on the aim of moral philosophy and on its methods. The more traditional view on morality, which is probably still very common in the population at large, would have us regard morality as a timeless set of universal values and principles, or as a set of general rules, and would have us regard concrete judgments as applications of the general precepts. If we take change seriously, the focus shifts to elements which may vary and change, and as the phenomenon of change is usually most visible at the level of concrete decisions and actions, the emphasis will shift from the abstract and general to the concrete. As the general precepts may be less universal and timeless than perhaps believed so far, we should not regard concrete judgments as mere applications of the general precepts, but as important in their own right, and sometimes rather as grounds for revision of the general precepts. One implication may be that we have to enrich the concept of morality by allowing changeable although general precepts, and by putting more emphasis on concrete judgments.

But even more important is that a second model of morality comes to the fore, not to replace the other, but to complement it. We may distinguish two models of morality, a product model and a practice model.¹ The product model

of morality would have us focus on morality as a set of normative propositions such as rules, principles, and concrete judgments, as a normative action guide. The practice model would have us focus on the interaction itself, on the living morality, as a continuous process in which we act, reflect and discuss how to act, live and reconstruct our moral views. Both models are needed. In order to guide our action in a systematic way, and to be able to reflect on how to act and live, we must formulate our norms explicitly, and critically evaluate them. But the normative propositions only get their meaning by being interpreted, reconstructed, acted upon and, as a result, changed. It may be clear that once we recognize the dynamics of our moral views, the almost automatic focus on the product model tends to disappear. If we have a stable and universal theory with clear rules and principles, the fact that this is only the result of reconstruction may be neglected. But once we see that the theory may change continuously, the process of reconstruction and change comes to the fore.

Thus, the fact of change leads to a shift in our concept of morality in two ways. First, the reduction of morality to a set of general and stable precepts is replaced by a more complete image of normative theory as consisting of both general and concrete judgments and of both stable and variable elements. Second, the model of morality as a normative theory, consisting of a set of propositions, is supplemented by the model of morality as a continuous practice of interaction, reflection, and discussion.

Our views on the aim of moral philosophy are similarly challenged. The aim of moral philosophy is traditionally strongly oriented toward general moral truths. A process of critical reflection with the help of philosophical methods can bring us closer to the truth. In order to come closer to the truth, we must usually abstract from diverse matters at a concrete level. The work of many moral philosophers still seems to be guided by the ideal of universal, timeless truths, whether they have been revealed by God or can be discovered by reason. Even philosophers who have abandoned this idea of eternal truths still focus on the more abstract elements that are relatively stable and generally accepted. Minor changes or specifications may be necessary, and we may have made mistakes that need to be corrected. Nevertheless, whether it is Kant's categorical imperative, Bentham's principle of utility, or Rawls's two principles of justice, the aim is still to form stable general precepts that can be used in every context.

If moral philosophy can be seen as philosophical reflection on morality, this aim will change with the emergence of new views on morality. If we recognize that morality as a product consists not only of timeless general precepts but also of changing elements, we should question whether this focus on the stable and general elements is what is most needed. It is not unlikely that this focus in normative theory on the stable elements may lead to a neglect of the variable elements and to a tendency in our everyday morality to

stick to our principles rather than to react flexibly and responsively to changing circumstances. Perhaps the most important aim is not to identify the general and stable elements but to identify the new and changing elements which are not yet generally known and accepted, let alone subjected to thorough critical scrutiny. If the aim of moral philosophers is to contribute something useful to the reflection on morality, their greatest service is to be found on these themes.

If we focus on morality as an ongoing process of interaction and reflection, we may question whether moral philosophy is still distinct from morality. Moral philosophers will have more relevant skill, insight, and knowledge for good reflection, but there are no categorical differences here with what ordinary people will do. Moral philosophy as an activity thus becomes part of the general practice of morality. As a result, our aim in engaging in moral philosophy is not really separate from our means in doing so. We aim at philosophical reflection on moral problems and our means are philosophical reflection. Of course, constructing moral theories or principles and rules may be part of the process of reflection, but this is not the aim. The process of reflection is as much a means leading to the product of a normative proposition or theory as this proposition or theory is a means to keep the process of reflection and interaction going.

As a result, our views of the methods of ethics also need rethinking. If the aim of engaging in moral philosophy is to construct the universal or relatively stable elements of morality, the methods used may focus on criteria such as universalizability, impartiality, abstraction, and logical consistency. However, if the aim is, at least partly, to help us deal with the phenomenon of change, the same methods that are adequate to find the stable core may be inadequate to do justice to variation and development. In the practice model, the implications are even more drastic, as the relationship between ends and means becomes a dialectic relationship, and we can no longer speak of a method which is instrumental to the aim. Whether we still want to speak of a method of ethics, or rather regard it as a continuing process of ethical reflection, we should ask how to keep the method or process open and responsive to change. We need to determine how we can promote and guide the dynamics of the process and find ways to enhance its openness for change.

