



Utrecht University

Relational autonomy and self-chosen death in the Netherlands

A critical analysis of the law proposal 'Wet toetsing levenseindebegeleiding'

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Abstract

In Pia Dijkstra's law proposal regarding elderly people and assisted suicide in case of 'a finished life', autonomy is a central concept. Dijkstra argues that the new law proposal will enhance the autonomy of elderly people with a wish to die without unbearable suffering. The way autonomy is approached portrays a focus on rationality, independence, self-consideration and individual choice. In the past decades relational lines of critique have been developed against the traditional approach of autonomy, introducing a relational understanding of autonomy. These approaches try to incorporate emotions, relationships, embedded selves and the asynchronous nature of autonomy. Dijkstra also implements the notion of relational autonomy in her proposal, adopting the term from the 2016 report by the committee of Independent Experts directed by prof. dr; Paul Schnabel. She also builds on insights found in the 2020 Perspective research directed by van Wijngaarden. I build my arguments mostly on accounts of relational autonomy by Gómez, de Maeseneer and Gastmans., Walter and Friedman Ross, Winzelberg, Hanson, Tulksy and Baumann. I introduce three arguments: firstly, the dependence argument in which I argue that A) being dependent is not a threat for autonomy and B) making an autonomous choice cannot be done completely independently. Secondly, I present the ambiguity argument in which I argue that A) the proposal overestimates rationality and reason and B) overlooks the ambiguity of the decision-making process. Thirdly, I present the contextual argument in which I argue that A) the proposal only incorporates relational autonomy in an accidental way and B) incorporates relational autonomy in an instrumental way. In the end I conclude that, while Dijkstra tries to incorporate relational insights on autonomy, she does not sufficiently do so.

Keywords: relational, autonomy,, self-chosen death, euthanasia, Netherlands, ethics, D66

Zal ik weggaan?

Zal ik weggaan?

Zal ik verdrietig worden en weggaan?

Zal ik het leven eindelijk eens onbelangrijk vinden,
mijn schouders ophalen
en weggaan?

Zal ik de wereld neerzetten (of aan iemand anders geven), denken:

zo is het genoeg,
en weggaan?

Zal ik een deur zoeken,
en als er geen deur is: zal ik een deur maken,
hem voorzichtig opendoen
en weggaan- met kleine zachtmoedige passen?

Of zal ik blijven?

Zal ik blijven?

Toon Tellegen

uit: Alleen liefde,

Querido Amsterdam 2002

Introduction

Approximately 10.000 Dutch citizens of 55 or older have a persistent and active death-wish without being seriously ill. This makes up 0.18% of Dutch population. This is one of the results of the research piece, 'Perspectives on the death wish of elderly people who are not seriously ill: the people and the digits,' that was carried out by the University for Humanistic Studies and the Julius Center of UMCU under guidance of Els van Wijngaarden, commissioned by the Dutch Ministry of Health, Welfare and Sport. From now on, I will refer to this report as the Perspective report.

The research project was carried out within the context of ongoing societal debate about euthanasia and the demands, context and judicial boundaries in which it can or should be allowed. In 1991 professor emeritus Hans Drion published a now famous letter in *NRC Handelsblad*, a Dutch newspaper. In this letter he argued that elderly people should have the possibility to end their life "in an acceptable way at what they consider (...) a suitable moment."¹ 'Drion's pill' has later become the image of his proposed convenient, accessible exit; a suicide pill that one could easily purchase, leave on the nightstand and take at a self-chosen moment. An important argument for his plea is based on the concept of 'autonomy'; a person should be able to determine for themselves when their life is 'finished'. Drion argued that "his plea acknowledges a greater role for autonomy than up to this point in the debates concerning euthanasia."²

Since 2001 euthanasia is legal in the Netherlands, in cases of unbearable medical suffering.³ In 2011 the Royal Dutch Medical Association (RDMA) broadened the situations in which euthanasia is allowed by including a combination of multiple illnesses and medical conditions.⁴ However, as of now, 'being tired of life' or 'considering your life finished' without medical suffering is not a valid reason when applying for euthanasia.⁵ Drion argued that the current euthanasia law should be extended to incorporate the aforementioned 0,18% of society. In July of 2020 a new law proposal in favour of broadening current euthanasia law was presented to the House of Representatives of the Netherlands. Pia Dijkstra, the initiator of the proposal argues that assisted suicide should also be accessible for people of 75 or older, who consider their life to be finished. Dijkstra also attributes a central role to autonomy. In the introduction of the proposal, she states that "the law proposal in question answers the question of how to accommodate the growing wish elderly people have for autonomy, when they view their life as

¹ Hans Drion, *Het zelfgewilde einde van oude mensen* (Amsterdam: Balans, 1992), 11. My translation; original: "Het lijkt me aan geen twijfel onderhevig dat veel oude mensen er een grote rust in zouden vinden als zij over een middel konden beschikken om op aanvaardbare wijze uit het leven te stappen op het moment dat hun dat – gezien wat hen daarvan nog te wachten staat – passend voorkomt."

² Drion, *Het zelfgewilde einde*, 16. My translation; original: "Wat ik hier bepleit, gaat voor oudere mensen van een grotere autonomie uit dan waar tot dusver bij de discussies over euthanasie aan pleegt te worden gedacht."

³ "Euthanasie en de wet: sterven met hulp van een arts," Rijksoverheid, accessed April 1, 2021, <https://www.rijksoverheid.nl/onderwerpen/levenseinde-en-euthanasie/euthanasie>. - in Dutch: 'Wet toetsing levensbeëindiging op verzoek en hulp bij zelfdoding' (Wt1). Het is eigenlijk niet legaal maar gedoogd.

⁴ KNMG, *De rol van de arts bij het zelfgekozen levenseinde* (Amsterdam, 2011).

⁵ Rijksoverheid, "Euthanasie en de wet."

finished.”⁶ There are three ways in which autonomy is checked in this proposal, namely through the demands that have to be met in order to apply successfully for the conceptual regulation. We will call them ‘conditions’:

- Firstly, the ‘external pressure condition’ demands that the “call for help has taken shape without any external pressure.”⁷
- Secondly, the ‘deliberate condition’ demands that the call be “well-considered” or “deliberate.”⁸
- Lastly, the “durable condition” is concerned with whether the call is durable, that is, persistent over time.⁹

These conditions are set up to protect important aspects of autonomy like being free from coercion, being reasonable and taking the time to think an important decision through. The proposal has more due diligence conditions that have to be met but these three components are most directly concerned with autonomous choice. The conditions, along with the language use and current policy regulation suggest a view of autonomy that is self-determinant, individualist and reasonable. I will explain each condition and the implications in greater detail later.

However, while the aforementioned conditions are suitable to protect important aspects of autonomy, they fail to pay attention to other aspects that are more relational. Since the end of the 20th century several lines of criticism have been developed against classical views on autonomy. The lines of criticism are mostly grounded in the conviction that human persons are connected to others and thus influenced and formed by others, also with regards to their individual autonomy. Autonomy can therefore not be seen as something that is developed individually and separately from others. These lines of criticism also incorporate social relationships, emotions, and the asynchronous nature of autonomy, meaning that it is not static but changes over time. In doing this the relational accounts intend to offer a more holistic view on autonomy. Interestingly enough, while Dijkstra’s view of autonomy may have individualistic and rational components, as I will show, she does try to incorporate relational autonomy the proposal. The following quote summarises her point: “The initiator and the citizen initiative ‘Out of Free Will’ view autonomy as a social – or as the Committee of Independent Experts

⁶ Tweede Kamer der Staten-Generaal, *Wet toetsing levenseindebegeleiding van ouderen op verzoek: Memorie van toelichting*, Pia Dijkstra. 35534, ’s-Gravenhage. Tweede Kamer. <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?dossier=35534&id=2020Z14112> (accessed March 30, 2021) 2. My translation; original: “Het onderhavige wetsvoorstel beantwoordt de vraag op welke manier aan deze groeiende wens onder ouderen tot meer autonomie tegemoet kan worden gekomen, als zij hun leven als voltooid beschouwen.”

⁷ “Hoe werkt het wetsvoorstel voltooid leven? Een uitleg in twaalf stappen,” D66, accessed April 1, 2021, <https://d66.nl/hoe-werkt-het-wetsvoorstel-voltooid-leven/>.

⁸ Ibid.

⁹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 23. My translation; original: “(...) of de hulpvraag zonder enige druk van buitenaf tot stand is gekomen en weloverwogen en duurzaam is.”

calls it “relational” matter. Not only the ideas and insights someone has regarding good quality of life or a worthy end of life come about in dialogue with someone’s social environment, the execution also takes place in connection with others.”¹⁰ But what does Dijkstra intend to say by calling autonomy ‘relational’? Does the fact that she defines autonomy as relational mean that her account of autonomy is really relational? In this thesis I will use insights from the field of relational autonomy to develop a line of criticism regarding the account of autonomy that is present in the law proposal by Dijkstra. In doing so, I will ask the following research question: ‘

“Does Dijkstra’s law proposal concerning end of life assistance sufficiently recognize relational aspects of autonomy?”

In chapter one I go over the political and historical context of the proposal. Next, in chapter two, I delve deeper into the term ‘autonomy’ and explain how it is traditionally conceived and on what grounds this interpretation has been criticized. The most important authors whose insights I build on are Gómez, de Maeseneer and Gastmans, Winzelberg, Hanson and Tulksy, Baumann and Walter and Friedman Ross. In chapter three I introduce three arguments against the way autonomy is portrayed in the proposal.

- Firstly, I introduce the dependence argument in which I argue that A) being dependent is not a threat for autonomy and B) making an autonomous choice cannot be done completely independently.
- Secondly, I present the ambiguity argument in which I argue that A) the proposal overestimates rationality and B) overlooks the ambivalence of the decision-making process.
- Thirdly, I present the contextual argument in which I argue that A) the proposal only incorporates relational autonomy in an accidental way and B) incorporates relational autonomy in an instrumental way.

In the Dutch House of Representatives and in Dutch society, opinions regarding this topic are divided. The proposal still has to be discussed before being decided upon and since the proposal is relatively recent, not a lot of research has been done into it. It is therefore important to shed light on the way in which autonomy is approached in the proposal, to see whether it is able to provide a holistic portrayal of human decision-making regarding ‘finished life’ and euthanasia.

¹⁰ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20. My translation; original: “Echter, de initiatiefneemster en ook het burgerinitiatief «Uit Vrije Wil» zien autonomie als een sociaal – of zoals de Commissie van wijzen het noemt «relationeel» – gegeven. Niet alleen de ideeën en inzichten die iemand heeft over een goede kwaliteit van leven of een waardig levenseinde komen tot stand in dialoog met iemands sociale omgeving, ook de uitvoering vindt altijd plaats in verbondenheid met anderen.”

