Ethics on the radar: exploring the relevance of ethics support in counterterrorism

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in counterterrorism

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Summary

Research problem and research question

Nowadays, countering terrorism involves many pressing ethical dilemmas for the professionals involved. The terrorist attacks on 11 September 2001 have had a tremendous impact on the practice of counterterrorism. The option of shooting down a presumed hijacked commercial airliner, with the deaths of many innocent passengers as a consequence, has been added to the toolbox of counterterrorism professionals. Naturally, most of the ethical dilemmas faced by counterterrorism professionals are not as extreme as this and mostly related to routine issues. However, this scenario is not completely unrealistic as procedures are in place to shoot down a plane in the Netherlands that reportedly has been hijacked by terrorists. Though a possible scenario, it is mainly a symbolic reflection of current practices of counterterrorism in the aftermath of the attacks with airplanes of 9/11. The times we live in involve shifting security lines that mirror a continuous supply of threats ('liquid times'). In response to these threats, there is a permanent call for pre-emptive measures, a situation for which the term 'world risk society' has been coined. This situation provides a constant source of - often unprecedented - ethical dilemmas to be handled by counterterrorism professionals that can also challenge the democratic legal order.

In this thesis, ethics is viewed as an important additional source of guidance beyond the law. However, most of the ethical dilemmas facing counterterrorism professionals were, when this research started, hardly represented in the literature on counterterrorism and security studies, or in studies on applied ethics and ethics support. Further, regarding the practice of counterterrorism itself, there was a lack of documented experiences about how professionals deal with ethical challenges and the implementation of ethics support. This thesis sets out to fill this gap by formulating and then addressing its main research question: What is the current relevance of the ethics of counterterrorism and what is the added value of ethics support within the practice of counterterrorism? This thesis contributes to the debate on the ethics of counterterrorism and explores the added value of applied ethics and ethics support in professional practice. In addition, the findings of this thesis can support counterterrorism professionals in dealing with ethical dilemmas.

Research field and context

The main focus of the empirical part of this thesis, as outlined in Chapter 2, is the practice of counterterrorism in the Netherlands. The National Coordinator for Counterterrorism and Security was willing to open the generally closed doors of counterterrorism to allow interviews with professionals on ethical dilemmas and the implementation and evaluation of moral case deliberations among counterterrorism professionals. In a moral case deliberation, professionals engage in a dialogue centered around a concrete ethical dilemma faced by one of the participants at the meeting facilitated by a trained moral case deliberation facilitator. Within such a closed setting, values are clarified and alternative options in handling the specific ethical dilemma are identified. In the medical sector, the application of the moral case deliberation tool has already been widely scientifically evaluated. The implementation of ethics support within the often secret and rather inaccessible practice of counterterrorism has, however, gone largely unreported.

Key ethical approaches and compromise

In Chapter 3 of this thesis, I explore what guidance and inspiration key ethical approaches can offer in dealing with the ethical dilemmas faced in counterterrorism. An exploration of the benefits for counterterrorism practitioners of the consequentialist, deontological and virtue-ethical approaches comes to the conclusion that none of them offers a sound approach to the practice of counterterrorism in a liquid world risk society. This provides an opportunity to highlight the potential of the philosophical concept of 'compromise' in reconciling opposing principles and underlying values of the key ethical approaches.

Chapter 4 explores the extent to which the concept of 'compromise', as developed by Benjamin, can help handle the ethical dilemmas found in 'counterterrorism as practice', using the concept of practice as defined by Macintyre. The conclusion is that giving serious consideration to the concept of compromise can have useful benefits for the practice of counterterrorism. A major source of guidance and inspiration for compromise is *phronesis* – or practical wisdom. The field of counterterrorism currently lacks any empirical

experiences with using the compromise approach. This thesis contributes to an initial exploration of the use and value of compromise in counterterrorism.

Typology of ethical issues in counterterrorism

Before delving into the empirical practice of counterterrorism, a typology of ethical issues based on the literature is established in Chapter 5. This typology consists of four different levels: the structural, the political, the professional and the personal levels. Ethical issues on the structural level are rooted in the conditions of the world risk society, such as the morality of counterterrorism in general or its fundamental inconsistencies. On the political level, the phenomenon of the state of emergency, the politicization of counterterrorism, the legitimacy of state interventions and the tension between secrecy and transparency all play a role. Professional values can conflict with organizational interests on the professional level. Finally, on the personal level, integrity can come under pressure due to conflicting values. This typology clarifies the ethical issues counterterrorism professionals are facing which is helpful for a discussion about dealing with those issues and the added value of ethics support.

Dealing with ethical issues

Experiencing ethical dilemmas seems inherent to working in counterterrorism, as the research shows that various kinds of ethical issues do occur. Chapter 6 therefore explores how counterterrorism professionals deal with such ethical dilemmas. Based on semi-structured interviews, counterterrorism professionals at the Office of the Dutch Coordinator for Counterterrorism and Security currently face ethical dilemmas. In general they deal with them in four ways: by turning to dialogue with colleagues, with a mentor, with management and with themselves. The explorative study reveals that, at the time of the interviews, none of the respondents have been specifically trained to handle ethical dilemmas. Furthermore, there were also no specifically designated institutional arrangements to address ethical issues or to learn to deal with them in a systematic methodological manner. This reflects experiences elsewhere in the field of public administration, where ethical policies are often heavily focussed on measuring compliance rather than promoting ethics support. Nevertheless, within

the Netherlands, there are nowadays several initiatives to institutionalize ethics support, albeit not within the field of counterterrorism.

Relevance of moral case deliberation to counterterrorism

In Chapter 7, I argue that applying moral case deliberation within the practice of counterterrorism could be a valuable and relevant tool for filling this gap in ethics support. Projecting the tool of moral case deliberation onto the practice of counterterrorism would seem an appropriate choice, since its philosophical roots of pragmatic hermeneutics, practical wisdom, Socratic inquiry and dialogue fit well with the dynamic context of counterterrorism characterized by uncertainty and the dependence on professionals. In addition, based on empirical evaluation studies on moral case deliberations elsewhere it appears that moral case deliberation has the potential to empower individuals and teams in their capacity to deal with ethical dilemmas. Starting a pilot of moral case deliberation seems therefore to be a relevant and promising approach to explore in the practice of counterterrorism.

Added value of moral case deliberation in counterterrorism

Based on an evaluation of the first pilot of moral case deliberation within the field of counterterrorism at the Office of the Dutch National Coordinator for Counterterrorism and Security, Chapter 8 indicates high levels of appreciation for both the session held and the method of moral case deliberation itself. Over half of the participants report that engaging in the moral case deliberation exercise has changed the way in which they look at ethical issues. Other insights range from an appreciation that the ethical dimensions of their work are finally being recognized to the creation of more alternative ways for dealing with these ethical issues. Many elements of the earlier presented typology of ethical issues are reflected in the experiences that were raised in the moral case deliberations. The distinctions of the typology can help to understand how and why professionals deal with ethical dilemmas. These preliminary findings based on this explorative pilot seem to suggest that counterterrorism professionals see a considerable relevance and added value in participating in moral case deliberations. This can strengthen their dealings with ethical issues, especially in the practice of

counterterrorism, where no institutional arrangements of ethics support exist when this research was conducted.

The answer to the research question

In answering the main research question, it can be concluded within the limitations of this explorative research that ethics has a substantial relevance in the current state of counterterrorism. There is an inherent ethical dimension to counterterrorism due to the intrinsic presence of ethical issues within the practice of counterterrorism, especially given the ongoing striving for and trend towards prevention and pre-emptive action. Using moral case deliberation as a form of ethics support has a considerable added value to the practice of counterterrorism at the Dutch National Coordinator for Counterterrorism and Security according to the respondents of this study.

Future research

Further research on the ethics of counterterrorism could fill the gap on research on this issue, and could also clarify the potential added value within practices of counterterrorism at other security institutions. Future research could also extend ethics support in counterterrorism to politics and inform counterterrorism policies. This could enrich not only the explorative contribution of this thesis to the field of counterterrorism and security studies, but also future evaluation studies on the contribution of ethics support.

I. Introductory part

1. Introduction

1.1 Research problem and field

Impact of 9/11 on counterterrorism practice

When two airplanes hit the twin towers of the World Trade Center in New York and one the Pentagon in Washington on 11 September 2001 (the 9/11 incident), the decision seemed to be made quite quickly that the fourth hijacked commercial airliner on the radar heading towards Washington would be shot down as soon as the plane would approach the capital (National Commission, 2003: 28-30). The plane never reached Washington and crashed in the fields nearby Shanksville in Pennsylvania. But in a post-9/11 world, the decision to shoot down a hijacked airplane with innocent citizens aboard in order to prevent a terrorist attack is considered a practical option in many countries, including the Netherlands (Ministry of Security and Justice, 2016: 18; National Coordinator for Counterterrorism and Security, A). In Germany, however, the law regulating such an option was judged as being unconstitutional by the Federal Constitutional Court (Bundesverfassungsgericht, 2006). Apparently, there are differences between approaches even among democratic states in Europe as far as the legitimacy and legality of killing citizens to prevent an attack by a reportedly hijacked airplane is concerned. The differences illustrated by the case of the hijacked plane symbolize more general differences between counterterrorism strategies in a fragmented international legal order (Van den Herik and Schrijver, 2013: 22; Zanetti, 2005). The impact of 9/11 to the practice of counterterrorism implies a broadening of the repertoire of counterterrorism under increased political and public pressure which causes many ethical dilemmas.

Pre-emption of terrorist threats

Since the iconic events of 9/11, many Western capitals have faced terrorist attacks that shocked societies and their democratic legal orders. Sometimes those events led to a legal state of emergency, as happened in France after the attacks of 13 November 2015. In other cases, like in Boston (2013), Paris after the Charlie Hebdo attacks (January of 2015), or Brussels (2015), it was more as if a state of emergency had been proclaimed. During the hunt for the attackers on the run in Boston or the lockdown of downtown Brussels after the threat level

was raised to the highest level, it felt like as if some kind of state of emergency had been put in place (Noordegraaf et al., 2017: 18). Contributions from the academic community to the debate about the ethics of counterterrorism reflect the notion of emergency with the suggestion to apply exceptionalism in counterterrorism and "… set […] aside […] standard moral and legal frameworks in favour of new ones" (Taylor, 2018: 140). Treating counterterrorism as exceptionalism would not only challenge the current framework of the democratic legal order in which counterterrorism professionals are operating. It could unintendedly meet the more abstract terrorist goals of undermining democratic decision-making and could even be "the seed of tomorrow's insoluble problem" (Irwin, 2004: 100) and lead to a general state of exception (Agamben, 2005).

Therefore counterterrorism professionals are advised to resist the call for exceptionalism and to remain acting within the framework of the democratic legal order (Baum, 2009; Clifford, 2016: 71; Prantl, 2008). In order to be able to do so, they need concrete tools to deal with ethical dilemmas. In spite of the importance of the events on 11 September 2001, a hijacked airplane on a suicide terrorist mission is not the most representative case of ethical issues counterterrorism professionals face on a daily basis as most of the ethical issues are more related to routine issues. Nevertheless, the urgency to prevent attacks and to be proactive, leads to an increased pressure on societies and their professionals to anticipate threats and risks (Beck, 2007: 39; De Goede, 2008: 163). Pre-emptive counterterrorism implies that ethical dilemmas inherent to counterterrorism are permanently present and potentially intense in nature. This situation calls for a conscious re-creating of human dignity in counterterrorism "on a virtually perpetual basis" (Van Baarda and Verweij, 2009: 508) as well.

Guidance of ethics within legal order

Key concern to counterterrorism professionals is how to do their work in a both effective and morally responsible way (Verweij, 2005: 223). Ethics can provide guidance to counterterrorism professionals in addition to the law. Of course, in a democratic legal order, the law has a foundational character. At the same time "a society cannot function with politics and law alone since they are eventually dependant on moral reasoning" (Geraedts, 2006: 31). The limitations of law in providing ethical guidance can be characterized by three different aspects: the

issue of interpretation, the outcome of political decision-making, and the bottom line of legality. First of all, laws remain subject to interpretation. In the practice of counterterrorism the same law can allow a whole range of operational action with an even wider range of ethical implications. Second, laws remain the outcome of political decision-making and follow societal change as reflected in law. Legal norms "remain valid as long as they have not been invalidated in the way which the legal order itself determines" (Kelsen, 1945: 117). The idea that law does not provide sufficient guidance for action has also been observed within the practice of counterterrorism. The law can rather be considered as "the ethical position of a majority of society at a particular point in time" (Expert quoted in Reding et al., 2013: 8). Third, through laws, politics establishes nothing more than the bottom-line of legality (Geraeds, 2006: 31). In the context of public administration, the concept of obedience to authority expressed through laws, however, has to be considered "too narrow for today's multi-level governance" (Demmke and Moilanen, 2011: 6). Politics and law are therefore dependent on ethics deliberations to guide actions of counterterrorism professionals and to address the ethical dilemmas they are facing.