4. The Failure of Abstract Semi-foundationalism

The most common reaction of moral philosophers to change has been to try to abstract from it and look for the stable, abstract elements behind variety and change. Although violence in a highly technological society is completely different from violence in medieval society, the common general norm is that killing is immoral. We have to search for the basic values and principles that

are universally valid, irrespective of context. Traditionally, this has been connected with the idea that there is a universal foundation of morality, such as the categorical imperative, the principle of utility, the human *telos*, or divine law. We may call this abstract foundationalism. Abstract foundationalism would have us regard abstract principles or values as the foundations of moral theory. They are the starting points both for moral reasoning and for moral justification. This is only one version of foundationalism, and probably not the best defensible one. Versions such as minimal foundationalism or foundationalist casuistry may be less vulnerable to theoretical criticisms and more responsive to change. However, abstract foundationalism is the basic type of foundationalism and also the intuitively most appealing one because it promises a simple and certain method of reaching justified moral judgments. Historically, it has also been the most dominant form of foundationalism.

Abstract foundationalism is a tempting reaction to the phenomenon of change. Yet, there are serious objections to it. Some of them are at the theoretical level: Is the suggested foundation firm enough? Are the arguments in favor convincing? Is the foundation rich enough to be the basis of the moral system, or are the basic principles overburdened? This debate is well known, and abstract foundationalism indeed has serious and insurmountable theoretical problems, though proponents of the various forms of foundationalism have suggested replies and modifications that seem convincing at least to themselves. It is not because of a theoretical knockdown argument that abstract foundationalism is increasingly being abandoned.

The major reasons for the abandonment of abstract foundationalism are practical. Abstract foundationalism seems unable to force us to acknowledge the fact of change and is not very helpful to us when dealing with the problems of change that we are faced with. The idea that we have to search for a timeless core appears to be inconsistent with the radical character of the changes we witness. It seems unlikely that behind the drastic changes a universal basis can be found that is not only consistent with the broad variety of changes, but is also more than an empty slogan and can be regarded as the basis of all the contextual moralities. The more substantive the changes are, the more abstract the foundations must be in order to provide a common basis despite the great variation. But the more abstract the foundation is, the less likely it is that it can serve as the real and only foundation for a complete moral system.

When we discuss new problems, the suggested abstract foundations usually do not give us much guidance. It is easy to construct arguments both for and against human gene therapy or euthanasia on the basis of one and the same Kantian principle of respect for persons or on the basis of Christian ethics. The most difficult work in applied ethics within an abstract foundationalist paradigm is not what must be done in identifying a common abstract basis but what must be done in constructing a completely convincing strict argu-

ment following from that foundation. Most arguments are highly inconclusive because the same foundational principles are used by both parties in the debate. In order to decide which of the arguments is the more justifiable, we cannot appeal to the foundations. We need other criteria or arguments, such as an appeal to intuitions, established practices, or a largely intuitive balancing among the various arguments. Usually, the additional arguments are relied upon. As experience with practical discussions increasingly shows that the foundations alone cannot help us much, the suspicion easily arises that they do not constitute such a good foundation after all.

Foundationalism seems to offer the wrong focus for moral philosophy. It suggests that the primary aim of moral philosophers is to search for eternal truth and that, once we have found it, applying it to the diversity of concrete problems is merely a matter of deduction and, in a sense, even less interesting. It suggests that abstract truths are what we should be after, and that we need them before we can deal with concrete problems. This imitates the model of science where discovering the eternal laws of nature might help us to understand better not only the universe, but also every concrete movement in it. Once we know the general laws, we may be in a position to predict and explain every movement. Pure knowledge is the aim, abstraction the method. This is, however, not the most appropriate model for moral philosophy. The aim of engaging in moral philosophy is not to reach moral knowledge, but to live a morally good life and to perform morally good actions. The best method to understand what this implies need not be abstraction from the concrete persons we are and the contexts we live in. On the contrary, if we want our normative theories or our moral judgments to be effective action guides, they should not be too distanced. The aim of engaging in moral philosophy should, therefore, be to help us solve the concrete questions of action and to construct moral norms and theories that may help us deal with our problems. Abstract, universal norms may be helpful means in reaching them, but they are not the primary goal.

The growing sensitivity for variation and change and for the importance of the concrete dimensions of morality makes abstract foundationalism not so much indefensible in theory as unattractive in practice. It is not surprising that moral philosophers who work in the various fields of applied ethics tend to abandon abstract foundationalism. These fields are usually the fields where the phenomenon of change is most clearly felt and where the failure of abstract foundationalism to give us practical help and guidance becomes most clearly visible. It is also in the same fields of applied ethics that, as an alternative, a close relative of abstract foundationalism has been developed. Instead of a search for universal foundations, the search is for relatively stable basic principles, values, or rules.² In political theory, John Rawls's two principles of justice are the most famous.³ The four principles of bioethics as set out by Tom Beauchamp and James Childress are similar attempts at stable

basic principles.⁴ Their claim is more modest than that of abstract foundationalism. It is not that the principles form a foundation, or that they offer an answer to everything by a method of simple deduction. Their claim is merely that the principles at least constitute a semi-foundation, a good starting point for normative reasoning on the most important issues.