1. Political and historical context

1.1. Historical overview: up to now

Societal debate concerning euthanasia and suicide is as old as the history of humanity. The question whether a person is allowed to take one's own life has been discussed in many religious, philosophical and political contexts. Dijkstra contextualises her proposal by offering an overview of historical developments starting in the Middle Ages when suicide was deemed punishable, mostly on religious grounds. She argues that people used to share in the general conviction "that life had intrinsic, 'superpersonal' value (...) regardless of the meaning someone attributed to it themselves." It was deemed important to have respect for human life, even for that of a person who wanted to rid themselves of it.¹¹ In 1886 articles 293 and 294 were included in the Dutch Penal Code, deeming the actions of ending of someone's life or assisting suicide punishable.¹²

Whereas Drion's letter sparked broad societal discussion concerning 'a finished life' as a reason to request euthanasia, prior to his article societal debate had already led up to this moment, for example through several legal cases concerning euthanasia and assisted suicide.¹³ In 2001 euthanasia was legalised in the Netherlands.¹⁴ In 2010 the citizen campaign 'Out of Free Will', initiated by the Right-to-Die-NL and 15 public figures, raised political awareness for 'fulfilled life'.¹⁵ They explicitly introduced the terminology of 'finished life' instead of 'suffering from life', thereby reframing the nature and essence of the public debate.¹⁶ Nowadays the generally accepted term for the debate is 'finished life', but the underlying assumption that a life can be considered 'finished' can be, and has been criticised.¹⁷ The initiative united many Dutch supporters that showed their agreement by signing a petition.¹⁸ Through pressure by the citizen initiative, the RDMA decided that a combination of multiple illnesses and medical conditions was also considered enough to allow euthanasia.¹⁹

¹¹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 4. My translation; original: "(...) was de heersende opvatting dat het leven van intrinsieke, bovenpersoonlijke waarde was. Voor de toenmalige regering had het leven waarde op zich, ongeacht wat het leven voor iemand zelf betekende. De regering sprak van «den eerbied voor het menselijk leven, ook tegenover hem, die voor zichzelf daaraan te kort wil doen»."

¹² Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 3-4.

¹³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 4.

¹⁴ Eerste Kamer der Staten-Generaal, *Wet toetsing levensbeëindiging en hulp bij zelfdoding*. A.H. Korthals. 194, 's-Gravenhage. Eerste Kamer, 2001.

https://www.eerstekamer.nl/behandeling/20010426/publicatie_wet/document3/f=/w26691st.pdf (accessed March 20, 2021).

¹⁵ "Burgerinitiatief voltooid leven," Uit vrije wil: Burgerinitiatief voltooid leven, accessed May 10, 2021, <http://www.uitvrijewil.nu/index.php?id=1000>.

¹⁶ Paul van Tongeren, *Willen sterven: Over de autonomie en het voltooide leven*. (Utrecht: Uitgeverij Kok, 2018), 22.

¹⁷ Adviescommissie voltooid leven. *Voltooid leven: Over hulp bij zelfdoding aan mensen die hun leven voltooid achten*. by Paul Schnabel et al. Den Haag: Adviescommissie voltooid leven, 2016.

<https://www.rijksoverheid.nl/documenten/rapporten/2016/02/04/rapport-adviescommissie-voltooid-leven> (accessed May 1, 2021), 29.

¹⁸ Uit vrije wil, "Burgerinitiatief voltooid leven."

¹⁹ KNMG, *Rol van de arts*, 23.

Although the judicial framework has become more lenient, allowing a broader set of reasons to allow euthanasia, ‘finished life’ is, as of yet, not an acceptable reason. The current euthanasia law demands that the request be voluntary, thought through and informed. Furthermore, the person in question has to experience unbearable suffering without perspective on change or an alternative.²⁰ In 2013, initiated by the Dutch association of self-chosen death (NVVE) the ‘cooperation last will’ was established. This commission started to look into commercial ways of distributing medicines to aid people in ending their own life. In 2018 the Dutch public prosecutor’s office assessed them because of this, but the conclusion was that they had not done anything illegal.²¹

Meanwhile, in 2015 Els van Wijngaarden, Carlo Leget and Anne Goossensen published their research regarding self-chosen death in which they interviewed people who were in the process of deciding whether to opt for self-chosen death. With their research they were the first to collect empirical data concerning this group, including the actual motivations of the people themselves.²²

The Dutch government also tried to undertake steps in order to raise awareness for the issue. In 2016 a Committee of Independent Experts, led by prof. dr. Paul Schnabel and commissioned by the Dutch Ministry of Health, Welfare and Sport (HWS) and the Ministry of Justice and Security (JS) published an advisory report. From now on, I will refer to this report as the Schnabel report. Whereas the report contained an advise, a lot of information concerning the actual size and characteristics of the elderly group in question was still missing. That is why in January of 2020 the Perspective report was published to show more information about the amount of people who actually go through this process of debating a self-chosen death. It shows more information about the group of people concerned and the situations in which they are often situated. In the meantime, the Ministry of HWS also initiated social conversation about the matter. One way in which they did this was by hosting several ‘living room conversations’ and presenting a report with an overview of various societal considerations of citizens.²³

These different developments show the societal relevance and urgency of the ‘finished life’ debate. They also provide a contextual background in which Dijkstra’s proposal has come about. I will now go into the content of the law proposal.

²⁰ “De 6 zorgvuldigheidseisen van de euthanasiewet,” Rijksoverheid, accessed March 20, 2021. <https://www.rijksoverheid.nl/onderwerpen/levenseinde-en-euthanasie/zorgvuldigheidseisen>.

²¹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 11.

²² Els van Wijngaarden, Calo Leget, and Anne Goossensen, “Ready to give up on life: The lived experience of elderly people who feel life is completed and no longer worth living,” *Social Science & Medicine* 138 (August 2015): DOI: 10.1016/j.socscimed.2015.05.015.

²³ Ministerie van Volksgezondheid, Welzijn en Sport. *Voor goed sterven: het gesprek over de laatste levensfase*. Amsterdam: Bureau & MAES, 2020. <https://www.rijksoverheid.nl/documenten/rapporten/2021/01/07/voor-goed-sterven-het-gesprek-over-de-laatste-levensfase> (June 21, 2021).

1.2. The law proposal

In line with the ongoing developments, Pia Dijkstra initiated a law proposal concerning the inclusion of ‘finished life’ as a valid reason for assisted suicide. In 2016 a concept version of the proposal was shared on the D66 website and on the 17th of July in 2020 the proposal was presented.²⁴ Shortly after the initiation, the RDMA responded to the proposal by stating that the current legal framework concerning euthanasia can incorporate the group of elderly people concerned.²⁵ In September 2020 the House of Representatives held a debate about the proposal, but in February of 2021 Dutch parties D66 and CU decided not to vote about the proposal because of upcoming elections and continuous disagreement.²⁶

The proposal builds upon the aforementioned citizen initiative ‘Out of Free Will’. Their 2010 manifest was a proposal to enable assistance with suicide for elderly people who deem their life ‘finished’. The manifest contained the following important points: first of all, the concept of self-determination was central, as were the external pressure condition, deliberate condition and durable condition. Furthermore, the subjective nature of ‘finished life’ was stressed. The importance of personal responsibility for the suicide was acknowledged; the agent was said to commit suicide, not undergo euthanasia. The manifest applied a perimeter of the age of 70 and because the nature of experiencing life as ‘finished’ is non-medical, physicians did not have to be included; specially schooled end of life counsellors were said to accompany the process.²⁷ Along with the manifest of 2010, a legislative draft was established. Parts of this legislative draft form the basis of Dijkstra’s current proposal.²⁸

Dijkstra’s proposal works as follows: a person of 75 or older deems their life ‘finished’ and has developed a wish to die. (You may notice that Dijkstra has raised the age perimeter to 75 as opposed to the age of 70 initiated by ‘Out of Free Will’, following the reasoning that an agent of 75 or older has probably lived a long life, has experience with making complicated decisions and is generally able to make up “the balance of their lives”).²⁹ Anyway, we will call this person ‘the agent’. The agent visits a so-called end of life counsellor and this counsellor makes sure the agent meets nine legal steps of due diligence which I will explain shortly. During the talk with the agent and counsellor the option of including loved ones is discussed; they cannot play a role in the decision-making process but can be included if the person wants. Other options besides euthanasia are also discussed.

²⁴ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*.

²⁵ Raad van State. *Reactie KNMG op het initiatiefwetsvoorstel ‘Wet toetsing levenseindebegeleiding van ouderen op verzoek’*. KNMG. Utrecht: KNMG, 2020.

²⁶ “Wet toetsing levenseindebegeleiding van ouderen op verzoek,” Tweede Kamer der Staten-Generaal, accessed May 2, 2021, <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?dossier=35534&id=2020Z14112>.

²⁷ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 10.

²⁸ *Ibid.*

²⁹ *Ibid.* 21 My translation; original: “Ouderen zullen in het algemeen, door de ervaring van het lange leven dat achter hen ligt, beter dan «jongeren» in staat zijn om te bepalen of het leven voor hen nog levenswaardig is, temeer omdat zij meer de balans opmaken van hun leven.”

Then, the demand is put in writing or a visual message and the agent has to wait two months before the second meeting is set up. After this period, the agent speaks to their counsellor and an independent counsellor. If the due diligence demands are met, the counsellor and agent set a date for the moment of assisted-suicide. At the set moment, the counsellor picks up the deadly medicine and gives them to the agent, since the agent has to take the medicines themselves. Furthermore, the counsellor legally has to be present at the moment of euthanasia, but loved ones are only present if the agent explicitly wishes them to be. After the medicines are taken in, the process will be similar to the current euthanasia law. After that, the counsellor sets up a report with the relevant information and shares it with a review committee of one jurist, one ethicist and the counsellor. A physician does not have to be present, since ‘fulfilled life’ does not need medical ground.³⁰

During the process I just explained, nine due diligence demands have to be met. Firstly, the agent has to be mentally competent and has to have expressed in a video message or on paper that they wish to end their life. Secondly, the option to include loved ones has to be discussed. The exact moment when and to what extent they can be included is not explicated here. The third demand includes the three conditions that are most important for my argument since they concern autonomy: the wish is voluntary, well-considered and durable the aforementioned external pressure condition, deliberate condition and durable condition. The period of two months between the conversations is established to ensure this demand. Demand four ensures the exploration of other options besides death. Furthermore, according to the fifth demand, the counsellor should explain the legal context of the assisted suicide. Demand six states that the agent has to be 75 or older and according to demand seven they must live in the Netherlands. Demand eight states that an independent counsellor should also speak with the agent and according to demand nine, if the agent agrees a physician is also included.³¹

As I mentioned before, Dijkstra considers autonomy to be a very important principle that she uses as an argument for broadening the current euthanasia law, thereby including ‘finished life’ as a motivation. Dijkstra acknowledges that she builds her proposal on the conviction that “anyone should, in principle, have the freedom to arrange their own life ‘in own insight’”.³² A person should thus be free to determine their personal lives the way they want to. This is an important use of personal autonomy and when circumstances disable a person to be self-determinate, this may form a threat to autonomy. Following this statement, if a person is unable to register the self-chosen moment of death, while they

³⁰ “D66, “Hoe werkt het wetsvoorstel.”