Ethics support in counterterrorism

Ethics support has the potential to provide guidance in the field of counterterrorism like it has in the field of public administration before. However, it seems that there is no substantial body of literature on this issue when this research started, showing that ethics is not really on the radar of researchers. This impression arose from overviewing academic publications in English, Dutch, German and French within the field of counterterrorism while working as a professional over the last fifteen years. Nevertheless, a few important pieces of literature have been available on this issue when I started my Ph.D. research in 2014 (Browning, 2011; Ignatieff, 2004; Irwin, 2004; Meggle, 2005; Miller, 2009; Thornton, 2011; Van Leeuwen, 2003; Verweij, 2005; Wellman, 2013). The relative scarcity of literature on ethics and counterterrorism amidst the abundance of literature on terrorism raises the question whether an institutionalized discipline of applied ethics and ethics support, as it exists in, for example, biomedical ethics (Beauchamp and Childress, 2009), defence (Van Baarle, 2018; De Graaff et al., 2014; Kennedy et al., 2011), policing (Hillebrand,

2012; Nap, 2014), or engineering (Van Gorp, 2005), exist at all for the field of counterterrorism.

In fact, ethics support has proven to support professionals in their dealing with ethical dilemmas in different societal sectors already. These experiences offer opportunities to explore the added value of ethics support in counterterrorism (Reding et al., 2013). Moral case deliberation is one of the tools of ethics support that has been of proven added value in other societal sectors (Abma et al., 2010; Molewijk 2014; Molewijk et al., 2008; Reding et al., 2013) and has been considered as relevant to the practice of counterterrorism (Weidema and Molewijk, 2017). In this thesis, moral case deliberation will be applied within the practice of counterterrorism in order to explore its added value to counterterrorism professionals.

This research intends to contribute to the discussion of ethics in relation to counterterrorism in the world of academics and practitioners (Cohen, 2015; Schön, 1983; Willigenburg, 1991) and will draw on a multidisciplinary connection between philosophy, applied ethics, political science, sociology, and counterterrorism and security studies. Doing so, this research can also contribute to a better understanding about the backgrounds of counterterrorism professionals and the characteristics of their work. This can provide anthropological and sociological insights into the practice of counterterrorism. It is encouraging to see that throughout the years of my Ph.D. research the academic contributions to the discussion about the ethics of counterterrorism has grown (Ammicht Quinn, 2017; Badde-Revue and Ruffo de Calabre, 2018; Burke et al., 2016, 2014; Clifford, 2016; Deutscher Präventionstag, 2016; Taylor, 2018). However, this thesis can, in spite of the growing academic interest in this broader issue, still be considered as the first contribution to the issue of ethics support within the practice of counterterrorism.

Research field

This thesis is rooted within the context of counterterrorism in the Netherlands. The initiative of this thesis goes back to the decision of the first Dutch National Coordinator for Counterterrorism to consider the ethics of counterterrorism as a strategic theme for the government. My involvement in this strategic endeavour

led to three publications: First, my contributions to a conference on ethics and counterterrorism I organized have been collected in a Dutch book (Kowalski and Meeder, 2011). Second, a study on the lessons from other societal fields and their relevance to handling ethical dilemmas in the field of counterterrorism has been initiated by the National Coordinator for Counterterrorism and Security and performed by RAND Europe (Reding et al., 2013). Third, I put together as editor an English publication on the different aspects of the ethics of counterterrorism, which contained 13 articles from 16 authors (Kowalski, 2017a).

Many people associate counterterrorism activities with the work of intelligence services. Consequently, it would be fair to expect that a study like this one would address the practice of intelligence services as well. This is not the case. As mentioned, there are no studies on the relevance of ethics support and counterterrorism at all. Obviously, this does not have to imply that intelligence services are not addressing those issues internally. But to study these issues within an intelligence service as an outsider, even as former intelligence professional like myself, is so far not possible. Nevertheless, as this thesis shows, there are still opportunities to study the ethical challenges within the practice of counterterrorism outside intelligence services.

The practice of counterterrorism has broadened during the last decade as many societal actors began to engage in countering terrorism. One aspect of this broadening has been the rise of a coordination community on an international level (Persson, 2013; Van der Veer et al., 2019). The basic task of the national coordinators for counterterrorism is to coordinate the efforts of all actors involved in counterterrorism. As legal, administrative, and political developments differ from country to country, there is no blueprint of tasks and responsibilities of the members of the coordination community. In some countries, coordination might be focussed primarily on analytical issues (as in the case of Spain and Belgium). In other countries, responsibilities in operational and/or policy issues might belong to the competences of the individual national coordinators as well (as in the US or the Netherlands).

The research of this thesis has been executed within one national part of the coordination community, the Office of the National Coordinator for Counterterrorism and Security in the Netherlands. The Dutch National Coordinator for Counterterrorism and Security's strategic choice to address

ethical issues, combined with the employment of the author of this thesis by the same organization, made it possible to conduct such sensitive research into the practice of counterterrorism. The potential benefits of the opportunity to explore the relevance of ethics support to the practice of counterterrorism outweigh the potential limitations, such as the proximity between the researcher and the research population.

1.2 Research questions

Countering terrorism goes hand in hand with facing ethical dilemmas (Abels, 2017; Van Buuren, 2017; Den Boer, 2017; Van Leeuwen, 2017). These ethical dilemmas seem to differ in kind and are often complex in nature as reflected in the literature when this research started (Irwin, 2004; Meggle, 2005; Miller, 2009; Van Leeuwen, 2003; Verweij, 2005). During the course of the research of this thesis the academic interest into ethics and counterterrorism has grown (Ammicht Quinn, 2016; Badde-Revue and Ruffo de Calabre, 2018; Burke et al., 2016, 2014; Clifford, 2016; Deutscher Präventionstag, 2016; Taylor, 2018). So far, it seems that there is only rudimentary institutional attention devoted to the (professional) ethics of counterterrorism professionals. The institutional dimension implies that organizations involved in counterterrorism have not publicly singled out an office, bureau, representative, commissioner, committee etc. to address ethics within the practice of counterterrorism. In addition, little research has been done on the ethics of counterterrorism in general and the dealing with ethical issues by counterterrorism professionals in particular (Van Elk, 2017a; McGraw, 2011; Miller, 2009; Reding et al., 2013; Wellman, 2013;). Other societal sectors like health care, police, and defence benefit from ethics support in their professional and personal capacities to deal with ethical issues, as proven by evaluations and scientific studies (Van Baarle, 2018; De Graaff, 2016; Hartman et al., 2016; Nap, 2014).

This thesis intends to clarify the added value of ethics support to professionals with the field of counterterrorism, as understood as a practice. In a case study, one of the methods of ethics support, moral case deliberation (Molewijk et al., 2008; Stolper, 2016; Weidema, 2014), will be applied amongst a selected group of counterterrorism professionals in the Netherlands. This thesis is explorative of nature and addresses in its empirical part the practice of counterterrorism within the Dutch National Coordinator for Counterterrorism and Security.

The main research question of this thesis is as follows:

> What is the current relevance of the ethics of counterterrorism and what is the added value of ethics support within the practice of counterterrorism?

The theoretical part of the research addresses the following research sub-questions:

1. What is the relevance of key ethical approaches for dealing with ethical dilemmas in counterterrorism?
2. What can the concept of 'compromise' contribute to the handling of ethical dilemmas in 'counterterrorism as practice'?
3. How can the ethical issues faced by counterterrorism professionals be categorised?

The empirical part deals with the following research sub-questions:

4. How are counterterrorism professionals in the Netherlands dealing with ethical dilemmas?
5. What is the relevance of the method of moral case deliberation to the practice of counterterrorism?
6. What is the added value of applying the method of moral case deliberation among counterterrorism professionals in the Netherlands to the practice of counterterrorism?

1.3 Research relevance

The relevance of researching the added value of ethics support to the field of counterterrorism is fourfold. First of all, this research aims to contribute to the conceptual and practical development of dealing with ethical issues and what morally "good" counterterrorism entails. At times in which the threat of terrorism is high and considered by many experts as long-lasting (Neumann, 2016) such a contribution would be useful to society as a whole in dealing with terrorism.

Second, the findings of this research can support professionals in their dealing with ethical dilemmas (Weidema and Molewijk, 2017), helping to improve the day-to-day practice of counterterrorism professionals.

Third, having counterterrorism professionals that are well equipped to handle ethical dilemmas can also correspond with the societal interest in the legitimacy of democratic counterterrorism. During the counterterrorism efforts in the post-9/11 period this issue has been put on many national agendas and the international agenda, as reflected by the establishment of the 'Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism' (United Nations, 2014).

Last but not least, the overall scientific debate on the added value of ethics support in professional practices can be enriched. This could enhance the body of knowledge on ethics in professional practices more generally. In the long run it could indirectly help professionals to handle ethical issues in dynamic areas of work within and beyond the practice of counterterrorism.

1.4 Research context, scope and outline

Research context

In this section the overall context of this thesis will be characterised. In addition, the scope of this thesis will be demarcated. Explaining this context is key to obtaining a full understanding of the issue at stake (Hollis and Smith, 1990). Without an understanding of the context, the practice of counterterrorism and the involved issues cannot be put into perspective. The context of current counterterrorism is complex and in itself worthy of a separate study.

The context of current counterterrorism can best be described by two general concepts. Those concepts reflect the challenges posed to counterterrorism, since they focus on the dimension of risks and the effects of those risks on society on the one hand, and societal actors (like governments) engaged in minimising those risks on the other hand. The guiding concepts here are the 'world risk society' as coined by Beck (Beck, 1986; Beck, 2007) and the 'liquid times' as conceptualized by Bauman (Bauman 2010, 2007; Bauman and Lyon, 2013; Munters, 1998). Those concepts are directly related to terrorism and the practice of counterterrorism. They are treated here and elaborated below, as they have the power to shape or at least influence the context of counterterrorism in which practices of counterterrorism take place.

The first concept explaining the current context of counterterrorism is the concept of the world risk society. Our society can be characterized as a world risk society by the political dramatization and exploitation of global risks and the perpetual anticipation of risk in the aftermath of 9/11 (Beck, 2007: 39). This concept builds on the older concept of risk society, in which societal and technological threats are democratized and in principle aimed at all layers of society (Beck, 1986: 26). This sociological concept has become widely known and embraced, partly due to the fact that the publication coincided with the disaster of the nuclear power plant in Chernobyl in 1986, which affected all citizens across large parts of Europe equally. In the light of global threats like jihadist terrorism, Beck in 2007 transformed his concept into the world risk society, in which global communities not only face risks but must handle a new phenomenon: anticipation of those risks. This anticipation of perceived or real risks changes the way in which politics handle risks and societies feel and face risks. In the field of counterterrorism, the dimension of anticipation specifically

dominates the design of policies (Beck, 2007) and, therefore, also the daily work of practitioners. Often, the remaining risks constitute ethical dilemmas due to conflicting values (Bakker, 2015b).

The second concept that partly explains the contemporary context of counterterrorism is the theory of liquid times, as developed by the sociologist Bauman in 2007. According to Bauman, we live in an age of uncertainty caused by specific developments that transform the character of modernity, in which it is difficult to provide collective security to nations and communities. In short, we live in a liquid modernity. All efforts to handle insecurities have to take place under conditions of endemic uncertainties (Bauman, 2007; Bauman, 2010).[2] This "hotbed of uncertainties", as Bauman puts it, can be characterized by five developments. First, modernity has passed into a liquid phase in which social structures are short-lived and fluid, changing within the span of an individual's life. Second, power and politics are increasingly separated due to shifting power constellations in global or extraterritorial spaces. Third, solidarity within societal communities is declining to the level of individual interests or, at most, those of networks. Fourth, there is a decline in long-term thinking, planning and acting leading to a split between politics and individual lives. The responsibility to solve the challenges is, fifth, increasingly put on the shoulders of individuals (Bauman 2007: 1-4).

Research scope

Before diving deeper into this thesis, it is important to clarify what this thesis is not addressing and why. First of all, this thesis will not address the potential ethics of terrorism, a dimension that is widely discussed in literature claiming to address the ethics of counterterrorism (Steinhoff, 2007; Wellman, 2013; Van Elk, 2017b). Many of these discussions thrive on an unclear definition of terrorism in which certain expressions of political violence are considered as justified. Wellmann, for example, acknowledges on the one hand that terrorism is never morally innocent. On the other hand, he presents ambiguous thoughts on the

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[2] Less useful in Bauman's concept is the allocation of crucial responsibility for this situation to "surplus people", or a global elite, which seems to be more of an ideological theoretical framework than a factual analysis of the situation.

ethics of terrorism when stating "… an act of terrorism might be morally justified. It could be justified when the importance of the human rights it protects together with the balance of the resulting benefits and harms outweigh the importance of the human rights it violates together with the harms it creates" (Wellman, 2013: 131). Such a relativist take on terrorism nurtures an idea of some kind of proportional terrorism. Given the ongoing discussions about the definition of terrorism among scholars and participants of political conflicts, it is unlikely that the introduction of the concept or perhaps even fiction of proportional terrorism will contribute to a solution of any of those debates. A clear distinction between the definition of terrorism, political activism, and resistance can help to avoid getting lost in the unsolvable debate of perceived ethical terrorism.