Despite its appearance as completely different, abstract semi-foundationalism, as it may be called, shares some of the characteristics of abstract foundationalism. It still would have us focus on general norms or values as the primary focus of moral philosophy and as the starting point for normative analysis of concrete problems. The basic idea remains that the first step in moral philosophy is to construct general norms and that in order to do so we have to abstract from the variation of our experience. Only then can we make the second step, and derive answers for concrete problems. It is weaker than abstract foundationalism, but has the same basic structure: the search for general, almost timeless norms or values, through a process of abstraction from variation, and the derivation of concrete answers from these general starting points. Such attempts are more attractive than straightforward abstract foundationalism. Many of the theoretical objections against abstract foundationalism do not hold for them, or at least do so to a lesser extent. They only require what may be called contingent universality: holding for the type of societies, persons and problems that we know. They do not offer a complete theory, so that extension of the theory to new problems is more easily accomplished.

Nevertheless, in the end the same practical objections that hold against abstract foundationalism hold against abstract semi-foundationalism, though in an attenuated form. It seems unlikely that the general principles are completely immune to change in the long run. We may still question whether the search for the stable core really takes change seriously enough. Moreover, if principles are the only starting points for normative reasoning, they still offer little guidance for practical problems. The principle of autonomy as presented by Beauchamp and Childress can be interpreted to lead both to arguments in favor of euthanasia and to arguments against it. We still need additional criteria and mechanisms to go from principles to concrete judgments. In addition, the focus on the general, relatively stable core of morality may lead to a neglect of the concrete experience and changing problems.

Beauchamp and Childress allow for such additional criteria and mechanisms, such as the method of reflective equilibrium. That they allow for such processes in which we not only go from the most abstract foundations to concrete judgments, but also let the concrete judgments correct and support the more general principles, makes them less vulnerable to the theoretical objections against abstract foundationalism. The problem is, however, that once the general norms and values have been formulated, they largely function as if they were general foundations. The four principles of Beauchamp and

Childress have become so widely accepted and quoted that they are now known as the Georgetown mantra. The two principles of Rawls have a similar popularity, even within contexts that are completely different from what they were originally meant for. The basic principles easily run the risk of functioning as a kind of codex which is immune to change when change is required. The longer the principles seem to work well, the more difficult it will become to adapt them. In ethical theory, they function as so strongly fixed points that it seems almost impossible that they could be corrected in a reflective equilibrium process. As a result, the practical objections against abstract foundationalism also hold against abstract semi-foundationalism.

We cannot do completely without the formulation of principles and rules, if we want to bring coherence into our moral convictions and actions. Rawls's attempt to construct such basic principles has been immensely important for the process of ethical reflection on serious problems. It is not the attempt to formulate such principles and rules that is the problem but the one-sided basic attitude or perspective taken by Rawls and, perhaps even more, by many of the authors who apply his work. The strong focus in moral philosophy on the construction of relatively timeless and stable principles may lead us in the wrong direction and close our eyes for the phenomenon of moral change. It may block the way to a full recognition of the dynamic and the concrete.

5. Reflective Equilibrium as an Alternative

The challenge of dynamics has thus led to the increasing popularity of ethical approaches that can do better justice to variety and context, such as hermeneutics, casuistry, and reflective equilibrium. Each of the approaches does not merely allow us to recognize the importance of the concrete context of action, but also allows us to be responsive to dynamics, as changes in context may be the starting point for developing and adapting the theory. Other than abstract foundationalism and semi-foundationalism, they are not top-down, but at least partly bottom-up theories.

Reflective equilibrium is highly responsive to context and change.⁵ It is, at least in its widest sense, an interplay between all relevant considerations, including the concrete facts and intuitions. As a result of this broad conception, a change in context or in concrete considered judgments may easily lead to a change in the normative theory as a whole. However, reflective equilibrium as such is no guarantee for dynamics. Most abstract semi-foundationalist theories make use of a reflective equilibrium method. Examples include the theories of Rawls and Beauchamp and Childress. Reflective equilibrium is then primarily used as a method for constructing general and stable principles and values. The process is aimed to end in an equilibrium, a state that is considered to be a good reason for assuming that we have the best defensible moral

principles or values. Once such a provisional equilibrium is reached, however, it may be more difficult to open up the process again. If the purpose of reflective equilibrium is to discover general principles, it may not encourage us to be responsive to dynamics, at least not at the level of the fundamental principles.