³¹ Ibid.

³² Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 18. My translation; original: “Het principiële uitgangspunt van dit wetsvoorstel is, dat eenieder in beginsel de vrijheid moet hebben om zijn of haar leven naar eigen inzicht in te richten.”

have had the opportunity of choice in all other aspects of their lives, this can form a threat to autonomy.³³ She states that the Perspective study also shows this focus on self-determination among elderly people.³⁴

Dijkstra uses the terminology of ‘losing ‘control’ over the last chapter of life, and thereby being forced to “undergo the last phase of life in a, for them unacceptable, humiliation, in opposition of the developed personal identity.’³⁵ Since personal choice and self-determination are important concepts that constitute human autonomy, according to Dijkstra, losing this self-determination may be a reason to consider life ‘finished’. The law proposal allows people who undergo this deterioration, to regain control by determining their moment of death instead of undergoing it.³⁶

In order to better understand this focus on individual autonomy and self-determination, let’s consider the political context in which the proposal is situated.

1.3. Political context

Over the years Dutch political party D66, a party with a so-called social-liberal ideology at its centre, has played a big role in initiating conversation about the matter. When ‘Out of Free Will’ was initiated, D66 was one of the first to openly support the citizen initiative and undertake action with regards to broadening current law.³⁷ In 2018 the scientific bureau of D66, the Van Mierlo organisation, presented a report ‘Speaking of medical ethics’ in which they incorporated different essays written by experts, to present an overview of considerations regarding ‘finished life’.³⁸ Pia Dijkstra has represented D66 in the House of Representatives between 2010 and 2021. In 2016 the concept of this law proposal was shared on the D66 website, and also the current proposal is explained there.³⁹ The D66 website also mentions that people should be able to decide for themselves whether they view their lives as finished or not; in line with the focus on individual autonomy that is expressed in the law proposal.⁴⁰

D66 identifies as a social-liberal party, which is summarised on their website as “being free together.”⁴¹ The freedom of each ‘individual’ is central, but in order for an ‘individual’ to be free, they need others to enable them to be free.⁴² If others do not give you the freedom to act autonomously, this

³³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*, 5.

³⁴ Ibid. 19. Law proposal p 19

³⁵ Ibid. My translation; original: “Dit kan ertoe leiden dat ouderen de regie over het laatste hoofdstuk van hun leven verliezen en worden gedwongen om de laatste levensfase in een voor hen onaanvaardbare ontlustering te ondergaan, in weerwil van de opgebouwde eigen identiteit.”

³⁶ Ibid. 2.

³⁷ Ibid. 11.

³⁸ Mr. Hans van Mierlo Stichting. *Over medische ethiek gesproken*. 2018.

<https://vanmierlostichting.d66.nl/projecten/projecten-gedachtegoed/over-medische-ethiek-gesproken/> Accessed May 10, 2021.

³⁹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*, 29.

⁴⁰ “Voltooid leven,” D66, accessed April 20, 2021. <https://d66.nl/standpunten/voltooid-leven/>

⁴¹ “Sociaal-liberalisme.” Van Mierlo Stichting, accessed May 3, 2021. <https://d66.nl/vanmierlostichting/sociaal-liberalisme/>

⁴² You may notice that I have put ‘individual’ in brackets. This is because the concept entails a conception of personhood as being individual first, after which relations come to be.

freedom cannot be exercised. Society thus plays a role in creating the circumstances in which personal freedom can exist. Furthermore, D66 considers “self-determination over the body, as regarding euthanasia and abortion (...) self-evident,”⁴³ A person can decide for themselves what is good for them. This political context can help us understand the background of individual autonomy that is defended in the law proposal. I will now go into the concept of autonomy as it has been ‘classically’ defended and more recently understood.

⁴³ “De uitgangspunten van demoraten 66,” Repositories Documentatiecentrum Nederlandse Politieke Partijen, accessed May 15, 2021. <https://dnpprepo.ub.rug.nl/9878/1/Uitgangspunten%20van%20Democraten%2066%20-%202000.pdf>

My translation; original: “Zelfbeschikking over het eigen lichaam, zoals bij euthanasie en abortus, is voor D66 vanzelfsprekend.”

2. Autonomy

2.1. 'Classic' accounts of autonomy

Individual autonomy is a modern concept that developed in line with philosophical accounts like those of Descartes, Lock, Kant and Mill.⁴⁴ 17th century liberalism and humanism brought about a focus on individual self-governance and authentic actions based on personal values, desires and considerations. Individual rights, liberty and independence became important concepts.⁴⁵ The term 'individual' also started to be used to refer to 'separateness', with regards to a person.' All in all, the 'classic' view of autonomy incorporates a strong focus on the 'individual' and their personal ability to decide and act for themselves, apart from external pressure and paternalism.⁴⁶ From now on, I will use the term 'classic' to refer to this conception of autonomy, because I am later going to compare it to more recent relational critiques.

Since my undertaking is specifically concerned with autonomy and healthcare, let's take a look at autonomy as it is classically explained within the field of medical ethics. Autonomy is one of the four basic principles coined by Beauchamp and Childress in their well-known monograph, *Principles of Biomedical Ethics*." They argue that personal autonomy is, "at minimum, self-rule that is free from both controlling interference by others and from limitations, such as inadequate understanding, that prevent meaningful choice. The autonomous individual acts freely in accordance with a self-chosen plan (...)"⁴⁷

For a person to act autonomously, they have to meet three conditions: the noncontrol condition, the intentional condition and the understanding condition. The action has to be undertaken free from external controls that impede on autonomy, in line with the personal intention of the agent and in reasonable understanding of what the action entails.⁴⁸ You may notice that these conditions somewhat resemble the conditions that we identified in the proposal: the external pressure, deliberate and durable condition. The external pressure and deliberate conditions in the proposal resemble the noncontrol and intentional conditions of Beauchamp and Childress. The durable condition of the proposal and the understanding condition of Beauchamp and Childress are less similar, but share their assumption of autonomy being reasonable and logically explainable.

In their article 'Relational autonomy: moving beyond the limits of isolated individualism', Jennifer K. Walter and Lainie Friedman Ross argue that the concept of autonomy has played a central role within medical ethics since the 1970s, with a focus on patient autonomy as a reaction to strong

⁴⁴ John Christman, "Autonomy in Moral and Political Philosophy," *The Stanford Encyclopedia of Philosophy* (Fall 2020) <https://plato.stanford.edu/archives/fall2020/entries/autonomy-moral/> Accessed May 25.2021.

⁴⁵ Ibid.

⁴⁶ Christman, "Autonomy in Moral,"

⁴⁷ Tom L. Beauchamp and James F. Childress. *Principles of Biomedical Ethics* (New York: Oxford University Press, 2009), 101.

⁴⁸ Ibid. 104.

physician paternalism. Their reading of classic accounts of autonomy is that they fit into a so-called ‘in-control agent’ model. This model contains the assumption that agents are individualist, self-sufficient, independent, self-reliant, and generally interested in maximizing personal gains. Their independent autonomy is constantly endangered by external forces.⁴⁹ According to the model, agents are “both highly individualistic”, and have the “ability for deliberation and rational transcendence of emotion, prioritizing the rational over the emotional.”⁵⁰ In this in-control model, the agent has to be reasonable, rational and balanced. Emotional persuasion and vague passionate motivations are ideally controlled by reasonable deliberation, so that a prudent choice can be made.

We have examined the general classic accounts of autonomy and their focus on individual choice, self-determination and rational considerations. The three conditions present in the law proposal seem quite suitable to examine these classic conceptions of autonomy; they are set to test the independence, reasonable intention and consistency of a choice with regards to ‘finished life’. According to a classic conception of autonomy, it is important that an elderly person has decided for themselves, apart from the opinions and judgments of their surroundings, that their life is finished. They may experience different emotions, but reach a determined choice after two months. Whereas end of life counsellors may talk to them about their deliberations, in the end, they themselves are responsible for both the choice and the execution of their wish, since they are the ones who will take the medicines. What do relational accounts of autonomy have to say about this? Let’s examine them more closely.

⁴⁹ Jennifer K. Walter, and Lainie Friedman Ross, “Relational Autonomy: Moving Beyond the Limits of Isolated Individualism,” *Pediatrics* 133, no. 1 (February 2014): 17, <https://doi.org/10.1542/peds.2013-3608D>.

⁵⁰ Walter, and Friedman Ross, “Relational autonomy,” 17.

2.2. Relational critiques

2.2.1. General characteristics

Over the past few decades, approximately since the 1980s, several lines of criticism have been developed against the classic, individualist accounts of autonomy. Critics argue that the classic views do not incorporate relational aspects enough. Some well-known advocates of relational autonomy are Mackenzie, Stoljar, Oshana, Friedman and Meyers.⁵¹ Several important characteristics of relational autonomy are attention for social relations that constitute autonomy as well as relational capacities that enable the personal capacity for self-trust and self-esteem that are necessary for making individual decisions.⁵²

In their 2019 article ‘Relational autonomy: what does it mean and how is it used in end-of-life care? A systematic review of argument-based ethics literature’, Carlos Gómez-Virseda, Yves de Maeseneer and Chris Gastmans provide an overview of relational critiques. While in this thesis, I use the term relational autonomy, they identify several alternatives that roughly incorporate the same conceptions of autonomy: “autonomy-in-relational, extended, assisted, and delegated autonomy, preference autonomy, second-order autonomy.”⁵³ The philosophical traditions of relational autonomy are broad, varying from feminist ethics and care ethics, to accounts of ethical multiculturalism, phenomenology and personalist ethics.⁵⁴ According to the authors, the classic conceptions of autonomy are generally criticised because of their “individualistic portrayal of autonomy as a misconception of the individual self,” or the view of individuals as perfectly able to feel their own values and needs, being self-interested in their choices. The authors state that, in line with classic autonomy, agents are considered sovereign and unified, from which I deduce that this also implies that they are generally not intrinsically divided about something and do not want to be too dependent on others. The fact that the authors use the term atomistic to identify classic autonomy accounts also supports this; it suggests a focus on individual identity before the agent interacts with others.⁵⁵ Important terms which the authors also distinguish in the literature concerning relational autonomy are ‘vulnerability’, ‘dependency on others’ care’, ‘reciprocity’, ‘self-transcendence’, and ‘diachronic view of decision-making’, so not on one moment but over time.⁵⁶ These terms regard the importance of emotions as opposed to mere rationality, being dependent on others and approaching autonomy as a dynamic concept. These terms also align with what Gómez, de Maeseneer and Gastmans deem the three most important points of relational autonomy: it being an event instead of a moment of choice, it being more than just rational,

⁵¹ Christman, “Autonomy in Moral,”

⁵² Ibid.