Second, evident forms of torture will not be scrutinized from an ethical perspective. Potential harms to populations as consequence of counterterrorism operations will not be addresses either (Eckenwiler and Hunt, 2014). Waterboarding, extraordinary rendition, state of emergency, exchange of data and intelligence, preventive detention of returning foreign terrorist fighters and the aforementioned preventive downing of a hijacked airplane: there seem to be many measures taken under the umbrella of counterterrorism that involve ethical issues (Ammicht Quinn, 2016; Bakker, 2015b; Miller, 2009; Van Elk, 2017b; Wellman, 2013). Not all of them will be discussed here although all those issues can imply ethical dilemmas to those counterterrorism professionals involved. This research focuses on ethical issues occurring within a democratic state like the Netherlands. This excludes situations beyond international law, like torture (Hersh, 2004; Intelligence and Security Committee of Parliament, 2008; Risen, 2014; Rizzo, 2014; Scahill, 2016; Senate Select Committee on Intelligence, 2012; United Nations, 2014). Torture was within the Western world mainly an issue in the United States where waterboarding and enhanced interrogation was legal between 2002 and 2009 (Hersh, 2004; Senate Select Committee on Intelligence, 2004). Whether it was useful is a different story. Ignatieff, an important intellectual within the debate on the ethics of counterterrorism, is not convinced about such an approach of exceptionalism: "Extreme measures, like torture, preventive detention, and arbitrary arrest, typically win the battle but lose the larger war. Even cynics know that Pyrrhic victories are worse than useless" (Ignatieff, 2004: 20).

Counterterrorism in the years after 9/11 has also shown that many false terrorism alerts, that in many cases temporarily paralyzed public life, could be traced back to wrong statements made during torture (Suskind, 2006). According to a special oversight committee of the US Senate, torture was not an effective means of acquiring intelligence or gaining cooperation from detainees. The CIA's justification for the use of its enhanced interrogation techniques rested on inaccurate claims of their effectiveness (Senate Select Committee on Intelligence, 2012). Torture was not applied in the Netherlands. Also other major tensions with, or violations of, human rights have not been identified in a special research commissioned by the Dutch government (Van Kempen and Van der Voort, 2010: 125-129). This has been scrutinized in a report to parliament in the first evaluation of counterterrorism in the decade after 9/11 (National Coordinator for Counterterrorism, 2011). The main conclusion of this research was that there were no major tensions between counterterrorism and the Dutch constitution or international humanitarian law in that period (Van Kempen and Van der Voort, 2010).

Research outline

This thesis is subdivided into four parts: an introductory, a theoretical, an empirical, and a concluding part. The introductory part begins with a general introduction of the thesis in Chapter 1. In Chapter 2 the research design will be presented by addressing methodology, limitations, research ethics, and definitions. Regarding each chapter, it will be demonstrated which methodology or mix of methodologies is used to answer the research sub-questions of each chapter. In addition, the limitations of this research will be identified and, as far as possible, juxtaposed with either mitigation opportunities or an explanation of the potential benefits of the proposed methodology. In addition, the research ethics as well as the research protocol will be clarified. Last but not least, key concepts and definitions will be presented.

The theoretical part discusses key ethical approaches in light of their relevance for the practice of counterterrorism and provides an analysis that leads to the suggestion of a typology of ethical issues for counterterrorism professionals. This theoretical part consists of three chapters. Chapter 3 will explore what key

ethical approaches can contribute to the practice of counterterrorism. Key ethical approaches will be identified and applied to the practice of counterterrorism in order to explore their relevance. The purpose of Chapter 4 is to clarify how key ethical approaches can be bridged with the concepts of compromise and practical wisdom and what the effect on the practice of counterterrorism could be. Chapter 5 will identify the kinds of ethical issues counterterrorism professionals are facing. Drawing on international and national literature, I will provide an analysis that leads to the proposition of a typology of ethical issues in counterterrorism. This typology differentiates between different levels and categories.

The empirical part of this thesis explores the handling of ethical dilemmas by counterterrorism professionals and the relevance of ethics support to the practice of counterterrorism. The empirical part also contains three chapters. Chapter 6 will attempt to draw up an inventory of how counterterrorism professionals are dealing with ethical dilemmas. In Chapter 7, moral case deliberation, as one of the central tools of ethics support in the medical sector, will be explored as a point of departure for the subsequent application of this tool of ethics support. Doing so, it will be argued why moral case deliberation is relevant for, and applicable within, the practice of counterterrorism. Chapter 8 will reflect on the experiences with moral case deliberation at the Office of the Dutch National Coordinator for Counterterrorism and Security. In addition, it presents an analysis of the added value of moral case deliberations based on the preliminary reception of this tool by counterterrorism professionals at the National Coordinator for Counterterrorism and Security in the Netherlands.

The concluding part of this thesis will answer, in Chapter 9, the research questions and provide the general conclusions of this thesis. Moreover, it reflects on key aspects of this research as well as on future research, policies, and practices regarding the ethics of counterterrorism. As already mentioned, the limitations of the research have to be take into account here given its explorative nature.

This thesis is motivated by the need to address ethics in the field of counterterrorism and to consider the special responsibilities of states, as holders of the monopoly of violence and as sole authorized implementers of special

powers. These unique responsibilities of states are part of the practice of counterterrorism and are to be implemented both inside and outside intelligence services. Or, as the Deputy Assistant Director of Central Intelligence for Analysis and Production of the CIA put it, in the context of counterterrorism:

"… Intelligence officers need to address, individually and collectively, the issues of the ethics of their profession. … In the end, as professionals, we are left not just with an external check of … formal rules, but with an internal sense of what is right and wrong" (Nolte, 2007).

2. Research design and background

In this chapter, the research design and background of this thesis will be presented. First, the definitions used in this research will be addressed and clarified. Next, the research methodology and background will be explained. In addition, the limitations of the research will be acknowledged. To the extent possible, mitigation strategies to address the identified limitations or utilize the potential benefits of the proposed research will be put forward. Finally, the research ethics of this research will be highlighted.

2.1 Definitions

This section will provide and clarify definitions of the key concepts used in this research. To avoid getting lost in debates on definitions, I will present and weigh the key arguments supporting the chosen definitions. The main concepts used in this research are terrorism, counterterrorism, ethics, ethical dilemmas and ethical issues. These concepts will be defined below. As is often the case, there are many potential definitions to consider before justifying the ones used in this research.

Criteria

The basic criteria underlying the choice of definitions in this research are twofold. First, the definitions should be widely used within the practice of counterterrorism. Second, they should not be seriously contested within either the scientific or the professional communities. This is to ensure that the definitions are situated in the focal area of this research: the *practice* of counterterrorism and the explorative *application* of ethics support. Investigating the validity and diversity of definitions is, in itself, not the focus of this research.

Terrorism

The most difficult definition to provide and justify is of terrorism itself. There is no international consensus on a definition of terrorism (Bakker, 2015b; Crenshaw, 1995; Hoffman, 2006/1998; Muller et al., 2003; Schmid, 2011, 2004). This is because political violence is about politics and so, to a certain extent is the struggle to define terrorism. As it has frequently been observed:

"… one man's terrorist is another man's freedom fighter…" (Schmid, 2004: 27). Nevertheless, an extensive survey into terrorism studies has identified a few important notions that I seek to reflect in the definition to be applied in this thesis. First, terrorism is about violent action (or the threat thereof) by non-state entities that should be distinguished from violent state action such as terror (Hoffman, 2006/1998). Second, based on long-term international comparative research, the fear caused by the threat or actual use of violence against, often arbitrary, targets has been identified as a key component of terrorism in many definitions. An important additional aspect is the political motivation of the perpetrators (Schmid, 2004) and the inabilities of target societies to counter fear (Furedi, 2007). Third, the use or threat of violence is not primarily directed against the victims caught up in the incident but at a wider audience within society (Jenkins, 1975). Terrorism intends to "claim the attention of the many" and to "alter the attitudes and behaviour of multitude audiences" (Crenshaw, 1995: 4). Fourth, the occurrence or threat of acts of terrorism cannot be detached from the way states react to terrorism. The language and actions through which states respond to terrorism contribute decisively to the theatre of fear (De Graaf, 2010, 2011). If states take this performative power too far, states themselves "could be a stimulus for blind rage and aggression" (Nussbaum, 2003: 251).

For the definition to be applied in this thesis, it is crucial that it meets the basic criteria noted earlier and, at the same time, is applied within terrorism practice. However, it should avoid reflecting a "we-know-it-when-we-see-it" attitude "that easily leads to double standards which produce bad science and also, arguably, bad policies" (Schmid, 2004: 1). Given the focus on the practice of counterterrorism, this research will adopt the widely used governmental definition in the Netherlands since this also meets our criteria. 'Terrorism' in this research is therefore defined as "the threat or preparation of, or the committing of, serious violence based on ideological motives against people, or deeds aimed at causing socially disruptive material damage with the goal being to cause social change, to instil fear among the population, or to influence political decision-making" (National Coordinator for Counterterrorism, 2011a: 20). In addition to the usefulness of this definition from the point of view of the practice of counterterrorism, it also emphasizes that this definition only applies in a

democratic context. This democratic aspect recognises that the applicability of the label terrorism depends on the specific context, implying that political violence could be a form of resistance under undemocratic conditions.

Counterterrorism

In this thesis, I consider 'counterterrorism' to be all efforts directly aimed at mitigating the risk of terrorism. In general, these efforts are taken by democratic states and by their civil societies. However, this thesis is looking only into the efforts undertaken by states and state authorities. It should be noted that the range of authorities involved in countering terrorism has expanded over the past decade. In the early days, counterterrorism was mainly performed by security and intelligence services and law enforcement authorities but, nowadays, the range of actors has expanded and also includes educational institutions and social workers (Bakker, 2012). This expanded set of actors also broadens the potential range and distribution of ethical issues. As such, counterterrorism is a complex process in which many actors are involved in a wide variety of operational processes, bureaucratic procedures and analytical activities – all under the ultimate supervision of politicians. Counterterrorism thus implies the involvement of a wide network of national and international partners.

Ethics, ethical issues and dilemmas

'Ethics' is considered here as moral philosophy, a concept coined by Aristotle with a very rich scholarly history (Aristotle, 1999). For the sake of this multidisciplinary research, a definition will be used that is both widely accepted and allows one to engage the application of ethics within professional practices. As such, ethics is defined as the activity of considering what is good and right to do in a specific situation, rather than simply following rules and the law (Fenner 2008: 3).

This thesis will also differentiate between an ethical *dilemma* and an ethical *issue*. An ethical *dilemma* is seen as a specific situation in which one or more actors are facing two or more conflicting values that seem irreconcilable in terms of future action in the situation the values are referring to (Fenner 2008: 174). An ethical *dilemma* is, due to its situational occurrence, quite concrete and

shaped by the various details involved. The concept of ethical *issues* is used in this thesis to refer to ethical tensions more generally, and goes beyond a concrete ethical dilemma. Ethical issues could be considered as a cluster of ethical dilemmas. The central dilemma used in the theoretical part is a grave and spectacular dilemma concerning the dealing with a hijacked plane. In the daily practice of counterterrorism there are many more routine dilemmas of less spectacular nature. However, it is not always immediately clear from the beginning of a certain situation whether professionals are dealing with a grave or a routine dilemma. Checking a box in an excel spreadsheet within the framework of international intelligence exchange appears rather a less spectacular routine issue. However, in the end it can still have grave consequences as it may lead to placement on a watch list that might trigger repressive action by foreign authorities. It could even turn out to be a matter of life or death as it may lead to the deployment of a drone abroad. The issue of dealing with a potentially hijacked plane is considered by outsiders as grave and more spectacular case that will not be a matter of routine to the practice of counterterrorism. However, the procedure to deal with the suspicious status of a plane occurs a couple of times each month in the Netherlands. This makes that a grave ethical issue can be at the same time also a routine issue to counterterrorism professionals. Obviously, the majority of cases turn out to be not a real threat but each case is handled as a potential real case.

When turning to the application of ethics support, through the tool of moral case deliberation, it becomes apparent that it is more nuanced to refer to activities related to ethics support rather than to applied ethics. In part, this is due to the fact that the activities are positioned from the inside: rather than an external critique of practices, the point of departure is an embedded attempt at ethics and interactive practice improvement (Abma et al., 2010: 246). Further, the practical activities are oriented towards fostering interdependent practices in terms of responsibility rather than at identifying and defending legal norms (Abma et al., 2010: 248). The definition of 'practice' will be provided in Chapter 3 as the discussion unfolds.

2.2 Methodology and background

Scientific disciplines

The methodology used within this explorative research will be clarified by first providing some general characteristics. Subsequently, it will be clarified on a chapter-by-chapter basis which methodology has been chosen to answer which research question. Generally speaking, this research draws on and gains strength from different disciplines including terrorism studies (Bakker et al., 2017; De Graaf, 2010; Van Leeuwen, 2003; Waldmann, 2005), political science (Hillebrand, 2012; Hollis and Smith, 1990; Münkler, 2003), social sciences (Bauman, 2007; Bauman, 2010; Bauman, 2006; Beck, 1986; Beck, 2007; Flyvbjerg, 2001; Waldmann, 2005) and applied ethics (Benjamin, 1990; Becker, 2007; Bobbio, 2010; Dartel and Molewijk, 2014; Hartman et al., 2016; Kinsella and Pitman, 2005; Molewijk, 2014; Roessler, 2010; Singer, 2005; Stolper, 2016; Svara, 2007; Weidema, 2014; Widdershoven, 2010). In terms of the last discipline, particular interest is devoted to studies on ethics and security and, to a lesser extent, counterterrorism (Ammicht Quinn, 2016, 2014; Baarda and Verweij, 2006; Bakker, 2015; Buijs, 2002; Den Boer and Kolthoff, 2010; Deutscher Präventionstag, 2016; Ginbar, 2008; Van Gunsteren, 2004; Habermas and Derrida, 2004; Hillebrand, 2012; Ignatieff, 2004; Miller, 2009; Reding et al., 2013; Van Elk, 2017b; Weidema and Molewijk, 2017).