In order to get a good understanding of how reflective equilibrium can make us fully responsive to change, we need to take a different focus than the usual one. We may distinguish between the process of reflective equilibrium and the product of that process, usually a moral theory, a set of moral principles, or a concrete decision. There is a strong tendency in moral philosophy to focus on the product as the issue that really matters. After all, we must decide how to act or we must try to build a theory about morality. Moreover, this is in line with the common idea that we should attempt to construct universal principles or values that may help us in a great many cases rather than focus on particularist solutions for concrete cases.

Understandable as it is, the product orientation implies an abstract semi-foundationalist bias, as it would have us regard the process leading to the theory or judgment as merely a means to the goal, and thus as something we do not need any more once the goal has been reached. This bias is only reinforced by the neglect of a warning that Rawls presented in *A Theory of Justice* and repeated in *Political Liberalism*.⁶ According to Rawls, reflective equilibrium is a philosophical ideal that will probably never be reached. If we take this warning seriously, this means that none of our ethical theories or judgments can ever be completely justified and that all our judgments are only provisional judgments. Their provisional and incomplete character is seldom explicitly recognized in ethical theorizing. When it is, it is usually with the more standard remark that theory formation is on its way and that we should hope and expect that it develops towards better theories.

Thus, the basic idea behind most reflective-equilibrium theories is that reflective equilibrium is a method which brings us nearer to the moral truth, to a correct description of an objective moral reality. Even if we do not reach it completely, we will get nearer and nearer to the goal. This is connected with the abstract semi-foundationalist overtones in the debate over reflective equilibrium. In a static society, reflective equilibrium can be understood as a foundationalist enterprise, an enterprise that gradually brings us closer to the truth. After ages of discussion on the merits of various possible solutions and of experimenting with the solutions, we might conclude that a specific normative theory or a specific normative thesis is really the best. The fact of an effective consensus in the public and philosophical debate and the fact of the proven positive consequences of a certain morality might provide good ground to say that it is the best possible morality. In the course of time, society may converge toward such an experientially warranted consensus. Though there is no foundation in the traditional sense, the consensus and experience might

be seen as at least highly reliable semi-foundations, indicating that we really have come as near as possible to the moral truth. This is still the image that many proponents of reflective equilibrium have. It is what Ronald Dworkin calls the natural model, in which reflective equilibrium is a method to discover the moral truth.⁷ However, in a highly dynamic society such an image is an illusion. We know that our moral opinions may develop and major changes may occur, and can only hope that this is a good development. Yet, neither the fact of a societal consensus nor the fact that actions based upon our moral views seem to have good consequences are good grounds for saying that we have come nearer to the truth as something deep behind the continuous changes in our moral views.⁸ It is better to admit simply that in a process of reflective equilibrium, we construct a coherent theory or a good solution, but that our construction is not the representation of some truth hidden behind it.⁹ If we take dynamics seriously, we can, therefore, only opt for what Ronald Dworkin has called the constructive model of reflective equilibrium.¹⁰

In such a constructivist approach, the focus shifts from the product to the continuous process of construction.¹¹ It is necessary to keep this process open to continuous revision, without the pretence that we can construct the best possible theory for all times.¹² We should, therefore, speak of the process of reflective equilibrium rather than the method or procedure as is usually done. Reflective equilibrium is not a method or procedure, as if it were a means to reach the goal of true moral judgments and theories. The continuing process of reflection and action is important in its own right, not merely as an instrument for constructing justified theories or judgments.

This process should meet two conflicting aims. On the one hand, the aim is that it results in temporary closures, in the best possible justifications for decisions that we have to make now. We cannot wait with action before the process has come to an end. Hence, we must be able to reach provisional conclusions. The conclusions should be trustworthy. Indications for this may be that they are stable, universal, uncontroversial, and based on a general consensus. On the other hand, the process should be open to continuous revision and improvement, and responsive to changes in our views and in society. Rather than focusing on the more stable and general elements that probably guarantee a higher level of justification in the short term, we should focus on the elements which might be the beginning of new ideas or a shift in views. This means that we should cherish plurality, dissensus, and controversy, while being sensitive to variation in contexts and to controversial views. These two conflicting aims thus suggest different approaches to reflective equilibrium, with different methodological criteria and elements included in the process.

6. How to Make Reflective Equilibrium Responsive to Change

There are at least three issues that should be considered in analysing how reflective equilibrium can be made more responsive to change. We should determine the considerations or elements that should be involved in the process and identify elements that play a special role in promoting or counteracting dynamics and responsiveness. We should determine what methodological requirements should be used in the process and identify requirements that may play a special role in promoting or counteracting dynamics and responsiveness. We also need to find out who are the persons who reason and what is the context of the reasoning process and identify characteristics of persons and contexts that play a special role in promoting or counteracting dynamics and responsiveness.