⁵³ Carlos Gómez-Virseda, Yves de Maeseneer, and Chris Gastmans, “Relational autonomy: what does it mean and how is it used in end-of-life care? A systemic review of argument-based ethics literature,” *BMC Medical Ethics* 20, no. 76 (October 2019): 9, <https://doi.org/10.1186/s12910-019-0417-3>.

⁵⁴ Ibid. 8.

⁵⁵ Ibid. 6.

⁵⁶ Ibid. 9.

and the importance of the social reality of a choice.⁵⁷ Again, you may see a connection between their central points and my lines of argumentation. Their first argument regarding the process of autonomy will return during my ambiguity argument.. Their second argument regarding rationality also links to my ambiguity argument. Their third argument regarding the social reality of decision-making connects with my dependence argument.

Gómez-Vírveda, de Maeseneer and Gastmans argue that human beings are not individualistic but relational; connected to others and interdependent. With these terms they mean to say that people are always embedded in a social context of interactions and connections. Individual persons are not situated apart from their environments, they are “interwoven in them”, as the authors. call it.⁵⁸ This view opposes the classic autonomy view that positions individuals as fundamentally separated from their environment. Because they are interwoven in these relationships and connections, their personal interests are not merely self-centred but also others-centred.”⁵⁹ This opposes the classic view of individuals as focused on self-reliance and self-determination; according to relational autonomy, one’s personal values are strongly connected to one’s environment and cannot be separated from it. What’s more, one’s choices both affect others and are affected by others, something the classic view of autonomy does not emphasise; it focuses on independent choice and assumes this choice can be independent.

After having presented the classic in-control model of autonomy, Walter and Friedman Ross show an alternative: a relational autonomy model. This model does not portray people as autonomous; it acknowledges the dependence of persons on others; someone comes to be in relation to others who came before them or coexist with them. Self-realisation therefore does not only regard the self, but is done relationally.⁶⁰ Instead of being independent, human identities, interests and decision-processes are, as Walter and Friedman Ross term it, “dynamic, continually constructed and reconstructed in dialogic processes with other people (as well as with our traditions and with history).”⁶¹ In this view, having dialogue with others is not a danger to individual autonomy; it is the only way for individual autonomy to exist, by being in dialogue with others and in that way by constituting and reinventing the self.⁶²

⁵⁷ Gómez-Vírveda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 7.

⁵⁸ Ibid.

⁵⁹ Ibid. 8

⁶⁰ Walter, and Friedman Ross, “Relational autonomy,” 19.

⁶¹ Ibid.

⁶² Ibid.

2.2.2. Relational autonomy and medical ethics

What about classic autonomy in the specific case of finished life and self-chosen death? When it comes to end of life, Gómez, de Maeseneer and Gastmans point to the fact that end-of-life decision-making takes place in a very complex, possibly stressful context in which purely rational and reasonable choices are not present.⁶³ They quote Wright in saying that the process of decision-making concerning end of life is not done individualistically, but “*in consultation with and in consideration of others.*”⁶⁴ Others are not only incorporated in the decision-making process, they are also considered in the choices. This insight is also able to nuance the assumption of self-centred choices, only motivated by individual motivations.

In their article ‘Beyond autonomy: Diversifying End-of-Life Decision-Making Approaches to Serve Patients and Families, Gary S. Winzelberg, Hanson and Tulsky argue that an individual, classic view of autonomy is not able to account for the entirety of an agent’s decision-making process when it comes to end of life care.⁶⁵ They state that a large amount of patients and their loved ones, especially elderly people and people from more collectivist cultures, are not met in their needs.⁶⁶ Societies are becoming more and more multicultural, which creates a context in which miscellaneous approaches towards decision-making and the roles of an agent, loved ones and professional caretakers coexist. Some elderly people do not place autonomy at the centre of their end of life care; they value care goals like being free of suffering or being treated as a whole person.⁶⁷ While autonomy is classically seen as more of a conscious, reasonable quality, the care goals also incorporate emotional needs, beliefs and feelings.⁶⁸ Their concrete statement is that, while autonomy has become the central principle in medical decision-making, “patients diverse end-of-life goals and preferences for family involvement, as well as family interests and emotional concerns, should be incorporated into the decision-making process.”⁶⁹ Gómez, de Maeseneer and Gastmans also mention the importance of incorporating a broad spectrum of “ethnocultural values, such as family harmony, filial piety, and community fealty.”⁷⁰

For my point, I consider the following insights of relational autonomy as the most important to critically examine and apply to the proposal: relational insights concerning dependence (argument 1) ambivalence and emotions (argument 2) and intrinsic relationality of persons (argument 3). But before

⁶³ Gómez-Vírseda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 6.

⁶⁴ Ibid. 8

⁶⁵ Gary S. Winzelberg, Laura C. Hanson, and James A. Tulksy. “Beyond Autonomy: Diversifying End-of-Life Decision-Making Approaches to Serve Patients and Families,” *Ethics, Public Policy, and Medical Economics* 53, no. 6 (June 2005): 1046. DOI: DOI: 10.1111/j.1532-5415.2005.53317.x

⁶⁶ Winzelberg, Hanson, and Tulksy, “Beyond autonomy,” 1046.

⁶⁷ Ibid. 1047

⁶⁸ Ibid. 1047

⁶⁹ Ibid. 1050.

⁷⁰ Gómez-Vírseda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 8.

I go into those points, I will first go over the way in which Dijkstra has already incorporated relational autonomy in her proposal.

2.3. Relational autonomy and the law proposal

In the explanatory memorandum of the law proposal Dijkstra devotes a paragraph to the importance of autonomy and self-determination. In the paragraph she first acknowledges her underlying conviction of individuals being self-reliant and autonomous. She explains the relevance of her proposal for autonomy, as I have explained in paragraph 1.2. After her general introduction concerning autonomy, she goes over different accounts of autonomy and argues that it should not be viewed as being too individualistic. While an individual can be autonomous in their choice, autonomy should not be regarded as absolute self-reliance. People need each other, also in the execution of their autonomy. The quote in which she mentions relational autonomy is as follows: “The initiator and the citizen initiative ‘Out of Free Will’ view autonomy as a social – or as the Committee of Independent Experts calls it “relational” matter. Not only the ideas and insights someone has regarding good quality of life or a worthy end of life come about in dialogue with someone’s social environment, the execution also takes place in connection with others.”⁷¹ Dijkstra has incorporated relational autonomy and ways to protect the relational character of the autonomous agent, following the Perspective study and the Schnabel study. The Schnabel committee had uttered criticism against the ‘Out of Free Will’ legislative draft, stating that it presented a conception of autonomy that was too individualistic.⁷² Dijkstra’s law proposal is based on the criticised legislative draft, but she does state to incorporate the insights of the Schnabel committee regarding relational autonomy.⁷³ Dijkstra also acknowledges the insights of the Perspective study and declares that the report has led to additions to the proposal, like the involvement of loved ones and a physician.⁷⁴

Since Dijkstra incorporates relational insights by building upon the conception of relational autonomy explicated by the Schnabel report, I will now briefly go over the way in which relational autonomy is approached there. The section I examined was chapter 5 of the report, ‘the ethical context’, since this part encompassed the most relevant insights concerning autonomy.

⁷¹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20. My translation, original: “Echter, de initiatiefneemster en ook het burgerinitiatief «Uit Vrije Wil» zien autonomie als een sociaal – of zoals de Commissie van wijzen het noemt «relationeel» – gegeven. Niet alleen de ideeën en inzichten die iemand heeft over een goede kwaliteit van leven of een waardig levenseinde komen tot stand in dialoog met iemands sociale omgeving, ook de uitvoering vindt altijd plaats in verbondenheid met anderen.”

⁷² Commissie v wijzen p 173.

⁷³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 10.

⁷⁴ *Ibid.* 23 + 33.

Firstly, the authors of the report sketch a moral context similar of that sketched by Dijkstra: they argue that modern-day society is based on a postmodern conception of value; it is subjective. Since larger social and moral traditions and contexts diminish, individualism and loneliness is a problem. Furthermore, without being able to fall back on an objective truth, an individual may constantly feel the need to find meaning or try to join contexts of meaningful connection.⁷⁵

Schnabel et al. situate individualist or as they call it ‘pure autonomy’ accounts as opposed to relational accounts of autonomy. According to their conception of relational autonomy, it means that individual autonomy is embedded in connection with others. Ending one’s life in this perspective, “per definition has an intrinsically relational and social meaning, not merely an individual and private meaning.”⁷⁶ I will later go into the Schnabel report and its exact approach to relational autonomy more thoroughly. For now, it is important to know what exactly Dijkstra means by calling autonomy relational. And does she incorporate the central relational points I identified? I go into the specifics of each argument now.

⁷⁵ Adviescommissie voltooid leven, “Voltooid leven,” 128.

⁷⁶ Ibid. 134.

3. A critical reading of the law proposal

So, we now know the context in which Dijkstra's law proposal has come about. I have explained how the proposal works, with the nine due diligence demands., In this thesis I will focus on due diligence demand three, This demand argues that the wish be voluntary, well-considered and durable (the external pressure condition, deliberate condition and durable condition)⁷⁷ In this chapter I finally introduce the following arguments: Firstly, I criticise the assumption that being autonomous entails being completely independent from others. I argue that A) being dependent is not a threat for autonomy and B) making an autonomous choice cannot be done completely independently. Secondly, I present the ambiguity argument in which I argue that A) the proposal overestimates rationality and reason and B) overlooks the ambivalence of the decision-making process. Thirdly, I present the contextual argument in which I argue that A) the proposal only incorporates relational autonomy in an accidental way and B) incorporates relational autonomy in an instrumental way.

First, I will go over the way in which Dijkstra creates a juxtaposition between historical views on autonomy and modern-day conceptions. Dijkstra describes a historical development since the Middle Ages up till now. She explains how, in the 19th century when articles 293 and 294 were included in the Dutch Penal Code, punishing ending someone's life or assisting suicide, the government believed in the duty to protect citizens, even though they (the citizens) did not acknowledge the value of their own life anymore.⁷⁸ Dijkstra explains that the general opinion was that life had intrinsic worth.⁷⁹ She does not explicitly say that nowadays people do not have this conviction anymore, but because she connects the then existing assumption with being against euthanasia, and argues that nowadays people should be able to do so, it can be logically deduced that she does not believe in this intrinsic value of life. This can also be seen in the language she uses concerning this 'value of life'. She defines the group for which the proposal is relevant as "elderly people who, without suffering from medical illness or condition, have determined for themselves that for them, the value of life has diminished to that extent that they would choose death over life."⁸⁰ This quote, albeit a citation from Els Borst-Eilers, emeritus Minister of Health, Well-being and Sport, the fact that she includes it shows she acknowledges this definition of the group in question. The proposal thus starts from the assumption, that life has no intrinsic meaning. If one agrees upon the fact that life has no intrinsic meaning, in order for people to experience meaning

⁷⁷ D66, "Hoe werkt het wetsvoorstel."