Research in context of state secrets

Unlike the practice in some other research fields there are no blueprints to conduct a research on ethics support in the rather closed field of counterterrorism dealing with state secrets. Because of this all methodological steps taken in this research are fully explained and accounted for in this chapter. Where necessary additional background information about the research steps will be provided. In spite of the secrecy of the practice of counterterrorism the chosen methodology provides full transparency as all empirical claims supporting the findings are non-classified.

In order to answer the main research question, about the current relevance of the ethics of counterterrorism and the added value of ethics support within the practice of counterterrorism when dealing with ethical issues, several research sub-questions have been formulated. The practical component of the research

was carried out within the Office of the Dutch National Coordinator for Counterterrorism and Security by holding interviews and using moral case deliberation.

An important remark should be made regarding the meaning of numbers of research participants in counterterrorism studies. In total, 53 persons participated in the moral case deliberations of this research. Of those 53 persons 43 provided input through questionnaires, nine participated in semi-structured interviews. This level of participation can seem rather limited against the background of empirical studies in other areas. For the field of terrorism and counterterrorism, however, this is not the case. A seemingly small sample in terrorism and counterterrorism research can embody a large proportion of the entire research population as has also been shown when researching a terrorist network (Schuurman, 2018). Therefore, when evaluating the value of terrorism studies, one should not overly emphasize the size of the research population using a traditional social science perspective to which the normally closed and inaccessible practice of counterterrorism is rather unknown. Although the research sample of this thesis is few in number when compared to traditional social sciences, it still catches a substantial part of the practice of counterterrorism at the Dutch National Coordinator for Counterterrorism and Security and can be considered as valuable for this explorative study.

The remainder of this section will discuss the research method(s) used to answer the individual research sub-questions. Following this, I will deal separately with the two empirical methods: interviews and moral case deliberation.

Theoretical part

In the theoretical part, the following methods will be used to address certain research sub-questions. In Chapter 3, key ethical approaches will take center stage as dictated by research sub-question 1: What is the relevance of key ethical approaches for dealing with ethical dilemmas in counterterrorism? The identified key concepts will be explored in the light of a fictional case. The second research sub-question: What can the concept of 'compromise' contribute to the handling of ethical dilemmas in 'counterterrorism as practice'? will be addressed

in Chapter 4 through literature research. Chapter 5 will explore the range of ethical issues that counterterrorism professionals face based on literature research, and from this develops a typology of ethical issues. As such, this chapter will address research sub-question 3: How can the ethical issues faced by counterterrorism professionals be categorised?

Empirical part

In the empirical part of this thesis, two other methods are used: semi-structured interviews and moral case deliberations. In Chapter 6, interview data will contribute to answering research sub-question 4: How are counterterrorism professionals in the Netherlands dealing with ethical dilemmas? The focus then switches, in Chapter 7, to moral case deliberation, with the focus on research sub-question 5: What is the relevance of the method of moral case deliberation to the practice of counterterrorism? Literature research leads to an analysis of the philosophical roots of moral case deliberation, which provides background for its empirical application. This discussion is included in the empirical part of the research because it explores the potential relevance of moral case deliberation to the practice of counterterrorism and is closely interlinked with the concrete application of moral case deliberation within the practice of counterterrorism. Chapter 8 will move on to the explorative concrete application of moral case deliberation. In this chapter, research sub-question 6 will be addressed: What is the added value of applying the method of moral case deliberation among counterterrorism professionals in the Netherlands to the practice of counterterrorism? This chapter draws on an explorative application of moral case deliberation among counterterrorism professionals at the Office of the Dutch National Coordinator for Counterterrorism and Security. The experiences of the counterterrorism professionals are captured through explorative analyses of the open answers to questionnaires with open answers, and the information provided will be analyzed in this chapter.

Concluding part

In the concluding part, Chapter 9, the main research question will be answered: What is the current relevance of the ethics of counterterrorism and what is the added value of ethics support within the practice of counterterrorism? This

chapter draws together all the preceding findings from the previous chapters and will also provide reflections and recommendations for further research, policies and practices.

As the explanation of the research methodology as well as relevant background information is integrated in this chapter, I will turn next to the two empirical sources of this research: interviews and moral case deliberation.

Interviews with counterterrorism practitioners

Semi-structured interviews, held with counterterrorism practitioners at the office of the Dutch National Coordinator of Counterterrorism and Security, were an important source of insights into ethical dilemmas in the field of counterterrorism. The main objective of these interviews was to gain an impression of the sort of ethical issues that counterterrorism practitioners are facing, how they deal with them, to what extent they are trained to handle them and what recommendations they have for their organization in handling them. Gaining this understanding through interviews was fundamental to the following chapters. It also ensured that the understanding of the context would go beyond the potential limitations of first-hand experiences of the author.

These interviews adopted a semi-structured format in order to encourage a conversation and be able to explore ideas that developed during the flow of the interviews (Baarda, 2013: 150). The interviews were guided by a set of questions to be addressed (Baarda, 1995: 162) and can therefore be understood as "semi-structured" (Baarda, 1995: 26). These questions more-or-less define the topics to be addressed, rather than form a rigid set of questions with limited answers. This method is particularly appropriate where ideas, opinions or experiences need to be explored that are related to a complex, and often new, problem that can be considered as somewhat taboo. As such, this technique seems very apposite for the issue of ethical dilemmas within the practice of counterterrorism. The major difference with a structured interview is that a semi-structured interview comes across more like a normal conversation, in which

careful listening, maintaining the flow of the conversation and asking good questions are key (Baarda, 1995: 17-19).

The interviews took place in February and March 2016 at the offices of the National Coordinator for Counterterrorism and Security. For counterterrorism professionals this was a very busy period due to attacks in Brussels which influenced the overall availability for interviews in a negative way. Against this background it might be even remarkable that nine professionals took the time and energy to participate in this research. The interviews lasted between 45 and 120 minutes with an average length of 60 minutes. The interviewees had earlier responded positively to a broader invitation (sent 11 January 2016) to join the moral case deliberation sessions (the full text of the invitation letter is included in Chapter 8). A further request was then sent to all those accepting this offer, asking if they would be willing to also participate in this preliminary interview round. In total, ten employees indicated their willingness to participate in a semi-structured interview. Eventually, nine interviews were held. One employee who initially indicated interest was unavailable due to a change in workload. Those who reacted to the interview invitation were predominantly counterterrorism professionals. Only one interviewee came from another field of expertise and was included in this research due to their experience in dealing with ethical dilemmas. Given the overall number of respondents, a qualitative analysis of the contributions of the respondents suits well as relevant perspective can be identified (Alvesson, 2011). This implies that relevant characteristics will be subsequently identified, codified and analysed (Rubin and Rubin, 2005). The results gained with this method are explorative in nature (Baarda, 1995: 79-80, 153).

All the interviews were held in an open atmosphere in which the respondents shared their personal reflections on the issues addressed. In addition, all the respondents provided their consent to the procedure of the interview, accepting their inclusion in a summary report of the interview that is only accessible to the researchers and does not include their names. When explicitly asked, none of the respondents wanted to receive a copy of the report for approval. The interviewer/researcher knew all the respondents as colleagues but had

cooperated closely with only one of them. There was no personal relationship between the interviewer and any of the respondents. Further, there was no shared involvement of the researcher and any of the respondents in a concrete ethical dilemma or professional conflict.

The detailed questions guiding the semi-structured interview are presented below.

Questions guiding the semi-structured interviews

"1. What is your current function? What relevant previous functions did you fulfil?

2. To what extent do you or did you face ethical dilemmas in your work?

3. How did you deal with those ethical dilemmas in general?

4. Are there any specific experiences with dealing with ethical dilemmas that you want to elaborate on?

5. What kind of mechanism or institutional arrangements are in your organization (or in relevant organization(s) where you have been working previously) in place to deal with ethical dilemmas?

6. Did you make use of those mechanisms or institutional arrangements? If yes, why and what are your experiences? If no, why not and what are your experiences?

7. What kind of training is in your organization (or in relevant organization(s) where you have been working previously) available to deal with ethical dilemmas?

8. Did you participate in any of the training courses? If yes, why and what are your experiences? If not, why not and what are your experiences?

9. Given your overall experiences, would you suggest to alter, add or skip any mechanism or institutional arrangement to deal with ethical dilemmas?

10. Given your overall experiences, would you suggest to alter, add or skip any training element to your organization to deal with ethical dilemmas?

11. Are there any other remarks, observations or suggestions you want to share?

12. Would your organization (or in the relevant organization(s) where you have been working previously) be willing to run a pilot of MCD regarding potential ethical dilemmas as part of this research (with a strict research protocol in place protecting the confidentiality of cases as well as persons and institutions involved)?"

Moral case deliberations

The information gathered through experiences with and analysing the questionnaire of the moral case deliberations is another source of empirical data in this research. This deliberation took place within the Office of the Dutch National Coordinator for Counterterrorism and Security in 2016. The Dutch National Coordinator for Counterterrorism took an interest in this issue as early as 2009, when the first counterterrorism coordinator Tjibbe Joustra identified ethics and counterterrorism as a strategic theme alongside other more threat-related issues (National Coordinator for Counterterrorism, 2011b: 40). The author of this thesis became involved in these early stages and coordinated internal efforts to make that intention as concrete as possible. This strategic orientation was continued by the second counterterrorism coordinator Erik Akerboom. It became more visible to the outside world as a public conference on ethics and counterterrorism was organized by the national coordinator in cooperation with the Netherlands Intelligence Studies Association (NISA). Many contributions to this conference were collected and published in a Dutch volume (Kowalski and Meeder, 2011).

Under the third counterterrorism coordinator Dick Schoof, RAND Europe was commissioned in 2012 to investigate what counterterrorism professionals could learn from the way professionals in other sectors handle ethical issues. In 2014, I started my Ph.D. research on the ethical dimensions of counterterrorism. While engaging in the regular activities of a Ph.D. researcher, I had two additional goals. First, I had to create a solid basis for holding moral case deliberations within the National Coordinator for Counterterrorism and Security. In order to ensure an approved implementation of moral case deliberation (Molewijk, 2014; Plantinga et al., 2012; Stolper et al., 2015, Weidema, 2014), I completed the course run by the VU Medical Centre Amsterdam and the International School for Philosophy and was certified as a Facilitator of Moral Case Deliberations in 2014. Second, I wanted to connect to national and international practices of counterterrorism. I organized an international expert meeting on the ethics of counterterrorism, bringing together professionals from ten Western countries, including the Netherlands. Many contributions were published in 2017 (Kowalski, 2017a). At that time it was the intention to lay the foundation for an international comparative research which turned out not to be feasible as it was

not possible to overcome practical and legal reasons to get engaged in such a research. In the Netherlands it was not feasible to gain other government authorities as parties of this research as well. Against this background, it is remarkable that the National Coordinator for Counterterrorism and Security was willing to enable this research.

In terms of applying this approach within the National Coordinator for Counterterrorism and Security, concrete steps were also taken. In 2015, the management team of the National Coordinator for Counterterrorism and Security agreed to internally implement the moral case deliberation method, and gave permission for a scientific publication on the factual implementation that took place in 2016. As such, parts of this thesis have been already published (Kowalski, 2017a, 2017b, 2017c). All three publications have also been approved by my Ph.D. supervisors for inclusion within this thesis, as the work formed part of the Ph.D. research.

An important point about the timing of the research period already raised regarding the interviews should be mentioned here as well. The series of moral case deliberations took place in a period which was particularly dynamic to counterterrorism professionals. The terrorist attacks in Brussels and parliamentary debates about the background to those attacks in particular, and terrorism in general, caused an increase in the workload for the professionals, which led to last minute changes in agendas and commitments.

In response to the invitation to participate in a moral case deliberation, 65 of the circa 350 employees of the National Coordinator for Counterterrorism and Security responded positively. In the period from March to June 2016, seven moral case deliberation sessions were organized involving 53 employees. All these respondents participated only once within the series of moral case deliberations documented in this research. The participants were working in the fields of counterterrorism, national security or cybersecurity. However, a large majority were either fully or partly involved in counterterrorism, as the figures below will demonstrate. In May 2016, all members of the management team and all team leaders (in total around twenty people) who were present at a special management event also participated in a moral case deliberation. The reason for

this additional exercise was the poor representation of managers in the responses to the general call for participation sent to all employees. Once the word spread, additional moral case deliberation sessions were organized for the Summer School of the entire Ministry of Security and Justice in 2016 and for the Academy of Security and Justice in 2017. These later meetings do not contribute to this thesis since they were mainly related to issues other than terrorism and counterterrorism. In the aftermath of this project the Ministry of Justice and Security decided to build a pool of certified facilitators of moral case deliberation to serve on specific requests the wider department of justice and security. This step has also been framed by the Minister of Justice and Security as a contribution to organizational learning and change within the Ministry of Justice and Security (Ministerie van Veiligheid en Justitie, 2018). More recently the introduction of moral case deliberation has also been presented by the leadership of the Ministry of Justice and Security as a contribution to a morally fit organization (Lamboo, 2019).

There are many different procedural models for running a moral case deliberation (Molewijk, 2014; Stolper, 2016; Weidema, 2014). For this research, the method developed by the Vrije Universiteit Medical Centre (VUMC) in Amsterdam has been chosen. The reasons behind this choice are twofold, both of a practical nature. First, the VUMC procedural model is the one I had been predominantly trained in. Second, this model offers good flexibility in adjusting the exact observations of the different stages to the course of the dialogue, group dynamics and, to a lesser extent, external circumstances that might influence the dialogue and call for adjustment.