Some elements in moral reasoning have a more static character and some a more dynamic character. The most important static elements are rules and, although less so, principles. Rules and principles constitute the main body of a normative ethical theory, at the intermediate level of abstraction. They can usually be formulated in a relatively unambiguous and general way. They summarize our moral experience, and are relatively permanent.¹³ For everyday interaction, where quick decision-making is important, they are essential.¹⁴ If they are the result of a thorough reflection process, they may provide provisionally fixed points that have a relatively high degree of justification.

The impetus for change can be found at the two extremes of abstraction, that of ideals and that of concrete experiences and intuitions regarding specific problematic cases. In moral argument, concrete cases are usually important elements that force us to reconsider our views and our practices.¹⁵ The unavoidable continuous confrontation with new cases is a major invitation to change. But this invitation on its own is never enough. There must also be normative sources for constructing new ideas, formulating new rules or principles that may do justice to new experiences and intuitive judgments. For this, we may find inspiration in the most abstract and broad elements in the reflective equilibrium process, that of ideals.¹⁶

Ideals are open to reinterpretation, have a surplus of meaning, and can be a point of orientation for a discussion on how to reconstruct our moral views in light of changing circumstances. Because ideals are future oriented and transcend every attempt to formulate specific conceptions, they can help us to go beyond our limited moral experience. They constitute a perspective from which we can look at our own society and our moral views from a distance. General ideals such as autonomy and democracy, or more concrete ideals such as privacy or good citizenship, are essential points of orientation for an ongoing moral debate and, thus, for a continuous moral development which keeps pace with the developments in society. It is mainly the interplay between ideals and our intuitive reactions to concrete cases that is the motor of dynamics in morality and moral theory.

Much critical debate has been going on about the methodological requirements that need to be met in order to make reflective equilibrium a justified and justifying process. The focus has strongly been on requirements that may lead to stability and a relatively unchangeable moral doctrine. Methodological tools that allow us to abstract from concrete contexts, from social and technological facts, and from differences between persons may result in relatively general, timeless moral theories. Thus, the impartiality requirement of the veil of ignorance has the effect of excluding the elements from the process that may lead to a demand for change in moral views, such as the special contexts of application, the characteristics of the persons who have to act and to form judgments, and concrete technological, social, and economic facts. Similar exclusionary effects are connected with requirements such as universalizability or generality.

Even ideals such as coherence and consensus may be overemphasized in such a way that they effectively frustrate moral change. It may be worthwhile to aspire to such ideals, but they should certainly not be used as strict methodological criteria. If we were to use them that way, we might well risk making our normative theory immune to change, as every attempt to change it in order to become more responsive to changing circumstances and new experiences or views, might initially lead to a disequilibrium and a dissensus.¹⁷ As Nicholas Rescher has argued, dissensus and diversity often play a highly constructive role in human affairs.¹⁸ It is important to learn to live with the inconsistencies and disequilibria that a continuous process of change implies.

The result of almost all the usual methodological requirements is thus to counteract change and exclude dynamics. This need not be a reason to abandon them as regulative ideals, but we should always be aware of the distortions they may cause in our reflection processes and try to counteract them. Even if we aim to build consensus, we should cherish plurality and dissensus in the process and take the dissenting opinions seriously, since they may be the heralds of a newly emerging morality. Even if coherence often is an indication that our views are justified, we should not dismiss too easily inarticulate doubts about received opinion or intuitions that do not fit our accepted moral theories. An example is the concept of the intrinsic value of animals, for which a satisfying conceptualization is still lacking, but which should nevertheless be taken seriously as expressing emergent moral and legal ideas and reflecting concrete intuitions regarding biotechnology that we cannot explain fully with the help of our traditional moral theories.

The exclusion of experiences and perspectives that do not fit well into the received body of moral views, of which at least part does not fit in well because it is representative of forthcoming changes, is thus a serious risk. In order to counteract the risk, we may try to focus our attention on new or otherwise easily excluded experiences and perspectives. The result of seeking new experiences and perspectives may be to enlarge the set of data involved in the

process of reflective equilibrium. Michael DePaul and others have suggested various ways to expand our moral horizons and enrich our experience. According to DePaul, we need to search actively for new moral experiences in order to critically reassess our beliefs and sometimes even make radical changes in our beliefs.¹⁹ Reading literature, suggested by authors such as Martha Nussbaum, may also confront us with new experiences and give more depth to our moral views.²⁰ If our goal is to be more open to change and adaptation to the dynamics of modern society, however, we should not focus solely on the great classics, as is usually suggested, but choose contemporary literature as well. We should, moreover, not only focus on literature, but also open ourselves to more modern media such as film or television, for example, science-fiction programmes such as Star Trek. Perhaps the most important way to be confronted with new experiences and perspectives is to engage in open but critical discussions with persons of completely different backgrounds, politically, religiously, and culturally. We can hardly expect everyone to seek personal experience with homosexuality or to get fully acquainted with all the new perspectives that the Internet offers, but at least we can try to listen to persons with such experiences.