⁷⁸ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 3-4.

⁷⁹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 4.

⁸⁰ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 5. My translation; original: "Hiermee wordt doorgaans bedoeld op mensen die veelal op hoge leeftijd zijn en die, zonder dat zij overigens in medisch opzicht lijden aan een onbehandelbare en met ernstig lijden gepaard gaande ziekte of aandoening, voor zichzelf vast hebben gesteld dat voor henzelf de waarde van het leven zodanig is afgenomen dat zij de dood verkiezen boven verder leven."

then, personal experience becomes essential. Starting from this context, I will now introduce my arguments.

3.1. The fear of dependence argument

The first important aspect that appears throughout the law proposal is the assumption of persons as independent. As I explained, the terminology of ‘individuals’ is a quite recent development and already encompasses the image of a person as individualist and separated from others. First, a person is an individual. After that, they are connected to others. In today’s Dutch society, the term is generally accepted, but it is a first term that relational autonomy may critique: a person does not stand on their own first; they are intrinsically connected to others. According to the proposal complete individual flourishing is the ideal. It follows then, that external influence needs to be critically approached and can only be allowed insofar as it does not threaten individual freedom and autonomy. So far, so good. The law proposal is quite straightforward about this. This fear of dependence also aligns with the external pressure condition.

In the argumentative narrative of Dijkstra, personal autonomy is important. This means being able to choose for oneself and determine for oneself how one wants to live life, or not. In this approach, I argue, a focus on individual, personal autonomy can be observed, for example with regards to the vocabulary that is used. Dijkstra uses expressions like ‘in their *own* direction’, ‘on a moment of their *own* choice’, ‘*independent*’, and by ‘making their *own* choices’, with the goal of ‘more autonomy for these elderly people’.⁸¹ First of all, ‘going in one’s own direction’ is important: knowing where you want to go and determining this direction yourself. In this case, this direction concerns choice, which may be envisioned as a choice between two roads. The individual is free to choose which road to take. Next, ‘the moment of choice’ is important; when someone wants to end their life is up to them. Dijkstra opposes this moment of choice to historical periods in which this moment was determined by God. Now, without the hindrance of objective value of life, a person can decide for themselves when it is over.⁸²

The next term I want to highlight is ‘being independent’. This expression is extra interesting in the case of autonomy. The word literally means being non-dependant. Dependence is seen as something undesirable. Dijkstra quotes Drion in even calling it “a threat”.⁸³ Whereas Dijkstra pictures the historical view of political and societal duty to protect human life at all cost, she argues that this duty now includes

⁸¹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 2.

⁸² *Ibid.* 3-4.

⁸³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 5.

removing the threat of becoming dependent, and thus in other words, the assistance with suicide.⁸⁴ In her introduction, Dijkstra explains that the group of elderly people the proposal concerns, is used to making individual choices and wishes to continue doing so in life, as well as in death. Being dependent on others does not fit in this autonomous view, and even becomes a threat that needs to be taken away. A shift in use of the word ‘duty’ is thus visible in the narrative of Dijkstra; it is no longer solely a duty to protect life, but can also mean the assistance with death. Of course it needs to be noted that within current euthanasia law, someone’s medical duty to protect life has also been nuanced, being not absolute, but contextual. Whereas a medical professional has the professional duty to protect life, there are circumstances in which a so-called duty of compassion weighs heavier.⁸⁵ If someone suffers without perspective, doctors can call upon the so-called ‘emergency situation’, in which suffering can be ended by being compassionate.⁸⁶

With regards to my argument: we have established that the proposal deems individual autonomy and freedom to be highly important. I do agree, that it is very useful to establish whether a choice is made voluntarily, without external pressure. However, the way in which Dijkstra portrays being independent, may go too far in suggesting that any external influence is uncalled for. I will go into two assumptions that are present in this call for independence. First of all A) the assumption is present that being dependent on others is a danger or threat, and should be removed as societal and political duty, if the person wishes it to be. Secondly B) the choice is to be made individually, without external influence.

3.1.1. Dependence and autonomy

It is now time to examine the dependence assumption present in the proposal. Deemed a possible threat by Dijkstra, being dependent on others is something many elderly people fear. This is supported by van Wijngaarden’s research in 2015. One reason elderly people often mentioned for wanting to end their life was an aversion towards independence. Becoming dependent on loved ones or more distant others can make some people feel like they are losing control over themselves. Having someone else take care of them seems to be incompatible with the pride and self-image they used to have.⁸⁷ However, the authors also observe a kind of ambiguity between independence and dependence on others. The following quote perfectly catches this ambiguity: “While the population under research as much as possible wants to run their own affairs without interference from others, paradoxically the findings simultaneously indicate elderly to be highly dependent on others when it comes to their well-

⁸⁴ Ibid. 5. My translation; original: “Mr. Mr. Drion betoogde dat het voor veel oude mensen een grote zorg is dat er een moment zal komen waarop zij ook in de meest elementaire dingen van het leven door lichamelijke en/of geestelijke achteruitgang niet meer voor zichzelf kunnen zorgen. Die bedreiging wegnemen zag hij als een essentiële verplichting voor de samenleving, waarin het aantal oudere mensen toeneemt.”

⁸⁵ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 18.

⁸⁶ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*.18.

⁸⁷ Wijngaarden, van, Leget, Goossensen, : Ready to give up,” 262.

being.”⁸⁸ The authors see this dependence on others in the need people in the “desire to be visible, recognized, wanted, needed, valued, depended upon, or attended by others.”⁸⁹ Van Wijngaarden et al. distinguish between people’s desire to be independent and the factuality of their being highly dependent. In this context they also argue that a person may present themselves as independent, showing that the way in which someone expresses their ideal is not always factually correct. I will go into this ambiguity in the next argument.

Van Wijngaarden et al. found that the desire to die may seem motivated by being autonomous and independent, but is also strongly influenced by feelings of loneliness, fear and shame. Some participants of the research expressed the fear of “not being human anymore”, “completely losing your dignity”, and “an on-going humiliation”.⁹⁰ These terms do not necessarily have to do with being dependent per se, as more with the result being dependent has for their personhood and intrinsic value. Underlying these terms seems to lie the assumption that being dependent is bad and may reduce one to an elderly wreckage, far from what one once was. However, is it then not more relevant to look at the way in which dependence is presented? If it is indeed presented as a threat or undesirable state, as Dijkstra does portray it, this may influence the way in which elderly people feel about themselves.

In support of this, van Wijngaarden et al. incorporate insights of Sayer, who argues that personal feelings and experiences reflect “a state of the world and some aspects of that world that should be changed.”⁹¹ If an elderly person feels like they ‘are too much’ or defined by their identity as self-determinate person, and thus doesn’t want to be dependent, this experience is meaningful and cannot be reduced to personal feeling only. Surely, in the view of Dijkstra where personal experience is so important for the knowledge about the world, this external influence on experience should be incorporated in order to understand it better. Furthermore, if personal feelings and ideas about dependence are influenced by external trends, societally or politically for example, this shows that personal experience is intrinsically related to this external influence. The Schnabel report also acknowledges this influence of societal views on what a ‘meaningful’ life entails.⁹²

But wouldn’t Dijkstra agree with this? It is difficult to deny the fact that people are constantly influenced by external powers and to some extent also dependent on others. Dijkstra acknowledges that in order for a person to be free, someone else has to grant them that space to be free in.⁹³ This makes a

⁸⁸ Wijngaarden, van, Leget, Goossensen, : Ready to give up,” 263.

⁸⁹ Ibid.

⁹⁰ Ibid. 262

⁹¹ Wijngaarden, van, Leget, Goossensen, : Ready to give up,” 263.

⁹² Adviescommissie voltooid leven, “Voltooid leven,” 134.

⁹³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20.

person in some way dependent on others. Furthermore, she recognises the influence of external values.⁹⁴ But while Dijkstra acknowledges this influence, the central conception of human autonomy is more individualistic, being intrinsically self-determinant instead of dependent on others. The fact that Dijkstra views becoming dependent as a way of suffering, shows that she does not incorporate dependence in her fundamental conception of a human life.

According to Dijkstra, what makes becoming dependent unacceptable for an agent, is the fact that it clashes with the core of their identity as being independent up to that point.⁹⁵ If one's identity is built on the conviction that a person is fundamentally and ideally independent, the increasing dependence should not be questioned, but more so the truth of this conviction should be questioned. Being dependent on others is not something that only concerns elderly people; persons are intrinsically dependent on others, starting from a young age. But is this a threat to autonomy? Not if one acknowledges that a personal identity is not shaped in an atomistic void, but in a social context. The following quote of Walter and Friedman Ross explains this: "persons are socially embedded and (...) agents' identities are formed within the context of social relationships, and shaped by a complex of intersecting social determinants like race, class, gender and identity"⁹⁶ Whereas here, Walter and Friedman Ross focus more on social status, I argue that their statement that a person's identity is formed in a social context, also includes the influence of ideas present in society. I thus argue that, not only is the wish of the elderly people in question to be independent factually ambiguous, it is also influenced by society, thereby showing the relational aspect of personal values and ideas. Furthermore, building personal identity on the conception of independence may cause disillusionment when the reality of the intrinsic dependence of humans hits.

3.1.2. Independent decision-making

The second assumption that is present in the proposal with regards to independence, is that B) choices should be made completely independently. The aforementioned external pressure condition states that the decision to end one's life should be made without external influence or 'pressure'. I have argued that personal convictions about being dependent are influenced by societal ideas about dependence. This external influence also regards other aspects that are relevant in the process of deciding to end one's life. The possibility or normalization of euthanasia for example, may influence personal choice, possibly as pressure. Dijkstra acknowledges this external influence herself. She

⁹⁴ Ibid. My translation; original: "Echter, de initiatiefneemster en ook het burgerinitiatief «Uit Vrije Wil» zien autonomie als een sociaal – of zoals de Commissie van wijzen het noemt «relationeel» – gegeven. Niet alleen de ideeën en inzichten die iemand heeft over een goede kwaliteit van leven of een waardig levenseinde komen tot stand in dialoog met iemands sociale omgeving, ook de uitvoering vindt altijd plaats in verbondenheid met anderen."

⁹⁵ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*, 2.

⁹⁶ Walter and Friedman Ross, "Relational Autonomy," 19.

suggests her law proposal may create feelings of rest and less fear towards death for elderly people, since they may have the option to end their life.⁹⁷ So, only the consciousness of the possibility already has impact on personal experience. By acknowledging this influence the proposal may have, she also acknowledges the influence of societal developments like this proposal, on personal choice. This acknowledgement already questions the ability for a choice to be independent. It is always influenced by external developments, both positive and negative.