The VUMC method consists of the following stages:
1. Introduction to the method
2. Formulation of the dilemma
3. Clarification and transposition
4. Identification of values and norms
5. Search of alternatives
6. Individual weighing
7. Harvesting: similarities and difference regarding the case in question
8. Reflection on moral case deliberation itself
(Molewijk, 2014; Hartman et al., 2016: 260).

When it came to individual reflection on ethical dilemmas, a handout was presented to all the participants. This handout was guide to the reflection about the specific case addressed in the moral case deliberation only and did not serve as an evaluation of the moral case deliberation. The handout was developed in order to structure the thoughts of the participants about the ethical dilemma at stake when individual reflections were presented within the group. For reasons of confidentiality, the notes made on these handouts remained with the participants and do not form part of the data used in this research.

Questionnaires were used in this study in order to gain an impression of the value added by moral case deliberation in this situation. When designing the questionnaires, the initial idea was to use evaluation methods already proven effective in the healthcare sector. The application of moral case deliberation in a European healthcare setting had led to the development of an evaluation instrument for clinical ethics support (Svantesson et al., 2014). Within this evaluation instrument of the EURO MCD, six categories were distinguished: enhanced emotional support, enhanced collaboration, improved moral reflexivity, improved moral attitude, organization-level improvement and concrete results. Ultimately, the EURO MCD evaluation method used in the healthcare field was not implemented in this research. Since this was the first implementation of moral case deliberation within practice of counterterrorism, it seemed sensible to select an open approach and develop our own understanding of the potential added value in a, so far, new and completely different field This approach could lead to a different categorization of the added value than that explicitly developed for the healthcare sector. Using an open format would avoid channelling responses towards previously chosen categories and could enrich the variety of responses.

It is important to note that the decision to use open questions also reflects another deliberate choice to conduct this study as qualitative rather than quantitative research and as an explorative pilot embedded in a professional practice. This was because the limited population size was likely to lead to a sample that was too small to develop meaningful statistical observations. Further, due to the lack of a control group and the lack of any pre-existing data

on ethics support or moral case deliberation within the practice of counterterrorism, a quantitative approach would make little sense. As such, a qualitative approach seems more appropriate for exploring the value of moral case deliberation in the practice of counterterrorism.

The questionnaire used to elicit responses from the participants is presented in the next section. Approval from the Ph.D. supervisors was obtained before utilising the questionnaire within the framework of this research.

Due to the confidentiality attached to the moral case deliberation sessions and the ethical issues addressed, responding to the questionnaires was on a voluntary basis. The safeguards laid down in the research protocol discussed previously also apply to the use of the questionnaires, which were handed out at the end of each session. The completed questionnaires were left in the room at the end of each moral case deliberation and were collected by the facilitator at the very end of each session. This process was followed primarily to stimulate a direct response, but was also used to encourage any response at all. Distributing the questionnaire with a request to return them by some later date was considered unlikely to boost the return rate. In addition, returning forms individually would undermine the character of an anonymous response. Further, the option of returning the forms to a centrally located box was not considered realistic given the large number of physical and biometric barriers within the building. The fact that the participants worked in a fast-paced office environment may be a factor in why some participants failed to return their questionnaires. Many participants had to rush back to their desk immediately after the moral case deliberation finished.

What did the implementation of the moral case deliberation project within the National Coordinator for Counterterrorism and Security look like? As already mentioned, the National Coordinator for Counterterrorism and Security management team approved, in November 2015, the proposal to start applying moral case deliberation in the first half of 2016. The proposal centered on joint dilemma workshops for staff and line managers of all departments, based on an open registration format. Adopting the moral case deliberation method, the plan

was for staff members to enter into dialogues regarding the ethical dilemmas they encounter at work.

The questionnaire provided to the participants at the end of the moral case deliberation sessions contained the following questions.

Questionnaire for participants of the moral case deliberations (MCD)

"1. Do you work in the field of counterterrorism or (partly) related to counterterrorism?

2. Did you experience ethical dilemmas in your work before joining the MCD, if yes, what kind of ethical dilemmas?

3. If applicable, how did you deal with those dilemmas?

4. Did the MCD change your view on dealing with ethical dilemmas?

5. How useful did you find the moral case deliberation? (on a scale of 1 to 5, 1 very useful, 2 useful, 3 neutral, 4 not particularly useful, 5 not useful at all)

6. What is the most important insight of the MCD?

7. What would you recommend regarding the role of ethics within your organization?

8. How do you rate moral case deliberation as a method (on a scale of 1 to 5, 1 very good, 2 good, 3 neutral, 4 poor, 5 very poor)?

9. Are there any other observations or comments you want to share?"

An important characteristic of the scale was to allow for a neutral score (of '3') rather than force participants to be either positive or negative. Selecting a scale from one to five, whereby one reflects a high appreciation and five little appreciation, could, in hindsight, perhaps have been organized the other way around. From a psychological point of view, it could make more sense to give a higher score if your appreciation is higher. On the other hand, the applied scale is not that uncommon in the world of grading, as the entire German school system is based on a method of grading in which the lowest number represents the highest appreciation, or the American system of higher education where the first letter of the alphabet reflects the highest appreciation. Nevertheless, the scale was clearly explained in the research and the scores and the written comments seem consistent.

Further, the majority of the questions were qualitative, and the explorative analysis of the responses to the questionnaire of the moral case deliberations is thus primarily qualitative in character. As mentioned above there is no methodological blueprint to analyse moral case deliberations within the largely closed practice of counterterrorism. The analysis of the moral case deliberations has been guided by techniques of qualitative analysis (Baarda, 1995, 1996, 2013) and interpretative qualitative research (Macklin and Whiteford, 2012). I conducted the analysis as follows: The results of all questionnaires have first been collected in a spreadsheet in order to provide an overview of the entire results. Based on this overview I codified the content of the different answers in a search for commonalities, differences and interdependencies. The codification allowed subsequently for two follow up steps: first, it was feasible to distinguish between different more general categories. Second, it was also possible to express how often aspects of a certain category have been mentioned. In sum, the qualitative analysis of the questionnaires allowed for an explorative inventory of insights reportedly raised by the pilot of moral case deliberations. This analysis has been discussed with my Ph.D. supervisors.

2.3 Limitations

The potential limitations of this research approach will be discussed in terms of three aspects: the researcher, the interviews and the moral case deliberation. As part of the discussion, mitigation strategies to counter the potential limitations will be explained. In addition, the potential benefits that might counterbalance potential limitations will be noted where appropriate.

Researcher

First of all, it could be a limitation that the facilitator and the researcher are one and the same person (Cheetham et al., 2018). This could suggest there might be a bias towards involved individuals and the issues discussed. It is also possible that participants in the moral case deliberation have a certain biased, personal standing towards the facilitator/researcher, which could color the research findings. Another potential limitation is the fact that the researcher was employed by the National Coordinator for Counterterrorism and Security while the moral case deliberations were being implemented. Being employed and doing research within the same organization, especially sensitive research, can influence the impartiality of the researcher. However, when conducting the majority of this research, the researcher was employed by the independent supervisory authority responsible for the entire field of justice and security, the Inspectorate of Justice and Security. This can be considered as a countervailing force to the previously mentioned potential limitation. Similarly, the supervisors of this thesis can also be seen as a check on potential bias.

It was not possible to mitigate this limitation through comparing the results with other findings since no comparable research within the practice of counterterrorism has been reported, nor were there any other methods available that seemed promising. Given these limitations, one should first and foremost see this research as explorative in character and view the findings in this light.

As mentioned earlier, it was crucial to have someone with security clearance and a thorough understanding of the practice of counterterrorism facilitating the sessions and conducting the research. The organization, implementation and

evaluation of the workshops were in the hands of the author of this thesis who holds the highest security clearance issued by the General Intelligence and Security Service (AIVD). The author was occasionally assisted by an immediate colleague with the same security clearance and also certified as a facilitator of moral case deliberations. This security clearance was crucial in gaining sufficient support from the management team of the National Coordinator for Counterterrorism and Security and the trust of all potential participants.

In addition to the security clearance, it was also helpful to be a counterterrorism insider and to know what the deliberations were to be about. From a theoretical standpoint, however, this insider position is not a necessary condition, as an outsider might be inclined to ask challenging questions and to approach the issues in an unbiased way. Given the sensitivity regarding discussing ethical issues in counterterrorism and publishing about them, it was especially critical in this pioneering phase to gain approval and trust before starting. This underlines the potential benefits of having an insider undertake this research. Future research in this field could, however, overcome these limitations by bringing in an outsider with an appropriate security clearance.

Interviews

A second aspect when discussing potential limitations is the interviews. The interviews with counterterrorism practitioners from the National Coordinator for Counterterrorism and Security were part of broader project in which all employees of the National Coordinator for Counterterrorism and Security were invited to participate in moral case deliberations. The main aim of this project was to explicitly address ethical issues at work and to publish the findings of the research. However there were limitations which should not be ignored. First, the fact that respondents had to volunteer to be included in this research might question their representativeness, or suggest the possibility of a selection bias. It could be that those who sense they face ethical dilemmas might be more inclined to volunteer than those who face few or no dilemmas. Second, the statements made in the interviews are not checked against facts, so there is some uncertainty about the accuracy of the statements and claims. However, at least with questions 5 to 8, it was possible to carry out a general check of the factual elements. That is, unlike the initial questions, it was possible to check whether

institutional arrangements, training courses etc. were in place. An additional limitation is that the respondents invited to discuss how arrangements to handle ethical dilemmas are designed might have a biased agenda (whether personal or otherwise) that could lead them to give untruthful or exaggerated responses. This potential limitation was mitigated by using the semi-structured nature of the interviews to clarify positions and underlying circumstances as effectively as possible.

Moreover, one should note that none of the respondents were in a formal conflict with the National Coordinator for Counterterrorism and Security as their employer. This is important since any such respondents might be tempted to exaggerate their responses and distort the situation they are describing. This would also not be desirable since they could violate obligations regarding the confidentiality of their specific work, which could undermine the support for this research. Given these concerns, if such a respondent had applied to participate, the request would have been turned down, or the responses would not have been integrated in this research without further checks and annotations. However, in practice, this was not an issue.

There are compensations and mitigating circumstances for accepting these potential limitations. First, since the goal of this research is to identify ethical dilemmas in daily practices, receiving responses from those facing ethical dilemmas fits this purpose. Second, although claims are not checked against documented facts, the familiarity of the author with the work field and the dynamics of the practice of counterterrorism means that there is an internal, often implicit, process of fact checking. The author remained on alert for potential inconsistencies in the contributions of participants. Third, by accepting the limitations, a group of counterterrorism practitioners that is generally inaccessible to researchers has been reached. An important factor in establishing this connection is related to my status within the organization that allowed me to function as both interviewer and researcher. The security clearance and trust granted me have been instrumental features here. Fourth, the official approval to use the inputs from these professionals in public research has a potential advantage in providing legitimacy and suggesting that it is fine to give truthful answers. The management team of the organization of the National Coordinator

for Counterterrorism and Security indeed committed itself to this openness under terms laid down in the research protocol. As such, it is considered that the potential limitations have been mitigated as far as possible. The overall limitations are also considered acceptable because they provide a, so far unique, opportunity to conduct research within the secrecy-dominated practice of counterterrorism.

Moral case deliberations

The third potential limitation of this research concerns the moral case deliberations themselves. This application of the moral case deliberation approach includes several limitations or problems that one should recognise and also mitigate as far as possible. The first potential limitation is that those participating in the voluntary moral case deliberation sessions are not representative of the workforce of the National Coordinator for Counterterrorism and Security, and consequently of the way ethical issues are experienced within the organization. One way to avoid this risk is to seek a high level of participation from the workforce, including both employees and leadership. The second potential limitation is that the offer to join in the moral case deliberations was open to all employees, including those dealing with issues other than counterterrorism, such as cybersecurity or crisis coordination. The potentially confounding effect of these 'additional' employees could be mitigated by separating the responses of counterterrorism professionals from those coming from other fields, and by ensuring there was sufficient participation from the counterterrorism field. These measures were employed in this research.

Another potential limitation is that it might prove very difficult to come to general conclusions on the working of moral case deliberation in the field of counterterrorism. This is not only because this research is limited to the Office of the National Coordinator for Counterterrorism and Security, the first impressions gained from an initial implementation might also be inaccurate. That is, if this method was applied repeatedly and with a sample that went beyond the National Coordinator for Counterterrorism and Security, a different general conclusion might be reached. At this stage, it was not feasible to expand the population of those participating in the moral case deliberation by including comparable authorities. Furthermore, it was not realistic to carry out a longitudinal study on

the long-term effects of conducting moral case deliberations within the practice of counterterrorism within the constraints of a Ph.D. research project. As such, this limitation remains and, at the end of this thesis, an agenda for future research is proposed that would build on this explorative research.

2.4 Research ethics

Every research project should take ethical issues into account and anticipate ethical issues that are likely to arise and consider how to address them. Research on security issues at the crossroads of the academic world and governmental security authorities can be vulnerable to ethical ambiguity and has to be governed by ethical and professional guidance (Gearon and Parsons, 2019). A research project into ethics should especially respect the ethical quality of the research. The research ethics of this thesis respond to the basic ethical criteria: voluntary participation in the research, informed consent, anonymity of the participants and the absence of negative effects (Baarda, 2013: 39). The ethics of this research are based on principles and safeguards laid down in a written research protocol approved by my Ph.D. supervisors and by the management team of the National Coordinator for Counterterrorism and Security. In this research protocol, the working of the feedback group, safeguards concerning the confidentiality and anonymity of certain aspects of the research without circumvention the transparency of the empirical underpinnings of the findings, the issue of political responsibility, scientific independence and procedures for handling conflicts or complaints are all addressed. This process and the protocol were developed in the Dutch language but have been translated into English for the purposes of this thesis (see Annex). The implications of the research protocol and the underlying research ethics for the various aspects of this research are discussed below. In doing so, I distinguish between interviews, the moral case deliberations, the feedback group and the issue of complaints or conflicts.