Most models of moral reasoning are monological models, in which one person is involved. Even Rawls's original position is monological, as the persons are abstracted from their individuality. Because of the abstraction from a plurality of individuals, the reasoning process can lead to an unambiguous result, however controversial. A well-known objection against Rawls's view, especially brought forward by feminist authors such as Iris Marion Young, is that his theory is not fine grained enough to the differences between persons and to the relevance of very concrete circumstances and contexts.²¹ For the same reasons, monological models are not sensitive enough to change. One person can never do justice to the great variety of perspectives and experiences, not even Dworkin's Hercules. It is even more unlikely that a real person who grew up and was socialized in the past, can do justice to perspectives and experiences that help us to orient towards the future.

We should search for dialogical models of reasoning, in which various persons with different experiences participate in critical discussions. More importantly, the processes should be structured so that they are as open as possible to new perspectives that they can allow us to live with plurality rather than search for untidy compromises and consensus. Democratic processes and active tolerance toward people with other views and customs different from our own are, therefore, essential, not merely for liberal-democratic theory, but also for the viability of reflective equilibrium.

The context of the reasoning process should be that of a democratic dialogue. But the persons involved in the process can also be more or less responsive to change. DePaul has forcefully argued that they should expand their moral experience by actively acquiring new experiences not only to add new

data to the reflective equilibrium process but also to develop their moral faculties.²² This is an important step in keeping up with social change. By continuously trying to seek new experiences, we may become more used to dealing with change and thus learn to respond to still inarticulate signals of newly emerging moral views.

Marian Verkerk has argued that sometimes a more radical form of change is required, a change in the self-understanding of persons.²³ It is not merely that persons change their understanding of moral issues, they also change their images of themselves, which may also radically change their moral sensibilities and their moral views. She argues that if a woman has a self-image of a dependent housewife, the self-image will influence her way of perceiving society and her own role in it, and will consequently also influence her moral judgments. Similarly, if someone has a self-image fitting a farmer in a rural society, he may need to change his self-image first in order to be able to understand the Internet society and develop the necessary morally sensibilities that such a society needs.

Openness to radical change is essential in our dynamic societies. Yet, it is the most difficult to achieve of all the suggestions so far. Individual identities do not change overnight and people usually stick to their identities for a good reason, since integrity is a virtue. Even if integrity need not exclude change, it may severely restrict the possibilities of rapid moral change. Moreover, a longing for stability and certainty is a widespread human characteristic. In the end, this is one of the most problematic aspects of the phenomenon of change. It is not only our views or beliefs that may have to change, but also ourselves. Rapid changes may be perceived as threats to our moral views and hence to our identities and self-understandings. How much uncertainty and flexibility can someone tolerate? How much openness to continuous moral change and self-reflection is possible? An overdose of uncertainty may even lead to a reaction in the form of a refusal to accept the changes, as in fundamentalist or nationalist reaffirmations of threatened identities. It is a question of moral psychology how much change people can cope with. Yet, if we want to be able to deal with the phenomenon of continuous change, we should at least try to enhance it. Not only should we make our self-understandings, our individual and collective identities, open to change, but we should also make this openness to change part of ourselves.

7. Political Reflective Equilibrium

According to Rawls and Daniels, we should distinguish between, on the one hand, a self-standing political reflective equilibrium guided by public reason and, on the other hand, a wide reflective equilibrium, in which all relevant considerations are taken into account.²⁴ They thus introduce an exclusion of

certain elements to make the reasoning process feasible, which is connected to certain methodological arguments. The exclusion should be rejected on various grounds, but the most important objections are that it does not present an acceptable ideal for democratic practice and that it counteracts the dynamic character of the reflective equilibrium process. The objections can best be illustrated with an example: the debate on whether the law should recognize same-sex marriages. A theorist who takes Rawls's view might argue that public reason excludes arguments against same-sex relations that are based on religious or comprehensive moral doctrines.²⁵ It seems to follow that homosexual couples should have access to the same legal status as heterosexual couples. This is a defensible position, but the argument should not be based on public reason but on a comprehensive liberal doctrine in which the principle of equality overrules other arguments. This difference leads to different democratic processes. The political debate should cover the full range of comprehensive views, and liberals have to show that same-sex marriage is a requirement of justice. However, almost all arguments against same-sex marriages are strongly embedded in comprehensive views. Public reason would thus require that we exclude almost all such arguments from official public forums such as parliaments. The result would be that most members of parliament opposing same-sex marriage would have to remain silent, as their convictions are not even allowed to be expressed. Such a restrictive result of public reason seems highly undemocratic.

