

Tussen wet en werkelijkheid; euthanasie in het licht van de roman van Willem Jan Otten en de filosofie van Maurice Merleau-Ponty

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Summary

In 1994 the Dutch government decided that physicians, who had assisted their patients to die and kept to the so called 'requirements of due care', would not be prosecuted, though euthanasia and assisted suicide remained against the law. This drew criticism not only from abroad, but also in the Netherlands. A year after the law was passed a volume of essays was published titled *Als de dood voor het leven*. In this book a philosopher, a theologian, a psychiatrist, a jurist and a writer showed their disdain for the law. Each did so according to their profession: the philosopher examined the philosophical aspects of the legal toleration of euthanasia; the lawyer the legal aspects, and so on. There was one exception. A writer and poet, Willem Jan Otten, did not create a story or poem, but like his colleagues wrote an article. A reviewer deemed Otten's contribution to have literary qualities, because it examined the question of euthanasia and assisted suicide, in a non-rational, non-philosophical way. By doing so, the reviewer involved Otten in the age old debate between literature and philosophy, wherein literature is considered to be the domain of direct experience and feeling, and philosophy that of pure reasoning.

In the years before the publication of *Als de dood voor het leven* Otten himself had made a similar distinction between literature and philosophy. In 1994 his novel *Ons mankeert niets* was published. *Ons mankeert niets* is the story of a young doctor in a medium sized village in the province of Noord-Holland. With his story as opposed to an essay, Otten explained in several articles and interviews, he was better able to convey his objections to the legalization of euthanasia and assisted suicide. A purely rational, philosophical discussion, he thought, could not clearly explain why it is not permitted to kill someone, even upon their request. Not philosophy but literature, he said, shows the complexity of reality and how much life and death are controlled by fate. Therefore, only literature can show why it is not permitted to kill a human being, even when

incurably ill. Abstract reasoning would always discount that complexity. Furthermore Otten referred to the pre-Socratic tragedians, who made it clear to their public, without purely rational arguments, that human beings have no authority over life and death. He called *Ons mankeert niets*, "his own shot at a tragedy." His novel also demonstrated that death is a "non-human" matter. People who think they can control their own destiny, Otten wanted to explain in his novel, will be brought down.

Otten's position that literature can help us with questions regarding ethics, and in the case of euthanasia and assisted suicide, with questions regarding medical-ethical problems, is not unique. Scores of books and articles have been published in the last decades which emphasize the importance of literature for ethics and for questions regarding the voluntary cessation of life.

In the meantime, law permitting the termination of life upon request and the assistance of suicide has become effective. Since April 12th 2001 physicians will no longer be prosecuted for having helped to end the life of a patient, or having given a patient the means to commit suicide, on the condition they have kept to the Requirements of Due Care. According to the law a physician who assisted a patient to die, is not punishable if he or she has been assured that the request of the patient was voluntary and carefully considered. The physician must also have been satisfied that the patient was suffering unbearably and that there was no prospect of improvement. The patient must have been informed about their situation and their prospects. The physician and the patient must have come to the conclusion, together with the patient, that there was no reasonable alternative in the light of the patient's situation. Furthermore, the physician must have consulted at least one other, independent physician, who must have seen the patient and given a written opinion of the due care criteria. The physician must have terminated the patient's life or provided assistance with suicide with due medical care and attention.

Otten has not changed his opinion regarding euthanasia and assisted suicide after the introduction of the law in 2001. On the contrary, he continues to denounce the thought that people can sanction the killing of a fellow human being through abstract laws. He continues to resist the notions that we can talk in a purely rational way about euthanasia, that philosophical reasoning leads to knowledge and that we can regulate life and death.

Since the introduction of the law in 2001 more people seem to share Otten's criticism. Some critics point out that reality is more complex than the law presumes. We should not, therefore, follow the law indis-

criminally. Furthermore, they call for a different debate of questions surrounding euthanasia, a debate different from a strictly rational one. In this debate there should be less emphasis placed upon abstractions and purely rational considerations, and a greater use of words and expressions of daily life. Also, physicians should be more attentive to the stories told to them by their patients and by others in novels, because in those the complexity of daily reality is expressed.

In the light of this criticism Otten's novel could make an excellent contribution to the debate regarding law on euthanasia and assisted suicide. The question, however, is what does the novel show us? According to Otten literature shows us daily reality in all its complexity and peculiarity. At the same time he argues that literature makes it clear to us that humans are subjected to a universal, non-human authority: fate. Those who defy destiny by meddling with death – the "extra-human solution" as Otten calls it – will be destroyed. When we read the novel in the way Otten seems to wish us to do, we learn we are not subjected to human, but super-human laws, which prohibit us from killing each other, even if we are asked to do so by the patient.

But is that truly the only way to read the novel? Is that all the novel shows us? And is it this message the novel expresses: that daily life is subjected to a universal, extra-human law? If that truly is the case, the novel provides just one answer to the question posed on the jacket of the book: what do you do when someone wants to die? That answer is, in short: nothing. For most physicians caring for patients who wish to die, that answer will not be satisfying.