Interviews

The research ethics and the research protocol apply to the interviews. All the respondents were informed about the basic principle of anonymity of their input and agreed with this principle. The interviews were held and documented based on notes taken by the author. The ethics of the research were explained to participants before each interview was conducted. In addition, all respondents were explicitly asked whether they wanted to participate in this interview under these conditions, and all agreed. Nobody objected to these conditions. Prior to the interviews, approval for the guiding questions and themes of the interviews was obtained from the research supervisors.

Given the confidential setting of the interviews, where potential state secrets might be raised, the interviews were not recorded. Interview reports were compiled rather than transcripts, with some quotes included. Each report was written based on notes taken during the interview. Although such a procedure is somewhat unusual in social science research, it is more common in areas of sensitive research, such as governmental evaluation, inspection and oversight. Safeguards have been included in the research protocol that only allow the reports of the interviews to be read within a restricted setting, if deemed necessary.

Moral case deliberations

The contents of the individual moral case deliberation sessions remain confidential as agreed with the participants. This is in accordance with the safeguards laid down in the research protocol. All the participants in the moral case deliberations were placed in a position where they could provide voluntary and anonymous feedback on their personal experiences with ethical dilemmas, and on their experiences with moral case deliberation.

The principle underlying all the sessions was that the discussed dilemmas, as well as the content of the dialogues during the moral case deliberations, are treated confidentially and will not go beyond the specific group involved. There are no reports or minutes of the meetings. Any notes made on a flipchart or on a display screen to support the deliberations are likewise confidential, and were destroyed after the sessions were finished. This restricted insight into the contents of the sessions, which is regrettable from a research perspective, but unavoidable given the chosen research method and the safeguards in place concerning confidentiality. To summarize, the sessions occurred, as foreseen, in a confidential setting without records being kept.

However, researching the added value of moral case deliberations does require the use of some solid empirical input. In this research, in accordance with the research ethics protocol, this input has been generated by a questionnaire that participants in the moral case deliberations could complete on an anonymous and voluntary basis. All the potential responders were informed that their anonymous and voluntary contributions might be used within this published research. Given

this information, no one refused to participate in the research. Coupled with the way the questionnaires were introduced, the respondents can be considered to have unanimously given their informed consent.

Feedback group

A feedback group to monitor the research behind this thesis has been established. The feedback group consists of the researcher, a representative of the scientific supervisors of this research and a delegated member of the management team of the National Coordinator for Counterterrorism and Security. The task of the feedback group is to monitor the quality of the planned publications and the proper handling of any sensitive data. In addition, the feedback group can also monitor potential concerns regarding the vulnerable interaction between universities and governmental security authorities. The precise tasks and responsibilities of this group are laid down in the research protocol. It is important to note that no concerns have been raised within the feedback group and no amendments to the draft text have been initiated by the feedback group.

Complaints or conflicts
Finally, the presence of existing mechanisms within the regulations and resources of the Ministry of Justice and Security were highlighted in case things go wrong and participants filed complaints or conflicts arose. The research protocol includes a section on addressing potential complaints, conflicts or conscientious objections by participating staff members, the researcher or members of the feedback group should issues arise. The envisaged line of escalation was to follow the standard guidelines for filing complaints or raising conscientious concerns within the Ministry of Security and Justice as a whole. This safeguard was also mentioned in the research protocol. However, no complaints have been filed and no conflicts arose during the course of this research.

The next chapter explores the relevance of key ethical approaches in dealing with ethical issues in counterterrorism.

II.   Theoretical part

3. Key ethical approaches and their relevance for counterterrorism

In this chapter the relevance of key ethical approaches for dealing with ethical dilemmas in counterterrorism will be explored. As already suggested, there is an intrinsic relationship between counterterrorism and ethics which makes it even more accurate to discuss the ethics of counterterrorism. However, there is no commonly accepted ethics regulating or guiding counterterrorism in democratic societies like the Netherlands. Instead, there are multiple ethical approaches that can be distinguished, with different implications for the daily work of counterterrorism professionals. In this chapter key ethical approaches will be introduced and put into the perspective of the practice of counterterrorism. The research question to be answered in this chapter is: What is the relevance of key ethical approaches for dealing with ethical dilemmas in counterterrorism?

After an introduction into the concept of 'practice', three key ethical approaches will be introduced: the consequentialist, deontological and virtue-ethical approach. All three approaches will be evaluated from the perspective of the practice of counterterrorism. These approaches are presented because they can be considered as the three major approaches in the field of ethics (Fenner, 2008; Sandel 2009/2013; Van Hees et al., 2014). The relevance of these key ethical approaches in dealing with ethical dilemmas in the practice of counterterrorism will be explored in light of the difference between external and internal goods of a practice in general (Macintyre, 1981; Knight, 1988).

3.1 Introducing the concept of practice to counterterrorism

When looking at the relevance of ethical approaches to counterterrorism practitioners, it appears that the concept of counterterrorism as practice has not yet been defined in an ethical debate. In this research, the definition of practice as established by the philosopher Macintyre will be used (Macintyre, 1981). Critical reflections on this definition have not, so far, challenged the plausibility of this definition and its usefulness to base further research on (Stout, 1988). Practice, according to Macintyre, has to be understood as

> "any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended" (Macintyre 1981: 218).

The practice of counterterrorism will be seen in this research as one of those cooperative human activities, however, the focus of this research is limited to governmental actors. Even within governmental actors there seem to be so many differences between intelligence services, public prosecutors, law enforcement, prison authorities, schools, universities and so on, that it seems difficult to consider them as one practice. Given their shared goal to counter terrorism and their often coordinated activities to reach that goal, it makes sense to consider their overall involvement as part of a practice of counterterrorism. This can be illustrated by the fact that the national counterterrorism strategy serves as a common underlying framework for action. How the concept of the practice of counterterrorism has to be understood in more detail can be clarified by looking at how the criteria that are part of the theoretical concept of practice relate to the concept of the practice of counterterrorism.

Counterterrorism practice is characterized by a couple of criteria such as history, relationship between participants in practice and their skills. The historical dimension underlines the different backgrounds of all participants in a practice. Without neglecting the histories, performances and shortcomings of different participants in a practice, Macintyre underlines that "we cannot be initiated into a practice without accepting the authority of the best standards realized so far"

(Macintyre, 1981: 221). Applying this condition to the field of counterterrorism requires an acceptance of the current state of action by participating actors in counterterrorism, in order to be able to establish counterterrorism practice as a concept at all. Another criterion of a practice is, according to Macintyre, a certain kind of relationship between those participating in a practice. This means that counterterrorism practice can be defined by relationships of involved professionals who share goals and standards that inform their practices (Macintyre, 1981: 223). This brings the criterion of skills into play. Within the concept of practice, skills are defined more broadly than just technical skills. Those technical skills are "transformed and enriched by these extensions of human powers and by that regard for its own internal goods which are partially definitive of each particular practice or type of practice" (Macintyre, 1981: 225). Applying this dimension to counterterrorism practice is not easy, given the abstract description in Macintyre's theory on one hand, and the fact that this concept has not yet been applied to the field of counterterrorism on the other.

In the remainder of this chapter, a fictional but realistic case will be taken as an example to discuss key ethical concepts and their relevance for the practice of counterterrorism. This reflection also serves to clarify the external and internal goods of the concept of practice in the field of counterterrorism. Whereas the external goods attached to a practice are shaped by the incidents of social circumstances, the internal goods can only be achieved by participating in the practice itself (Macintyre, 1981). The internal goods of counterterrorism therefore imply to the professional participation within the practice of counterterrorism, including the dealing with all attached ethical issues, whereas external goods of counterterrorism are reflected by institutions, hierarchical positions or remuneration. The functions of institutions in the field of counterterrorism are especially concerned with external goods; meanwhile, internal goods are created and reproduced in the practice of counterterrorism. When exploring the relevance of key ethical concepts to the practice of counterterrorism, it seems crucial to explore the internal goods of counterterrorism and to relate them to the external goods accordingly. "… [W]e shall be unable to write a true history of practices and institutions unless that history is also one of the virtues and vices. For the ability of a practice to retain its integrity will depend on the way in which the virtues can be and are exercised

in sustaining the institutional forms which are the social bearers of the practice" (Macintyre 1981: 227).

Although the use of the concept of practice could be considered from a theoretical perspective as some kind of positive bias towards the virtue ethics, the next section will introduce all key ethical approaches to the practice of counterterrorism without any bias towards any of the key approaches in particular.

3.2 Introducing key ethical approaches to the practice of counterterrorism

In this section I will map the key ethical approaches. Roughly speaking, there are three relevant ethical approaches in this connection: the consequentialist approach, which focuses on the intended goal; the deontological approach, which focuses on a certain obligation and underlying values regardless of the consequences; and the virtue-ethical approach, which puts virtues at the center.

Should we shoot down a hijacked commercial airliner to prevent a greater tragedy or not? The answer to this and less spectacular ethical dilemmas in counterterrorism depends in essence on the ethical approach you apply when faced with such a dilemma (Dupuis, 1998; Dupuis, 2003). The difference between dilemmas cannot be assessed based on their initial or outer appearances because rather routine issues can have grave outcomes. In addition, grave cases like the one of a suspicious plane occur frequently as a case without having grave outcomes. Nevertheless, the regular dealing with a potentially grave dilemma makes it a routine dilemma at the same time. Of course, there are many factual and practical issues at stake when such a situation occurs. Do we know for sure that the plane is hijacked? Do we know for sure what target the plane is heading for? Are there sufficient means to evacuate the projected target and to minimize the effect of the aircraft having turned into a weapon in the hands of terrorists? But any way of resolving such a dilemma is based on a - perhaps implicit - approach that sets the stage for any action. Answering the above factual questions, for example, implies that you are considering a preventive downing. An alternative approach could be to not engage in such preventive action at all and follow a mitigation strategy, like evacuating the potential targets. Another option could be to consider such an option only if certain criteria are met. Which alternative approaches are relevant here, and would it be possible to reconcile those approaches?

As mentioned in the above, literature on the subject of ethics of counterterrorism is scarce. The mapping of the different ethical approaches will therefore draw upon literature from many disciplines, translated to the field of counterterrorism. The field of intelligence – although a quite prominent part of counterterrorism – is only one of the fields of this mapping exercise (Fenner, 2008; Van Hees et al., 2014; Sandel, 2009/2013). Other disciplines that have been drawn from are

ethics support in general and ethics support in the fields of healthcare (Molewijk, 2008; Molewijk, 2015; Weidema, 2014; Stolper, 2016), defence (Wortel and Bosch, 2011; De Graaf, 2016; De Graaf et al., 2014), and police (Nap, 2014) in particular. Given the fact that intelligence has to be considered as a cornerstone of counterterrorism, it will receive special focus at a later point in this thesis.

Here, I will only highlight the core notion of these approaches at the expense of philosophical nuances. For the goal here is to identify the core of the approaches and relate them to the practice of counterterrorism.

Under the first approach, the consequentialist approach, shooting down a hijacked airplane to prevent a greater disaster could be justified. 'Consequentialist' refers to the Greek *telos* that can be translated as goal or end. This concept has been coined by Aristotle and has, throughout history, guided many to justify their means to come to a specific end (Aristotle, 1999). Currently, the dominant consequentialist school is utilitarianism, as developed primarily by Bentham (Bentham 2016/1780). Under this approach, ethical decisions are based on ensuring the happiness of as many people as possible, irrespective of individual rights. In the case of the hijacked plane the consequentialist approach focuses on the intended outcome of preventing the plane being used as weapon against a target on the ground. The potential death of crew and passengers would be justifiable given this intended outcome and the lower number of victims that would result when shooting down the plane before it hits the perceived target. In the scant body of literature on the ethics of counterterrorism, this approach has also been dubbed "the lesser evil" by the Canadian academic Ignatieff (Ignatieff, 2004). This is in essence a utilitarian argument. Although a prominent concept in security discourses, the concept of the lesser evil becomes problematic if the proportionality of evil and lesser evil remains unquestioned, as any bigger evil could imply a justifiable lesser evil (Klöcker, 2009 quoted in Ammicht Quinn, 2016: 13). Eventually, we reach a stage where it might become difficult to contain the scope of the lesser evil once the bigger evil has diminished, or where, in the worst case, the lesser evil might even be of an unlimited scope.

Under the second approach, the deontological approach, you would likely not consider shooting down a plane and killing anyone for the sake of someone else. 'Deontological' refers to the Greek *deon* which can be translated as obligation

and duty. This concept is rooted in the philosophy of Kant and has, throughout history, been adhered to by societies in which values merged with law and that founded democratic legal orders. Its core notion is the categorical imperative, which says that one should act only according to the maxim that one would like to become a universal law at the same time (Kant, 1977/1785). In the case of the airliner, this implies that the obligation not to kill its passengers prevails and the responsibility at stake is entirely centered on compliance with this obligation, regardless of the factual outcome of the situation. From the perspective of ethics of counterterrorism, this approach can be considered as not actively interfering in undesirable events in progress, regardless of the outcome and without weighing which course of action would cause less harm. This is due to the fact that the 'categorical imperative' is absolute and would need to be accompanied by a 'pragmatic imperative' looking into the actual circumstances and providing provisional suggestions informing the ethical decision making (Ammicht Quinn, 2016: 9).