Rawls suggests a proviso, which might be used as an escape route.²⁶ Comprehensive views are temporarily admitted to the public debate, provided that in the end everyone appeals only to public reason. This proviso might be defensible in cases where moral views are still fragmentary and uncertain, such as animal ethics, in order to develop a new public morality. But opinions on same-sex marriage are not of this type. Most opponents are not uncertain about their political views; they are simply convinced that same-sex marriage is immoral or wrong. Allowing them to express their views in the public debate, on the condition that in the end they do not act on them and vote on them is a form of repressive tolerance. The opponents are not taken seriously as equal citizens. Moreover, the condition is counterproductive. The opponents will feel frustrated and may become alienated from the public institutions. This may lead to protest movements, backlashes, and even civil strife. Such a process of alienation and civil strife will certainly be reinforced when a minority's view is not merely overruled by a political majority but even declared unreasonable or unconstitutional. The abortion debate in the United States provides an example of how disastrous this can be. Therefore, for the sake of democracy, we have to reject political reflective equilibrium.

Reflective equilibrium is a dynamic process. The motor for the process is primarily the interplay between broad and general ideals and concrete personal experiences. The boundary of public reason excludes both factors from

the political reflective equilibrium process. Thus, the process will be shielded from essential critical input and will have a conservative bias. If such a core element of our comprehensive views is thus protected against change, this will no doubt also influence the wider reflective equilibrium processes. Therefore, for the sake of the dynamics of reflective equilibrium, we also have to reject political reflective equilibrium.

However, this conclusion may be too easy. Perhaps it would not be a good argument in a highly divided society. Political reflective equilibrium might prevent civil strife by excluding heated controversies from the public debate and thus protecting civility in politics. The broader the discussion is, the longer it may take to reach a common agreement, if any at all. The heated debate may also lead to hardened positions rather than to a critical reassessment of our own views in the light of different views and stories from other persons. In order to protect civil peace and a liberal society, it would be wise to stick to political reflective equilibrium.²⁷

This reply may be plausible, and whether political liberalism will work largely depends on the political culture of a society. It shows, nevertheless, that political reflective equilibrium would have us focus on relatively stable and consensual foundations on which to build a common agreement, but at the price of the disadvantage of being less open to dynamics. The feared non-liberal views may never be critically discussed and thus never get the opportunity to change. Illiberal attitudes may continue to exist among the population at large, while a more open debate at least has a greater possibility of also changing the non-liberal attitudes. Views against same-sex marriage are a good example. People often believe that they have good reasons against the idea, but find that, when challenged to do so, they cannot formulate and justify them so easily. This may lead to a revision of their views in a more liberal sense. It depends on a political evaluation which risk we take more seriously, that of endangering civil peace and liberal arrangements, or that of the political arrangements being too stable and becoming increasingly inadequate, with an even greater risk of a stronger conservative backlash in the long run.

8. Conclusions

Our dynamic society requires a dynamic morality and thus a form of ethical reflection which can be responsive to change. The method of reflective equilibrium is much better suited to this challenge than the foundationalist alternatives. But reflective equilibrium is a very broad concept which can be interpreted in many ways, including semi-foundationalist ways. Due to the foundationalist legacy in moral philosophy, there has been a tendency to focus on the product of reflective equilibrium rather than on reflective equilibrium as an ongoing process. Consequently, there has been a focus on meth-

odological criteria or elements which may seem to produce certainty and universality, such as the idea of an original position and the idea of political liberalism. These criteria and elements, however, may have the disadvantage of obstructing change and thus of having a conservative bias.

In academic ethics as well as in social debates, we should therefore find ways to be more dynamic. If we focus on elements in the process of equilibrium, ideals and our concrete intuitions and experiences relative to changing contexts are the elements in the process which are most open to change. Political reflective equilibrium may have us focus too much on stability, consensus, and universality, because it excludes those elements from the process. It should be rejected because it leaves too little room for change. With respect to methodological criteria, we should be wary of too much focus on ideals such as coherence and consensus, and try to leave more room in the process for incoherence, for plurality of perspectives and for acquiring new experiences. With respect to the context of the reasoning process, we should be more critical of monological methods and promote democratic processes that foster plurality and dissensus. Most importantly, we should make flexibility and openness a personal virtue and broaden our moral sensitivity in such a way that it can better respond to change.

It is difficult to strike a balance between the need for stability, certainty, and universality, on the one hand, and the need for adaptive change, on the other. Different normative practices may allow us to strike different balances. Law should certainly be more protective of stability and certainty than philosophical ethics in an academic context. The metaphor of balance is misleading here, as the relationship is dialectical. In order to promote change, we may well need the continuing attempt to create stable and universal theories and even the search for foundations. Elaborated proposals for stable and universal theories, such as Rawls's theory, can play an important role in fostering discussion. Even if we were to question its universalist elements, the world would certainly be a much better place if Rawls's theory were to be realized or if, more modestly, we seriously tried to realize it. Even so, we have not taken the need for dynamics seriously enough. Moral philosophers seem to devote a disproportionate part of their energy to the stable and universal parts of morality. We had better divert at least part of that energy to the variable and changing elements of our society and our morality. Dynamic versions of reflective equilibrium may help us to do so.²⁸

Notes

1. Wibren van der Burg, "Bioethics and Law: A Developmental Perspective," *Bioethics* 11 (1997) and "Two Models of Law and Morality," *Associations* 3 (1999).
2. See Brian Barry, "John Rawls and the Search for Stability," *Ethics* 105 (1995).
3. See John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971).