Furthermore, choices that are made within the field of euthanasia are especially situated within a vulnerable context. In this context, autonomy is not always considered to be the most important value by agents themselves. Winzelberg et al. defend the importance of ‘care goals’ like the release of pain or ‘being treated as a whole person.’⁹⁸ However, of course it should be noted that, in such a situation a person knowingly hands over their autonomy to a caretaker in order to reach their care goals. Still, autonomy is important in making this choice. But does the influence of others have to diminish this autonomy? Relational accounts of autonomy argue that it does not.

Gómez et al. argue that external influence does not necessarily impede on autonomy, but can even enhance it, by: “presenting new possibilities, giving emotional support, removing social barriers or bridging gaps between the patient and the social environment.”⁹⁹ In the context of assisted suicide, this enhancement can mean several things. Primarily it includes the provision of information. When a person expresses the wish to die, they should be assisted in determining what exactly it means, to want this. Due diligence demands four and five regard this information provision.¹⁰⁰ However, in the context of ‘finished life’ merely providing information is not enough. Since many elderly people struggling with these questions are unstable and vulnerable, social counselling is also important. A critical reader may say: ‘Well, Dijkstra already incorporates this aspect by including end of life counsellors who can accompany this decision-making process. This process may include personal and social aspects.’

While this may be so, the fact that the proposal deems the agent fully responsible for their own choice, both during the decision-making process and at the moment of euthanasia, together with the fact that the proposal only incorporates two moments of dialogue, shows that the decision-making process is not supported enough. Being held fully responsible for such a big decision seems to be in line with the ‘in-control model’ of Walter and Friedman Ross. In this model, the agent is seen as someone who is able to weigh the decision in principle by themselves, which in the end leaves them alone in the decision.¹⁰¹ As I have argued up till now, not only is the assumption that a choice can be made without external influence non-realistic, the portrayal of personal choice as an individual matter instead of

⁹⁷ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 32.

⁹⁸ Beyond autonomy p. 1047 + zij gebruiken voetnoot: 6.

⁹⁹ Gómez-Virseda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 9.

¹⁰⁰ Explain due diligence 4+5

¹⁰¹ Walter and Friedman Ross, “Relational Autonomy,” 20.

socially embedded does not do justice to the choice, and may isolate the agent. Being isolated may only increase the existing feelings the person has, of being alone and having no one to speak to or include in their thoughts.¹⁰²

So why is the view of a decision-making process as an individual matter problematic? I have argued that personal ideals and convictions come to be in dialogue with others. And up to this point, Dijkstra seems to agree. But if she would consequently implement this notion of external influence on individual choice, she would not approach the decision-making process as individually as she does, by for example creating the option to incorporate loved ones, but by not letting it be of serious consequence for the decision-making process. According to relational insights, here concisely summarised by Walter and Friedman Ross, a decision is “dynamic, continually constructed and reconstructed in dialogic processes with other people (as well as with our traditions and with history).”¹⁰³ In line with this view, existing in dialogue with others does not form a threat to autonomy, it is the only way for individual autonomy to exist, for example through the possibility for understanding, creating an accepting space or introducing new insights, as Gómez, de Maeseneer and Gastmans and Walter and Friedman Ross suggest.¹⁰⁴

If a decision is actually formed in dialogue, this dialogue should be incorporated in the decision-making process, preferably in a context of people who know the agent well and understand how their consideration processes work. An agent could feel like incorporating loved ones would be a burden on them, so they could be accompanied in this process, aided in creating meaningful conversations with their surroundings.¹⁰⁵ But what if someone hasn't spoken to their loved ones in years, or misses them because they have passed away? A critic may argue that relational autonomy presents an idealistic image of fruitful conversation with others, whereas in reality, talking about ‘fulfilled life’ can lead to loneliness and lack of understanding.¹⁰⁶ Of course this is also true; dialogue comes with awkward silences and misunderstandings. But an end of life counsellor should be present in providing fruitful room for conversation. If this cannot be done in a private context it could be facilitated by the counsellor, maybe with other caretakers. In any case, in order for the decision-making process to be relational, the almost symbolic-seeming incorporation of two conversations should be increased.

I have argued that the assumption that agents are independent is incorrect in two ways. A) being dependent on others does not form a danger or threat to personal autonomy. B) choices cannot be made without any external influence and autonomy can be enhanced within a social context.

¹⁰² Van Wijngaarden p. 260 261 – nog uitleggen

¹⁰³ Walter and Friedman Ross, “Relational Autonomy,” 19.

¹⁰⁴ Gómez-Vírseda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 9+19.

¹⁰⁵ Voetnoot v Wijngaarden: behoefte aan praten.

¹⁰⁶ Bron Wijngaarden; soms niet over kunnen praten. Of wetsvoorstel?

3.2. The ambiguity argument

In order to ensure that an agent really knows what they're talking about when expressing a wish to end their lives because they consider it to be 'finished', due diligence demand three is included in the proposal.¹⁰⁷ This demand is concerned with whether the choice of an agent is made free from external pressure, is well-considered and is durable.¹⁰⁸ My previous argument contained a line of criticism with regards to the external pressure condition present in the proposal. My next argument will involve points of criticism that are concerned with both the durable condition and the deliberate condition.

The deliberate condition is meant to ensure that the call for help with suicide is well-considered. Making a deliberate decision generally means thinking something through carefully. In order to ensure the deliberate and durable condition, two months of consideration time are implemented in the law proposal.¹⁰⁹ As I have concluded at the end of my previous argument, Dijkstra argues that an agent makes an individual decision without too much external influence from others. After a deliberation process of two months, the agent is generally considered able to make a decision, having weighed the different experiences that are present in the decision-making process. Of course, if the agent is not able to make a well-funded decision, one should be able to trust the counsellor, who is said to be specifically educated and prepared, to be wise and considerate in their assessment of the situation. Furthermore, the involvement of an independent counsellor provides the standard inclusion of an extra check into the nature of the decision. However, the general overview of the proposal presents a linear decision-making process of reasonable consideration, following a step by step plan and encompassing the timespan of two months.¹¹⁰ This seemingly clear and straightforward portrayal of decision-making with regards to fulfilled life, does not correspond with its messy reality. I therefore introduce the ambiguity argument in which I argue that A) the law proposal overestimates rationality and reason and B) overlooks the messy, asynchronic and paradoxical nature of decision-making.

3.2.1. Overrated rationality

Earlier on in this thesis I have explained Dijkstra's conviction that life does not have intrinsic worth. According to her, the value of an agent's life can, in principle, only be determined by the agent themselves.¹¹¹ In order to defend this statement a somewhat correct understanding of personal

¹⁰⁷ D66, "Hoe werkt het wetsvoorstel."

¹⁰⁸ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 23.

¹⁰⁹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 32-34. In Dutch, 'consideration time' literally translates into 'bedenktijd', which suggests a direct connection with rationality. It should be noted, that the term is generally used, so the intrinsic focus on rationality may not be as present anymore.

¹¹⁰ D66, "Hoe werkt het wetsvoorstel."

¹¹¹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 5.

experience is needed. For if the objective value of life cannot be determined, everything we know about what makes life valuable and meaningful comes from personal experience. So, in order to still be able to know this value, human experience has to be approached as holistically as possible. If not, important aspects of human experience and along with it, the determination of its value will be overlooked. I have started my argument by explicating this assumption in the proposal, because I can now examine whether, with regards to ‘fulfilled life’, the human experience is portrayed in its variety and complexity.

For the sake of my argument my examination of this ‘human experience’ will be pinpointed towards the balance between rationality and non-rationality in autonomous decision-making. I have explained that classic models of autonomy attribute great value to ratio and reasonability, whereas relational accounts argue for the emotional and experiential nature of decision-making. Does Dijkstra incorporate relational insights sufficiently with regards to this point? Let’s see.

At first sight it can be said that Dijkstra does pay attention to emotion in her proposal. The language she uses incorporates emotion and experience. In the introduction Dijkstra talks about the ‘experience’ of being done with life and the ‘feeling’ of losing one’s personal dignity. She also mentions the ‘fear’ of what is still coming.¹¹² The fact that Dijkstra acknowledges these human experiences can hardly be denied. But I am interested in the way in which these experiences are actually included in the decision-making process. And that is where I argue that the focus on rationality is central.

Dijkstra portrays elderly people in this process as self-aware, self-made in a way, since they play a big role in constituting their own identity, with focus on individual choice.¹¹³ The role of individual control is thus emphasised. As I mentioned before, Dijkstra considers being in control to be a fundamental aspect of leading an autonomous life. The goal of her proposal is to extend the ability of control elderly people have had on their lives (up to the point where they start to lose this) to also control the process and execution of their own death.¹¹⁴ I argue that the use of the term ‘finished life’ also supports the view of an individual as being in control over their own life and death. It suggests the ability for a person to clearly decide and trust their own reasoning that their life is finished.

The aforementioned conceptions of decision-making in the proposal remind me of Walter’s and Friedman Ross’s in-control agent model that I introduced earlier. According to this model an agent is indeed able to reach a deliberate decision based on logical considerations, with a focus on the rational instead of the emotional aspects of decision-making.¹¹⁵ The in-control agent can incorporate emotional experiences, but structures them in a logical way through reasonable deliberation. The model also

¹¹² Ibid. 35.

¹¹³ Ibid. 2.

¹¹⁴ Ibid.

¹¹⁵ Walter and Friedman Ross, “Relational Autonomy,” 17.

assumes that a decision-making process is in some way balanced and contained, as the authors explain.¹¹⁶

This in-control view sounds logical and corresponds with the durable and deliberate condition, since it promises the nature of human decision-making to be, to some extent unambiguous and comprehensible. According to the in-control view an agent can take two months consideration time, gather their thoughts and experiences, and reach a final decision. The linear way in which the procedure of the proposal is built, supports this assumption. The agent, together with a consultant, follows the steps, incorporates the 9 demands and reaches a trustworthy and deliberate decision.