Under the third approach, the virtue-ethical approach, the case of the hijacked plane would be decided in accordance with what the involved individuals would deem the best course of action according to their character. 'Virtue-ethical' refers to the Greek *arete*, which means excellence or virtue. This approach is also often referred to as virtue ethics and, as the name suggests, centers on the virtues of an individual. Aristotle and Plato, when first developing the concept, identified four cardinal virtues: prudence, courage, temperance and justice (Audi, 2015). Acting in an ethically sound manner would not imply, as is often assumed, finding the right balance between the one or more antithetical virtues relevant in a specific case. Being virtuous is more about establishing distance from individual emotions and developing an emotional and intellectual attitude that enables individuals to act ethically just in any situation (Fenner 2008: 212-213). This quest to develop an attitude suitable to act in an ethical manner seems to offer some way out from the limitations of the previous approaches by presenting a sound ethical navigation suitable to different contextual circumstances (Beauchamp and Childress, 2009: 383).

3.3 Analysis and discussion

In this section I will assess the usefulness of these approaches within the practice of counterterrorism. As far as practical examples are concerned, this section will not discuss any of the many secret cases in the field of counterterrorism. Instead, the key ethical approaches will be applied to the fictional but conceivable dilemma of a potentially hijacked plane, as considered from my background of professional expertise in counterterrorism. The case is whether to have the military preventively shoot down a commercial airliner that is suspected of being hijacked by suicide terrorists. This case forms the backdrop of a theatre play by lawyer and writer Schirach (Schirach, 2014). The play focuses on a court case against a jet pilot who shot down a plane against explicit orders, and it leaves the sentencing up to the audience of each specific performance.[3]

This scenario has earlier also been discussed by Seumas. He broke this dilemma down to the tension between "whether refrain from protecting the lives of the innocent many (those in the building and its surrounds) or intentionally to kill the innocent few passengers (relatively speaking) and to protect the lives of the innocent many (and given the passengers were almost certain to be killed in any case)". He saw it as a situation that would "give rise to acute moral dilemmas for any human agent who has the opportunity to intervene; generally, such human agents will be, in fact, senior political, military or police personnel" (Miller, 2009: 126). Here, this scenario will be used to run through different ethical approaches and test their usefulness within the practice of counterterrorism.

From a practitioner's point of view, the consequentialist approach seems to offer a flexible framework to do what seems to be best and to justify potential negative or unavoidable consequences. It seems to empower professionals dealing with many different cases. However, simply putting the intended goals or consequences center stage does not guide to the identification of the intended goals and the process of moving towards those goals. What is the best goal? How can it be realized? Furthermore, if the goal is to save lives that are threatened by

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[3] For a brief reflection on this theatre play see also: http://leidensafetyandsecurityblog.nl/articles/shooting-down-a-hijacked-plane-to-prevent-worse.

a plane turned into a potential weapon, there is no convincing reason for killing some in order to save others. Do a larger number of lives have more value than a smaller number? Even if this were so, the ratio of potential lives saved to lives taken that would justify taking this approach would still need to be determined. Other questions pop up as well. Would this ratio be different if heads of states or religious leaders would be on board, or if the passengers included close relatives of decision-makers or air force pilots? And would it be possible to construct a consistent policy based on the underlying assumptions and appreciation of values to guide future governmental action not only in the field of counterterrorism but in other fields of society as well?

Although the goal-oriented consequentialist approach seems to offer flexible and practical points of reference that might empower professionals to act in different contexts, it remains difficult to come up with a clear-cut application of this approach. First of all, it seems that this approach neglects to provide an explicit evaluation of underlying assumptions and values. Complicated ethical questions, like whether more lives have more value than fewer lives, seem to stay unaddressed or at are at least answered unconvincingly, at the expense of individual lives. Second, it seems that the goal is instrumentalized and neglects crucial operational details. In fact, the realization of the intention to save more lives by taking fewer lives depends on circumstantial factors. In our example, the justifiability of the action would very much depend on an assessment of the certainty of the information about the terrorist intent, and the operational capability of both the terrorists and the air force. Moreover, the options available to mitigate the effects on the ground - for example, by evacuating the targets - could upset the balance between lives taken and lives saved as well. All in all, this approach does not offer a consistent framework for future comparable situations in view of its untested or unconvincing assumptions and values, as well as the subordinate role of circumstantial and operational details.

The deontological approach more or less reflects the accountability framework of counterterrorism in a Western European context under the prevailing rule of law (De Goede, 2008). So far, this framework offers respect for human rights, predictability of state action, and accountability. It is an anchor that helps prevent misconduct by states and state agents. Nevertheless, this approach

embodies some limitations to counterterrorism practitioners. First and foremost, it seems that ethical dilemmas in the dynamic practical work environment cannot be addressed sufficiently by such a static or - as it has been put in the above - absolute approach. The obligations resulting from the approach are binding and strict and could, in the hijacked plane scenario, put counterterrorism professionals in the position of a helpless spectator. This position would be strengthened by the limited interpretational space regarding the law in the light of overarching obligations.

The second limitation of this approach is related to the neglect of changing contexts. Situations in the field of aviation security or other areas might evolve in such a way that embracing deontology would not provide practical solutions to urgent questions. Take, for example, the rise of terrorist attacks in the field of aviation or other critical threats to Western countries. How should we proceed when ruled by overarching obligations that do not evolve in tandem with actual practice? In the end, although this framework offers a set of obligations guided by law, situations are likely to occur in which those obligations do not meet the interpretational needs of the practitioners in continuously changing contexts, or do not respond sufficiently to changing contexts.

For practitioners of counterterrorism, the navigational capacities of the virtue-ethical approach can be a useful point of departure when dealing with cases such as the hijacked plane, without being preoccupied by either calculations on the expected outcome (consequentialism) or obedience to set rules (deontology). At the same time, it appears that this approach embodies a couple of limitations that prevent it from becoming a satisfactory solution for counterterrorism practitioners. First, there is the risk that virtues are considered as being, more or less by nature, an individual phenomenon. Who is a virtuous person, and when? Whom to contact in a case like our hijacked plane scenario: a specific functionary, as protocol dictates, or someone known as being a virtuous person? Should we let the officer on duty decide? Second, it seems that this approach might not be a recipe for consistency. It is rather problematic to individualize handling ethical dilemmas in counterterrorism. Counterterrorism within a democracy requires not only accountability but also consistency. These requirements are difficult to meet using an approach based on the state of

virtuosity of the individual. The answer to the question of how to act in the case of a hijacked plane should not depend on the level of virtuosity of the individual on duty at that moment.

Nevertheless, this virtue-centered approach could, to a certain degree, be translated to the collective or societal level and improve the training provided to professionals, as the theory of virtues is also based on the idea of fitness of the individual, based on training (Fenner 2008: 212; Goodstein, 2000). Third, given the overarching political nature of terrorism, it remains rather unclear how genuine and independent individual virtues can prevail in the light of challenges on the community level. Community and political pressure, both real and perceived, could challenge and eventually influence virtues and the actions based on those virtues. In the end, in spite of offering an answer to the limitations of the previous approaches, this approach also fails to offer counterterrorism practitioners a satisfactory practical approach, depending as it does on the individual development of virtues and the potential vulnerability of individual judgement in the light of potential influences from the societal or political level. It would not meet the criteria of democratic accountability and continuity either.

The three key ethical approaches, their core meaning, and the strengths and weaknesses of their relevance to the practice of counterterrorism have been summarized in Figure 1.

Figure 1

Key ethical approaches and their relevance to counterterrorism

Philosophical approach	Core meaning	Relevance to practice of CT: strengths	Relevance to practice of CT: weaknesses
Consequentialist	Goal	• Flexible framework • Empowering professionals	• Unclear/unconvincing evaluation of assumptions and values • Goal as goal in itself
Deontological	Obligation	• Accountable framework • Rule of law	• Static in dynamic practice • Neglecting changing circumstances
Virtue-ethical	Virtue	• Contextual navigation • Improving training on collective level	• Individualization of values • No recipe for consistency • Lack of democratic accountability and continuity

3.4 Conclusions

This chapter explores the relevance of key ethical approaches for the dealing of ethical dilemmas in counterterrorism. The quick review of these three major philosophical approaches to ethics reveals that none of them offers a sound approach to the practice of counterterrorism in a liquid world risk society. The three approaches explored are the consequentialist, deontological, and virtue-ethical approach. In the light of the extreme yet realistic case of an hijacked commercial airliner, the strengths and weaknesses of these approaches, as far as the relevance to the practice of counterterrorism is concerned, are identified. Roughly speaking, it turned out that all approaches by themselves offer some guidance to counterterrorism professionals. At the same time, it becomes clear that considerable weaknesses remain and that those weaknesses cannot be compensated for within the individual approaches.

This leads to the conclusion that at this point these approaches cannot be prioritized in terms of their relevance to the practice of counterterrorism. The virtue-ethical approach, however, implies the strongest ground for a reflective and contextual identification of internal goods and their connection to external goods. Nevertheless, it remains undisputed that all approaches offer both theoretical inspiration and concrete guidance to handle ethical dilemmas in counterterrorism. Therefore, it is worthwhile to consider whether it is possible to reconcile (parts of) the approaches. One still might have to handle the possibility that there are no ideal approaches in this complex world. But before doing so, I will explore the possibility of striking a compromise between opposing principles and underlying values of key ethical approaches, without even pretending to bridge gaps between centuries of philosophy.

4. Contribution of compromise to the practice of counterterrorism

The above discussion has shown that none of the three key philosophical approaches provide an ultimate or final solution for counterterrorism professionals. Moral orientations might often be a mixture of the major approaches considered, without a clear hierarchy between them (Ross in Perry, 2009: 18). Here arises a question of what other options are available and how useful they are to counterterrorism professionals. As was previously mentioned, intelligence services are key to counterterrorism. Since there is more literature on the ethics of intelligence than on the ethics of counterterrorism, I will make use of the still meagre literature on the ethics of intelligence (De Graaff, 2019; Olson, 2006; Omand, 2010; Omand and Phythian, 2018; Perry, 2009). From the field of intelligence I will introduce two suggestions of ethical guidance: first, an ethical compass, and second, a combination of approaches. This is done in order to explore potential contributions from the field of intelligence to the practice of counterterrorism.

The question remains of how to navigate, in an ethical sense, through these different approaches. The reason for that is twofold. First of all, the challenge to strike a compromise between opposing principles and underlying values of key ethical approaches persists, as demonstrated in the previous chapter. Second, the two options of ethical guidance from the field of intelligence imply inherent limitations themselves, as will become clear in the remainder of this chapter. Given my interest in the contribution of ethics to the practice of counterterrorism, I will put two suggestions from the (practical) field of intelligence into the perspective of compromise. Doing so, I will offer a closer exploration of the concept of compromise as developed by Benjamin (Benjamin, 1990). This implies that I will not focus primarily on the potential of compromise as understood as negotiation. The research question of this chapter is: What can the concept of 'compromise' contribute to the handling of ethical dilemmas in 'counterterrorism as practice'?

4.1 Ethical compass and combination of approaches

The first major contribution from the field of intelligence has been put forward by the retired high-ranking British intelligence professional-turned-scholar Sir David Omand. Based on his experiences, he suggests eight components of an ethical compass: first, there must be sufficient sustainable cause to launch policies or actions, checked against national security and fundamental rights. Second, there must be integrity of motive and the involved professionals must be able to do their assessment without fear of favor. Third, policies or actions must be proportionate to the harm they seek to prevent and should, fourth, be based on the right authority. Fifth, there should be a reasonable prospect of success. At the same time, sixth, the recourse to secret intelligence should be considered as a last resort. Two more practical guidelines are, seven, the idea that one should be able to defend any secret measures or actions in public, and finally eighth, Omand suggests that in any case, an adequate consideration of the strategic long-term considerations should have taken place, since perceived shortcuts can make for long delays (Omand, 2010: 286-287).

This ethical compass provided to intelligence professionals can be of use to counterterrorism professionals as well. The compass is comprehensive, suitable to guide political considerations and at the same time applicable in practice. The ethics of intelligence is in general crucial in a democracy if the government wants to maintain legitimacy for intelligence policies and practices (Omand and Phytian, 2018). In the field of intelligence there is an increasing interest in professional ethics that can be facilitated by codes of conduct or principles (De Graaff, 2019). A compass could be another means to advance professional ethics. The effectiveness of any compass, however, depends on the level of acceptance and implementation in the relevant organizations. Furthermore, a compass – unless developed in an interactive manner together on the work floor – is or can be perceived as a body of principles proposed from the top. The quality depends heavily on the intellectual authority of the originators, the support given by the professional community and the role that the compass has been given from a legal or organizational point of view. In sum, although an excellent ethical compass like the one developed by Omand could be a promising way to guide counterterrorism professionals, concerns remain about the very method of the

compass itself. There are uncertainties about the quality, acceptance, and factual importance of any ethical compass, including that of Omand's or others.