In order to answer these questions, we will have to return to philosophy, in spite of Otten's objections. However, a question above the rest, is whether we may make such a sharp division between philosophy and literature as Otten does. Since the nineteenth century many philosophers have devoted much attention to literature, because both philosophy and literature, they argue, are concerned with the knowledge of concrete reality. One of the exponents of that opinion is Maurice Merleau-Ponty (1908-1961). According to Merleau-Ponty the task of the writer is no different from that of the philosopher: both are focused on the experience of the world, as it originates before the thinking *about* the world.

Merleau-Ponty emphasizes that his philosophy is a method, which like literature expresses the pre-reflective experience. This thesis with the help of his "method" examines how we can read *Ons mankeert niets* in a different way than Otten seem to expect from us.

To get a clear picture of Otten's criticism of the legalization of euthanasia and assisted suicide, the first chapter of this study examines concerns

that he has articulated in several essays and articles. As the requirements of due care are at the center of the debate as viewed by Otten and others the paragraphs of this first chapter are arranged according to these demands.

In the two following chapters *Ons mankeert niets* will be read in two different manners. The novel is written from the perspective of Justus Loef, a young physician who within two days of our meeting him will be confronted with several questions regarding euthanasia. Meanwhile, he receives several messages from and about his predecessor indicating he is planning to commit suicide. Justus tries to ignore these. On the second day he finds his predecessor dead in his house. Subsequently Justus flees to his boat in Friesland and writes an explanation about everything he has done and thought during the past two days. That explanation is the novel.

In the second chapter the novel is read according to Otten's idea of the tragedy. In this version the main characters of the novel are considered as victims of tragedy. They think that as rational human beings they have the license to dispose life and death, but in reality, everything they do is being guided by fate. The answer this reading gives to the question what to do when you know someone wants to die, is in fact: nothing. Those who interfere with murder, violate a taboo and will not avoid punishment. Thus the tragic reading offers a general answer to the question the novel poses.

Because Otten continues to emphasize that a novel in particular shows the direct, particular experience, in the third chapter a so called historical reading is presented. In this reading the banality and the peculiarities of the personalities are central. The question what you do when you know when someone wants to die can in this case hardly be answered, because it is too general for this reading. Everything that happens, is strictly dependent on the experience, the feelings and the plans of Justus, and you can only conclude that it would be to the benefit of his patients if he would be directed by more rational considerations and the general law. Because Otten emphasizes that his novel offers insight to the discussion of euthanasia and assisted suicide, both readings are structured by the Requirements of Due Care.

To lift the paradox between the particular and the general, and to provide insight to the connection between law and reality, the philosophy of Merleau-Ponty stands central in the fourth chapter. Merleau-Ponty shows us that our experiences are always particular as well as general. As body-subjects we are part of the concrete world, but we are capable of re-

flecting upon our concrete experiences. As long as we realize and remember that the reflection is founded in the pre-reflective experience, we can profit by this reflection: without reflection there can be no medical and other natural sciences. Only, when we find the reflection more important than the experience on which it is founded, will it fail. We then consider, as Merleau-Ponty expresses, the map more important than the landscape and we make reality inferior to theory. We are trying then to capture reality in concepts and there exists the danger that people no longer see each other as fellow human beings, but as representatives of an abstract idea. Thus it could happen that incurably ill people, against their will, be killed by physicians, solely because euthanasia is not punishable by law. In that case the law determines, as Otten fears in his essay, reality. Those who use an abstraction of a law to control reality, act out of insincere motives.

But law and reality do not have to be at odds with each other. The stipulations of the law on euthanasia and assisted suicide can also be seen as expressions of concrete experience. If we together with Merleau-Ponty consider a novel not as the voice of an author, but as the reflection of "an inter-human happening," then *Ons mankeert niets* shows how the experience comes into being, and how the structure of our experiences are not necessarily perverted by a law, but can be expressed in it.

When we read Otten's novel from that point of view, the novel does not give an answer to the question what one should do when you know someone wants to die. Philosophy and literature do not give certainties, but are, like Merleau-Ponty says, works without conclusions. They reflect the structure of concrete experience and explain that the pre-reflective experience is the foundation of reflection. What *Ons mankeert niets* teaches us is therefore not unimportant. On the contrary: Otten's novel shows us that we always can and should act not out of insincere motives, when we know that someone wants to die. The novel reveals as does philosophy, that with ethical questions we cannot quickly reach certain answers, but we can and should adopt certain positions.

The final and concluding chapter five summarizes the previous chapters and further pursues the discussion of how physicians, in questions regarding euthanasia, can deal with law and reality, without one or the other domineering. In this chapter, Otten's essays and his novels and the philosophy of Merleau-Ponty are examined for the position we can take when we know that someone wants to die.