Studies by van Wijngaarden et al. shows that this conception of autonomous decision-making does not correspond with practical reality. The researchers interviewed elderly people who were experiencing their life as ‘fulfilled’. Many participants expressed a kind of duality in their decision-making process. On the one hand, rational considerations often played a role. After weighing the pros and cons, many participants came to the logical conclusion that their life didn’t have much left to offer, especially in comparison with their past lives full of opportunities and free of medical conditions.¹¹⁷ However, many participants of the research also “felt influenced by an inner and much more uncontrolled compulsion.”¹¹⁸ Simultaneous to the logic and rationality of their choice, they also expressed being influenced by non-rational considerations. Van Wijngaarden found that many participants experienced emotions like fear, pain, loneliness, tiredness and gloom.¹¹⁹ Many of these emotions were also accompanied by “bodily compulsions” like having panic attacks, feeling irrationally forced by oneself to end one’s life, experiencing the thought of dying as a sort of compulsory thought or feeling like ‘being driven mad’.¹²⁰

Whereas the classic in-control model is not able to incorporate these aspects of decision-making, the relational model of Walter and Friedman Ross is. This model incorporates emotional considerations in decision-making. And what’s more, the model is especially fit to incorporate the embodiment of human decision making. The authors only touches upon the embodiment of the self once, arguing that the embodied self is both rational and emotional, without one of these aspects being more important than the other.¹²¹ I argue that the embodied emotions felt by the participants of van Wijngaarden, can also be incorporated in this model. The uncontrolled emotions show the connection between body and mind, control and powerlessness. The decaying body plays a big role in the decision-making, especially with regards to the experience of ‘finished life’. Bodily discomfort is often experienced by participants as a

¹¹⁶ Walter and Friedman Ross, “Relational Autonomy,” 17.

¹¹⁷ Els van Wijngaarden, Carlo Leget, and Anne Goossensen, “Caught between intending and doing: older people ideating on a self-chosen death,” *BMJ Open* 6, no. 1 (2016): 6, <http://dx.doi.org/10.1136/bmjopen-2015-009895>.

¹¹⁸ *Ibid.* 5

¹¹⁹ Wijngaarden, van, Leget, Goossensen, : Ready to give up,” 260-261.

¹²⁰ Wijngaarden, van, Leget, Goossensen, “Caught between intending,” 6.

¹²¹ Walter and Friedman Ross, “Relational Autonomy,” 19.

symbol or indication of losing control, so the view of a person as in-control is nuanced by their own body.¹²² The in-control model tries to solve this loss of control by focusing on reason, but in reality, emotional and bodily experiences are part of the decision-making process.

The case of ‘fulfilled life’ and assisted suicide can be especially hectic and intense, full of conflicting and different experiences. Walter and Friedman Ross argue that, in order for an agent to find their way in this process, caretakers should engage in the emotional aspects of decision-making, providing guidance and coaching.¹²³ As I stated before, the current proposition attributes a lot of value to personal decision-making and in principle only incorporates two moments of conversation with a counsellor.¹²⁴ This policy does not sufficiently create room for extensive dialogues and emotional guidance through the process. And furthermore, the linear structure of the proposal and the due diligence demands overestimate the logic and reasonability of the process. In reality, conflicting emotions, bodily experiences and logic considerations coexist, making the decision-making process ambiguous.

3.2.2. The ambivalence of decision-making

I have argued that the law proposal does not pay enough attention to the conflicting emotions and rational considerations that are present in the decision-making process concerning ‘fulfilled life’ and self-chosen death. The proposal presents autonomy in this process as too linear and logical, and overlooks its ambiguous nature. But what exactly is so ambiguous about this decision-making process?

I have argued that subjective experiences are very important for Dijkstra’s view concerning the value of life. Since there is no objective value, personal experience is the only way to determine whether a life is ‘finished’. Of course she has initiated due diligence demands to check this experience, but still, I argue that a problem can occur. In my first argument I mentioned the fact that people may present themselves as independent but can factually still be very dependent on others. This disconnection between personal feelings and reality can form a difficulty for Dijkstra’s view of subjectivity and personal value that can only be experienced by the person themselves. If the personal experience can also be deceiving and ambiguous, how can it take in the central role in determining the value of life? Gómez, de Maeseneer and Gastmans mention a similar critique against classical autonomy, arguing that it wrongfully portrays the self as perfectly able to feel their own values and needs, “sovereign and unified.”¹²⁵

For now, let us assume this human subjectivity is trustworthy. Even then, subjective experience may encompass both being dependent and independent simultaneously, so which aspect of personal experience should be taken the most seriously? Dijkstra may say ‘the reasonable experience’ since that

¹²² Wijngaarden, van, Leget, Goossensen, : Ready to give up,” 262.

¹²³ Walter and Friedman Ross, “Relational Autonomy,” 19.

¹²⁴ D66, “Hoe werkt het wetsvoorstel.”

¹²⁵ Gómez-Vírveda, de Maeseneer, and Gastmans, “Relational autonomy: what,” 6.

will be the most durable and logically fair, and according to her, rules the decision-making process. However, I have just argued that that is not the case. So what now? In my next argument, the ambiguity argument, I argue that the proposal fails to incorporate the ambiguous nature of human decision-making with regards to ‘fulfilled life’.

As I just argued, the proposal pictures the decision-making process concerning ‘fulfilled life’ as linear, reasonable and balanced and contained. However, in reality, this process is much more messy. Agents often experience ambivalent emotions simultaneously. The studies by van Wijngaarden found that many participants simultaneously experience feelings of attachment and detachment towards life. On the one hand they long for death, sometimes even plan their death and feel a distance between themselves and their surroundings.¹²⁶ But simultaneously, they experience feelings of attachment like hunger, the energy of building physical strength or being there for somebody else.¹²⁷ These findings show the ambiguous nature of decision-making and the difficulty for agents to fully understand their own thought processes. This ambivalence is also supported by findings of the Perspective research. The authors argue that when an agent expresses a death-wish can mean many different things, varying from wanting to end their life now, to already expressing it for the future or never bringing it into practise. Different, sometimes conflicting wishes can exist simultaneously.¹²⁸

However, one may say that ambivalence does not diminish autonomy. Beauchamp and Childress address this: “Our motivation often reflects *conflicting* wants and desires, but this fact does not render an action less than intentional or autonomous.”¹²⁹ Of course this is true; life consists of many dilemma’s and sometimes this leads to paradoxical experiences. This does not mean that an agent cannot eventually make a grounded, intrinsically motivated and autonomous decision. I do not want to argue with that, but I do want to argue that in order for an agent to be able to make this grounded decision, especially regarding ‘fulfilled life’, they should be accompanied in their decision-making process. Furthermore, the proposal should portray a more holistic view on decision-making by paying attention to the ambiguity of the decision-making. Portraying and counselling an unrealistically reasonable and linear decision-making process cannot provide enough support to guide an agent through this process.

I have argued that the proposal does not pay enough attention to the ambivalence of decision-making, but I have not yet gone into why a linear portrayal of autonomy is problematic. I have explained, that the proposal presupposes a logical decision-making process, weighing different considerations and eventually reaching a decision. The way in which the proposal is designed supports

¹²⁶ Wijngaarden, van, Leget, Goossensen, “Caught between intending,” 4.

¹²⁷ Ibid. 5

¹²⁸ Ministerie van Volksgezondheid, Welzijn en Sport, *Perspectieven op de doodswens van ouderen die niet ernstig ziek zijn: de mensen en de cijfers*, Els van Wijngaarden, Ghislaine van Thiel, Iris Hartog et al. Den Haag: ZonMw, 2020. <https://www.zonmw.nl/nl/onderzoek-resultaten/ouderen/programmas/project-detail/vooronderzoek-voltooid-leven/het-perspectief-project-perspectieven-op-de-doodswens-bij-voltooid-leven-de-mens-en-de-cijfers/> (June 01, 2021). 75+ 165.

¹²⁹ Beauchamp and Childress, *Principles*, 104.

this linear view; the proposal contains a certain amount of steps that have to be taken and nine due diligence demands that have to be met. The agent gets two months of consideration time and the counsellor talks twice with the agent, to determine whether their request meets the demands. A separate counsellor is involved to check, and the decision-making process has ideally accompanied the agent in making a deliberate, durable choice without external pressure. Why is this linear view on autonomy problematic? Well, first of all I have just argued that portrayal of decision-making as reasonable and logical is incorrect; in practice, the process is much more chaotic, paradoxical and contains different kinds of experiences and considerations. This already makes the assumption of an agent logically following these steps less likely. Of course, the agent has a counsellor, but if the decision-making process itself is intrinsically conflicting and unclear, how can a clear decision be reached in two months? And how can this decision be reached individually, with only two conversations as guidance?

According to Baumann, the personal autonomy of an agent can be understood as formed over time through interacting with others. He argues that relationships are “diachronic”, meaning that they can only be understood when understanding them in a longer time period as opposed to one moment.¹³⁰ He argues that, since relationships develop over time, I cannot fully understand my relationship with my mother by merely looking at the relationship I have with her today. The circumstances that have formed my current relationship are also important.

Being embedded in relational connections is necessary for personal autonomy. This does not necessarily mean that an agent has to be connected to other persons at any moment, but, albeit directly or indirectly, an agent does develop their own autonomy through others. Baumann explains it as follows: “we need to stand in diachronic and dynamic relations to other persons in order to be capable of adapting to changing environments, of engaging in self-exploration and self-definition, of imagining alternative possibilities, of distinguishing legitimate expectations from those that are not, and of emancipating ourselves from particular persons or environments.”¹³¹ So in order for a person to grow and become more assured of what they want in life, which can be regarded as their own autonomy, they have to relate themselves to others. By interacting with society and other people the agent can develop their own identity in relation to others. Since human relationship constantly develop, because each person is constantly in dynamic developments, Baumann argues that autonomy is diachronic too. The decision I make today can only be understood by also looking at the decisions I have made before this, and the way in which my decision was influenced by society and other people.¹³²

¹³⁰ Holger Baumann, “Reconsidering Relational Autonomy. Personal Autonomy for Socially Embedded and Temporally Extended Selves,” *Analyse & Kritik* 30, no. 2 (April 2008): 1, <https://doi-org.proxy.library.uu.nl/10.1515/auk-2008-0206>. 466.

¹³¹ *Ibid.*

¹³² Baumann, “Reconsidering Relational autonomy,” 466.

If I apply these insights to ‘fulfilled life’ and decision-making concerned self-chosen death, I argue that it is difficult to pinpoint a specific moment at which an agent can be said to make a definitive choice, especially when their personal motivations and considerations are constantly shifting.

You may say that Pia Dijkstra also acknowledges this changeability of the choice and has ‘solved this’ by implementing a two month consideration time to make sure the wish is thought through and consistent over time. But when can a wish be considered durable? And to what extent are two months enough to consider the durability of a request to permanently end one’s life? Especially when this decision-making process is changeable. Furthermore, the proposal does include a long consideration time, but in the end presupposes one moment of decision-making. Building on Baumann’s insight concerning the diachronic nature of autonomy I argue that the linear nature of the proposal is not able to account for the ambiguity and changeability of the decision-making process concerning self-chosen death. The process should include more moments of deliberation and choice, instead of leading up to one definitive moment of choice and action, for which the agent is solely responsible. Furthermore, since autonomous choice is improved by incorporating insights and external influence, the proposal should incorporate more room for deliberation.