4. See Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 4th ed. (Oxford: Oxford University Press, 1994).
5. See Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge, England: Cambridge University Press, 1996); Michael DePaul, *Balance and Refinement: Beyond Coherence Methods of Moral Inquiry* (London: Routledge, 1993); Wibren van der Burg and Theo van Willigenburg, eds., *Reflective Equilibrium: Essays in Honour of Robert Heeger* (Dordrecht: Kluwer Academic Publishers, 1998).
6. Rawls, op. cit., p. 51 and John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 97.
7. See Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1978), p. 160.
8. See John Rawls, "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77 (1980), in John Rawls, *Collected Papers* (Cambridge, Mass.: Harvard University Press, 1999), pp. 303–359. See also Mark S. Cladis, "Wittgenstein, Rawls and Conservatism," *Philosophy & Social Criticism* 20 (1994).
9. See Dworkin, op. cit., p. 162.
10. Dworkin, op. cit., p. 160. Also see Kai Nielsen, "How to Proceed in Social Philosophy: Contextualist Justice and Wide Reflective Equilibrium," *Queen's Law Journal* 20 (1994), p. 89.
11. See F.W.A. Brom, "Developing Public Morality," in Van der Burg and Van Willigenburg, eds., op. cit., p. 193.
12. John Rawls, *Political Liberalism*, p. 97.
13. See Robert Heeger, "Views of Life in New Situations: Moral Thinking about Animal Experiments and Biotechnology," in G. van den Brink, L. van den Brom and M. Sarot, eds., *Christian Faith and Philosophical Theology* (Kampen, The Netherlands: Kok Pharos, 1992), pp. 92–102 and Marcel Verweij, "Moral Principles: Authoritative Norms or Flexible Guidelines?" in Van der Burg and Van Willigenburg, eds., op. cit., pp. 29–40.
14. See Thomas Magnell, "The Mistake of the Century and Moral Deliberation," *Journal of Value Inquiry* 34 (2000).
15. See Brom, op. cit.
16. See Wibren van der Burg, "The Importance of Ideals," *Journal of Value Inquiry* 31 (1997) and "Ideals and Ideal Theory: The Problem of Methodological Conservatism," in Van der Burg and Van Willigenburg, eds., op. cit., pp. 89–99. Also see Lisa Bellantoni, *Moral Progress: A Process Critique of MacIntyre* (Albany, N.Y.: State University of New York Press, 2000).
17. See Brian Walker, "John Rawls, Michail Bakhtin, and the Praxis of Toleration," *Political Theory* 23 (1995), p. 11.
18. Nicholas Rescher, *Pluralism: Against the Demand for Consensus* (Oxford: Oxford University Press, 1993) p. 9. See also Brom, op. cit., p. 201.
19. See DePaul, op. cit. Also see Catherine Z. Elgin, *Considered Judgment* (Princeton, N.J.: Princeton University Press, 1996).
20. See Martha Nussbaum, *Poetic Justice. The Literary Imagination and the Public Life* (Boston: Beacon Press, 1995).
21. See Iris Marion Young, *Justice and the Politics of Difference* (Princeton N.J.: Princeton University Press, 1990).
22. See DePaul, op. cit.; Eberhard Herrmann, "Rationality, Warrant and Reflective Equilibrium," in Van der Burg and Van Willigenburg, eds., op. cit., pp. 103–114.
23. M. Verkerk, "The Thinker and the Thinking Process: A Feminist Perspective on the Moral Faculty," in Van der Burg and Van Willigenburg, eds., op. cit., pp. 115–126.

24. John Rawls, *Political Liberalism*, p. 97 and “The Idea of Public Reason Revisited,” *University of Chicago Law Review* 64 (1997), in John Rawls, ed., *Collected Papers* (Cambridge, Mass.: Harvard University Press, 1999), pp. 473–615; Daniels, op. cit.
25. See John Rawls, “The Idea of Public Reason Revisited,” p. 779.
26. See John Rawls, op. cit., p. 783–784.
27. I would like to thank Norman Daniels for drawing my attention to this possible reply.
28. Earlier versions and parts of this paper have been presented at the universities of Utrecht, Tilburg, Linköping, Amsterdam and Zürich, and at the Netherlands School for Research in Practical Philosophy. Special thanks for their helpful comments are due to Wouter de Been, Ton van den Beld, Bert van den Brink, Jos Kole, Pieter Pekelharing, Juha Räikkä, Marcel Verweij, Theo van Willigenburg and Thomas Magnell. The research for this paper was partly supported by a Pionier-grant from the Netherlands Organisation for Scientific Research (NWO).