So what are the implications of this ambivalence in the decision-making process regarding a self-chosen death? I argue that the ambiguous nature of the decision-making should be stressed more within the law proposal. The proposal should incorporate embodied experiences and emotional considerations instead of portraying the decision-making process as generally controlled and logical. Furthermore, I have argued that the way in which the proposal is currently structured portrays a linear view of autonomous decision-making. This linear conception of a decision-making process does not sufficiently incorporate the ambiguity of choice and the relational aspects of autonomy. I argue that, for the proposal to actually incorporate relational autonomy, this linear structure and focus on rationality has to be changed.

3.3. The contextual argument

Lastly, it makes sense to look at the specific way in which Dijkstra actually implements the concept of relational autonomy in the proposal. In the proposal's consultation section Dijkstra responds to the claim that the proposal does not pay enough attention to loved ones and relatives. She argues that insights of both the Perspective and Schnabel report have been implemented in the proposal.¹³³ As an implementation of the insights by the Perspective research she points to due diligence demand two, the possibility of including loved ones in the process adequately incorporates relational aspects.¹³⁴ The demand states that the counsellor presents the opportunity for the agent to incorporate loved ones. If the person does not have any relatives that can be involved or does not want to involve anyone, this does not affect the honouring of the request.¹³⁵ Furthermore, Dijkstra states that the special schooling of the counsellors should include "extensive focus on the role of loved ones and relatives during the process."¹³⁶ So, according to Dijkstra, the relational aspect of autonomy has been implemented sufficiently. My previous lines of argument have criticised this claim. But how and in which context does she introduce relational autonomy in the proposal? I argue that the context in which relational autonomy is acknowledged in the proposal misses its mark on two accounts. Firstly A) it displays an accidental character, and secondly, B) it plays an instrumental role in the proposal.

3.3.1. Accidental implementation

Even though Dijkstra implements the notion of relational autonomy in her proposal, I argue that the context and way in which she does this point to accidental implementation. Let's consider the second due diligence demand, where the proposal demands the option for an agent to include loved ones. Whereas this addition does implement a relational component into the process, the inclusion of loved ones is still portrayed as merely an option. If the agent does not want anyone to be included in the decision-making process, this does not influence the consideration of the request.¹³⁷

This accidentality is also visible in other due diligence demands. To illustrate this: in my previous arguments I have criticised the fact that the decision-making process in principle only includes two conversations with a counsellor and one with an independent counsellor, since I argue that this would not offer enough room for relational aspects of autonomy.¹³⁸ I know the practical implementation of the proposal may offer some nuance to my criticism. The proposal would be carried out by experts

¹³³ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 29.

¹³⁴ Ibid. 34.

¹³⁵ Ibid.

¹³⁶ Ibid. My translation; original: "Dit brengt met zich mee dat ook tijdens de opleiding tot levenseindebegeleider uitgebreid aandacht moet worden besteed aan de rol van nabestaanden gedurende het proces."

¹³⁷ D66, "Hoe werkt het wetsvoorstel."

¹³⁸ D66, "Hoe werkt het wetsvoorstel."

who would, fortunately, add human touch and personal insight to the basic demands present in the proposal. In practice, a counsellor may develop a bond with an elderly person, offering them space to include their emotional considerations in the process or helping them to incorporate their surrounding in the process. According to due diligence demand four, the counsellor has to notify the agent of other sorts of help and professionals and according to demand nine, the agent's physician can be included. In practice, this could lead to extensive dialogue, professional help and emotional support of the agent. I do recognise these nuances; the legal proposal is merely a guideline that is implemented in practice by people, allowing for a more holistic decision-making process, including implementations that improve autonomy in a relational way.

Though this may be true, I still argue that their nature is accidental. Whereas a counsellor or the agent may be consistent in applying the due diligence demands and can succeed in implementing them, they remain, in principle, accidental. Every option that could create room for conversation, emotional support, medical help or otherwise relevant addition to the process, can just as easily be dismissed. Fundamentally, the proposal portrays human decision-making as independent and individualistic. The agent can make use of services that may allow for a more relational approach to autonomy, but can just as easily opt out. This proposal does not implement relational autonomy in the core, but merely as an addition to a fundamentally individualist choice process. The majority of the decision-making process is and should be done by the agent, according to this proposal.

For even when loved ones are incorporated in the process, "this absolutely does not mean that they can decide on anything".¹³⁹ This shows that the way in which loved ones are included in the approach is fundamentally optional, accidental and arbitrary. Whereas Dijkstra acknowledges that ideas and insights happen in dialogue, the basis of the decision-making process remains individualistic and independent, with the inclusion of loved ones in the process as an optional addition to the process.¹⁴⁰

Relational accounts of autonomy would go further since they argue that making a personal choice, especially regarding a vulnerable decision on 'finished life', is fundamentally done in relation with one's surroundings. The Perspective research shows that participants who consider their life to be 'finished', find it most important to have meaningful and deep conversations about their considerations with loved ones or professionals.¹⁴¹ As I have shown in my previous arguments, a relational account of autonomy argues that a decision cannot be taken independently from others; it is always influenced by one's surroundings.

¹³⁹ <https://d66.nl/hoewerkt-het-wetsvoorstel-voltooid-leven/> My translation; original: "Als de oudere daarvoor toestemming geeft, kunnen zij ook betrokken worden bij het traject. Dat betekent absoluut niet dat zij iets mogen beslissen"

¹⁴⁰ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20.

¹⁴¹ Ministerie van Volksgezondheid, Welzijn en Sport, *Perspectieven*, 112.

3.3.2. Instrumental implementation

I have just argued that Dijkstra seems to incorporate relational insights of autonomy in an incidental way. I will now argue that the context in which she introduces the concept of autonomy shows not only accidental use, but also instrumental use. Dijkstra incorporates the term ‘relational autonomy’ from the Schnabel report.¹⁴² In this report, as well as in the law proposal, relational autonomy is introduced in a juxtaposition with a more individualist approach to autonomy. Schnabel argues that an individualistic approach towards autonomy generally focuses on self-determination and individual rights.¹⁴³ An individualist account of autonomy can cause an overestimation of self-sufficiency, with the assumption that an autonomous person should fully execute that autonomy by committing suicide without assistance.¹⁴⁴ As opposed to this individualist account, a relational account of autonomy acknowledges that an autonomous person may need someone to execute their wish.¹⁴⁵ Schnabel et al. argue that there exists a dilemma between the dependence of someone viewing their life as ‘finished’ and their autonomy.¹⁴⁶ This suggests that being dependent on others may form a threat towards autonomy, just as the proposal also acknowledges. According to the Schnabel report, an autonomous choice for assisted suicide has a societal and relational meaning; mainly because of the fact that the execution of such an autonomous wish needs to be assisted by another agent.¹⁴⁷

Dijkstra follows the line of argumentation in the Schnabel report. She argues that an individual approach to autonomy would consider assisted suicide a collectable right. The autonomy of the agent who utters the request for suicide, could then clash with the autonomy of a care-giver. In order to solve this clash, the person with the death-wish could take the so-called ‘autonomous route’, by ending their own life without external help.¹⁴⁸ According to Dijkstra, this wrongly equates being autonomous with being fully self-reliant.¹⁴⁹ Dijkstra argues that even though a person may be individually autonomous, that does not mean that they themselves should be held fully responsible for the execution of their suicide. They need someone’s help with that, and even though this makes the agent in some way dependent, they can still be autonomous. Dijkstra argues that this is possible, because autonomy is relational. Let’s examine the quote in which she states this one more time: “Not only the ideas and

¹⁴² Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20.

¹⁴³ Adviescommissie voltooid leven, “Voltooid leven,” 134.

¹⁴⁴ Ibid. 137-8.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid. 203

¹⁴⁸ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*.19-20.

¹⁴⁹ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*.20

insights someone has regarding good quality of life or a worthy end of life come about in dialogue with someone's social environment, the execution also takes place in connection with others."¹⁵⁰

The context in which relational autonomy is introduced, regards the execution of a death-wish. Dijkstra acknowledges that "it is difficult to end one's own life in a worthy manner," so the help of others is needed.¹⁵¹ This connection between the agent and the agent who helps them, is what she considers 'relational'. This implementation of relational autonomy does not do justice to its meaning. The author merely argues that being dependent on others entails that autonomy is relational. I do agree that there is a relational aspect present in being dependent on someone else to carry out your own autonomy. However, the account of Dijkstra here is not really relational, it only acknowledges human's causal interaction with others and the dependence on others. This is not more than the necessary relational aspects of decision-making. Furthermore, relational autonomy is introduced in the context of her political defense regarding assisted suicide. I argue that her implementation of relational autonomy in this context serves as a way to both argue for the point of assisted suicide, and as a way to implement relational autonomy in her proposal. Since I have argued that she only makes accidental use of autonomy in her proposal, this instrumental use can be said to support her point, but does not entail more than merely acknowledging the social aspect of being autonomous.

¹⁵⁰ Tweede Kamer der Staten-Generaal, *Memorie van toelichting*. 20. My translation; original: "Niet alleen de ideeën en inzichten die iemand heeft over een goede kwaliteit van leven of een waardig levenseinde komen tot stand in dialoog met iemands sociale omgeving, ook de uitvoering vindt altijd plaats in verbondenheid met anderen.

¹⁵¹ Ibid.

Conclusion

One of the central components of Dijkstra's law proposal is the importance of autonomy. One of the motivations she introduces regarding the proposal, is that it is meant to improve the autonomy of elderly people with a wish to end their lives. Whereas she does try to include insights of relational autonomy, I have argued that she does not do so sufficiently. In going through my argument I asked the following research question:

“Does Dijkstra's law proposal concerning end of life assistance sufficiently recognize relational aspects of autonomy?”

In chapter 1 I have explained the context in which the proposal is introduced. The Dutch euthanasia law presently allows for euthanasia and assisted suicide in cases of unbearable and unsolvable suffering. However, there is a small group of people that struggles with suicidal thoughts or a wish to die, without experiencing medical suffering. In order to grant this group of people more autonomy over their lives and deaths Dijkstra has introduced this law proposal. In chapter 2 I have gone over 'classic' conceptions of autonomy, as well as relational lines of criticism. Relational insights argue that 'classic' conceptions focus too much on rationality, are too individualistic and overlook the social context in which autonomy exists.

In chapter 3 I have gone more in-depth, to show that the way in which she incorporates relational autonomy is not sufficient. Firstly, I have introduced the dependence argument in which I have argued that A) being dependent is not a threat for autonomy and B) making an autonomous choice cannot be done completely independently. Secondly, I have presented the ambiguity argument in which I have argued that A) the proposal overestimates rationality and B) overlooks the ambivalence of the decision-making process. Thirdly, I have presented the contextual argument in which I have argued that A) the proposal only incorporates relational autonomy in an accidental way and B) incorporates relational autonomy in an instrumental way. While Dijkstra says she acknowledges the relational nature of autonomy, she does not implement this in her proposal, . should be implemented more structurally in the proposal, with regards to terminology, philosophical theory and in practical implementation. The implementation of relational insights regarding autonomy would offer a more holistic portrayal of human autonomy and decision-making.

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