The second major contribution from the field of intelligence to be discussed here is that of a combination of approaches. This approach has been suggested by David Perry who, an academic himself, has inspired many ethics deliberations in the US military and intelligence world (Perry, 2009). Perry reviews major ethical approaches and different claims of the perceived relativism of these approaches, ending up disappointed about the power of ethical theories. Nevertheless, Perry still upholds ethical principles like compassion, fairness, respect for individual autonomy, respect for laws, honesty and courage in opposing injustice and integrity (Perry, 2009: 13). But from a theoretical point of view, he follows the British philosopher Ross (Ross, 1930/2002), who suggested a mixed theory of all ethical approaches. This implies that moral duties are determined situationally and that absolute moral principles do not exist (Perry, 2009: 17-18).

The practice of counterterrorism could benefit from such a situational approach, in which the shortcomings of individual ethical approaches would be overcome in accordance with the relevant context. At the same time, two crucial issues remain ambiguous when embarking on such a course. First, the democratic legitimacy of this course might be at stake. The assumption that there are no absolute moral principles to be observed challenges the idea of fundamental rights and values that are fundamental to constitutional democracies. Second, there are still some complicated challenges to practically implement such a course. Such as, how to evaluate different values at stake, and how to guarantee that the views and expertise of both political and public leaders, and professionals, are taken into consideration?

4.2 Compromise

Now let us look into the possibilities of an ethical framework for counterterrorism professionals. In the theoretical literature on handling ethical dilemmas there appears to be one ethical concept that provides both a theoretical and practical bridging of differences: the notion of compromise, as elaborated by Benjamin:

> "Successful navigation in life, as on the sea, requires knowing when and how to tack between viewpoints. … The capacity to view the world from these two standpoints is what underlies our capacity for critical self-reflection, freedom of the will, and self-direction" (Benjamin 1990: 98).

This approach seems to be a promising one for application in the field of counterterrorism. Compromise has, throughout history, often been understood as result of legal mediation (Fumurescu, 2013), the outcome of sometimes "rotten" political negotiations (Margalit, 2010) or even betrayal (Benjamin, 1990). The concept of compromise is not extensively discussed by philosophers (Golding, 1979), especially when compared with its reception by game theorists. Benjamin focuses on compromise in the standard sense as outcome and process and applies it to "conflicts rooted in opposing ethical considerations" (Benjamin, 1990: 23).

Circumstances of compromise

The conditions that provide motivation and grounds for solutions are coined by Benjamin as the 'circumstances of compromise' (Benjamin, 1990: 26). The five circumstances of compromise thus identified will be briefly evaluated in terms of their relevance to the practice of counterterrorism.

Factual uncertainty about many variables in a specific case is the first circumstance of compromise (Benjamin, 1990: 26). This point seems to be quite relevant, since the issue of uncertainty is one of the key elements of counterterrorism. Moral complexity is the second circumstance of compromise, which, like the previous point, has also been considered as a key feature of the human condition (Benjamin 1990: 29). Counterterrorism is not only part of the modern human condition, but also very much characterized by complex moral issues, as the above example of a hijacked commercial airliner has shown.

A continuing, cooperative relationship has to be considered as the third circumstance of compromise (Benjamin 1990: 30). Parties to an ethical conflict are often doomed to continue their cooperation in the future. This holds true for the field of counterterrorism as well, as the parties, both on a national and international level, are bound to cooperate in the future, whether they like or not. An impending, non-deferrable decision affecting both parties refers to the fourth circumstance of compromise (Benjamin 1990: 30). Similar to the previous points, this holds true in many situations of counterterrorism cooperation in our liquid world risk society. The national and international interconnectedness of counterterrorism operations implies that one can easily affect the other.

The scarcity of resources touches upon the fifth and final circumstance of compromise (Benjamin 1990: 31). Such scarcity seems to be common to many areas of life and especially to counterterrorism. Operational capacities of counterterrorism authorities are, by nature, limited in democratic settings that intrinsically limit operational choices.

Pursuing compromise

Practically speaking, what would it mean to pursue compromise? Before turning to the concept of compromise in detail it is important to note that compromise here is not considered as a negotiation between parties but rather as an encounter between different principles and underlying values. According to Benjamin, when pursuing the path of compromise, not all circumstances have to be at stake at once (Benjamin 1990: 32). Therefore, what would we have to do once we have embarked on the path towards compromise? Roughly speaking, three elements would be important. First, parties to the ethical conflict would have to rethink their dispute in a respectful discussion. Second, all parties would have to detect the shortcomings of their own views and the strengths of the views of the others. Third, a synthesis or new middle position would have to be identified. All views would be changed and compromised due to the acceptance of new views or positions, thus also excluding the risk of potential betrayal of positions or even of ethical values (Benjamin 1990: 35).

What would the concept of compromise mean in the case of the hijacked airliner that we applied so far? First of all, there are a couple of practical issues which

arise. Given the dynamics of air traffic, speed would play an important role. Especially in a smaller country like the Netherlands, little time would remain for moral considerations and decision-making. Therefore, compromise on those cases starts long before the incident itself through the development of policies, guidelines and the training of the capacities and virtues of decision-makers. This is not to say that thinking about ethical issues is only feasible in moments that lack the extreme pressure of time constraints. On a more general level, it seems that being trained in, and familiar with, handling ethical dilemmas can also create capacities to handle ethical issues when complex processes of decision-making occur, as in the case of the hijacked airline. The virtue ethics approach would offer rich opportunities here.

Transferring this fictional drive towards compromise to our example of the hijacked airplane would mean that we need to consider an open outcome instead of following a certain path (like opting to down the airplane) blocking such a path categorically, or letting the decision depend on the quality of the virtues of those individuals involved in the decision-making process. Such an open attitude allows us to review all facts, circumstances and assumptions involved, as they still do matter in the light of the final assessment to be made. An important challenge to this approach would be the risk that routinely reaching out for compromise could lead to a reduction of quality during the developmental process. Another challenge would be that of grounding or rooting the rather flexible sounding approach of compromise into the soil of the democratic legal order. This challenge is likely to be surmounted, as the circumstances and factors in cases like that of the hijacked airplane are likely to have enough in common to allow us to develop general outcomes of compromise.

Nevertheless, it remains doubtful whether compromise in such an extreme case is really possible. In addition, there are many layers of potential compromise attached to this example: compromises with hijackers, crew and passengers, colleagues in counterterrorism and politicians. However, counterterrorism practice shows that different approaches are established: from shooting (Netherlands) to not shooting (Germany). Those counterterrorism professionals are not in the luxurious position to turn down deliberation of a contested ethical issue on the grounds of complexity. To them it is real. Discussing an extreme case here can also sharpen the debate on ethics and counterterrorism, clarify the

consequences of ethical choices within the practice of counterterrorism and indicate both prospects for, and limitations of, compromise.

The ethical frameworks available to counterterrorism professionals and their key characteristics are summarized in Figure 2. Although they are presented in one table, they are not considered as equals. Differences in appreciation are expressed by differentiating between the strengths and weaknesses of their relevance to counterterrorism professionals.

Figure 2

Ethical frameworks of counterterrorism professionals

Framework	Key characteristics	Relevance to CT-professionals strengths	Relevance to CT-professionals weaknesses
Compass (Omand)	1. Sufficient sustainable cause 2. Integrity of motive 3. Proportionate 4. Right authority 5. Reasonable prospect of success 6. Secret intel as last resort 7. Defendable in public 8. Strategic long term consideration	- Comprehensive - Practical - Applicable to counterterrorism - Being the best of all	- Dependence on intellectual quality of author - Dependence on level of acceptance and implementation - Risk of top-down
Combination (Perry)	1. Compassion 2. Fairness 3. Respect for individual autonomy 4. Respect for laws 5. Honesty 6. Courage in opposing injustice 7. Integrity	- Situational flexibility - Choosing the best from all	- Problem of legitimacy - Assumptions untested
Compromise (Benjamin)	1. Parties in ethical conflict rethink dispute 2. Parties detect shortcomings in own and strengths in view of others 3. Establishment of synthesis or new middle position	- Open attitude and outcome - Challenging assumptions - Integrating the best elements of all approaches	- Contested standards of quality - Getting rooted into legal order

4.3 Analysis and discussion

Facing the limitations of each key ethical approach separately and evenly, compromise could also lead to a complete rejection of ethics. Such an attitude has been expressed within the literature as the notion of *aporia* or impasse. Given the complexity of the modern world on the one hand and law on the other, the philosophical contribution of *aporia* suggests that many issues and dilemmas are simply unresolvable (Macklin and Whiteford, 2012: 94-95). Such a perspective leads some scholars to the conclusion that there are no ethics at all, and that universal principles cannot guide moral judgments in daily life (Caputo, 1993: 240). Applying such a post-modern approach to complicated issues in the practice of counterterrorism in order to justify a diversity of actions with diverging ethical underpinnings may sound attractive. Within a democratic legal order, however, such an approach is not conducive to designing legitimate actions in the long run. Professional practice is an inexact science and requires the capacity to make judgements beyond the rules of science. Practice and practice environments are complex and unpredictable, requiring "wise judgment under conditions of considerable uncertainty" (Higgs, 2012: 79). Finding such wisdom is obviously not easy. Nonetheless, the next section will explore how such wisdom can possibly be gained.

From a counterterrorism perspective, the compromise approach offers both strengths and challenges. The strengths are threefold. One is the explicit space allocated to further investigating facts and assumptions. Second, while other approaches also offer the option of challenging assumptions, the compromise approach centers this challenge at its core without prescribing any ethical pathways to be followed in advance. The final crucial strength of this approach is its integration of the best elements of all major ethical approaches. This integration goes beyond a mere combination of elements because it strives for the establishment or synthesis of a new middle position.

At the same time there are challenges to this approach. Any implementation of an inquiry into compromise would be faced by expectations for a high standard, which might - at least in the beginning of its implementation - influence the quality of the outcome. This is especially relevant because, so far, only limited

experience in handling ethical dilemmas has been obtained in the field of counterterrorism, when compared with the established areas of applied ethics and ethics support. Compared with the contributions of Omand and Perry, Benjamin's approach seems to provide the greatest potential to avoid simply cherry-picking from the various ethical approaches. Instead, it seems to offer the potential to reconcile major ethical approaches on the one hand, and set out an actionable trajectory of implementation on the other. Since it is far from easy to test and implement this approach in a practical setting, it is necessary to further explore what options the practice of counterterrorism offers to ethics deliberation, reflecting at least some of the characteristics of compromise.

Since the discussion of philosophical approaches has brought us as far as considering the approach of compromise to be an interesting and feasible method for counterterrorism practitioners, it will be considered next what philosophy can contribute to its implementation. In philosophy, the wisdom of practitioners in the field refers to that type of wisdom called 'phronesis' (practical wisdom), one of the three approaches of knowledge developed in Aristotelian ethics. The other two approaches are 'episteme' (science) and 'techne' (craft, art), which are, of course, crucial in providing scientific and technical support to the efforts of counterterrorism. In general, episteme and techne are more widely used and institutionalized in the modern era. "Despite their importance, the concrete, the practical, and the ethical have been neglected by modern science" (Flyvbjerg, 2001: 59). In his plea for applying phronesis, Flyvbjerg especially cherishes its capacity to contribute to ethics deliberations that can guide practical action. Although Flyvbjerg does so from a social sciences perspective, his ideas can inspire an application of phronesis outside the social sciences itself, or within one of the many research fields of social sciences, like professional practices. This could be achieved through "a combination of concrete empirical analyses and practical philosophical considerations" or, to put it differently, "fieldwork in philosophy" (Flyvbjerg 2001: 168).

What is the application of phronesis and how would it fit within the practice of counterterrorism? In their edited volume on the concept, Kinsella and Pitman (2012) considered phronesis as professional knowledge and the role of practical wisdom in the professions. Although their focus was foremost on education and

healthcare, their findings might be relevant for the practice of counterterrorism as well. They defined *phronesis* as "practical wisdom or knowledge of the proper ends of life, …an intellectual virtue that implies ethics … (and) … involves deliberation that is based on values, concerned with practical judgement and informed by reflection" (Kinsella and Pitman, 2012: 2). To place *phronesis* into the context of a professional practice would mean to apply its characteristics of being "pragmatic, variable, context-dependent, and oriented towards action" (Kinsella and Pitman, 2012: 2). In the field of public administration the ethics triangle has been brought into practice. This ethics triangle implies that public administrators should strive towards a balance of virtue, principle and good consequences, all seen from the perspective of the duty of the public interest (Svara, 2007: 67). Another relevant contribution comes from the field of moral philosophy addressing global challenges to our civilisation by a plea and quest for common ground based on virtues, individual training, moral imaginative capacities and universal ethical considerations (Pelluchon, 2019).

Phronesis has not been applied in the context of counterterrorism yet, but has the potential to contribute to the dealing with ethical dilemmas for counterterrorism professionals. This research will explore the effects of applying *phronesis* within the practice of counterterrorism. Focusing on practical wisdom and engaging counterterrorism practitioners in ethics can contribute to the development of professional ethics in security in a broader sense. From a broader perspective in security ethics, three potential benefits to the phronesis approach can be mentioned here. First, it is crucial to constantly reflect on the powers allocated to professionals. Second, it is vital that justice is considered the fundamental precept underlying daily work. Third, professionals must be taken care of in order to avoid stressful situations that could result in harm to society and the professionals as well (Ammicht Quinn, 2016: 131). The application of practical wisdom to the practice of counterterrorism requires taking the context of the professional field and the contemporary situation of the field into account (Weidema and Molewijk, 2017: 101). Before turning to the application of practical wisdom in the practice of counterterrorism, I will explore what ethical issues counterterrorism professionals are dealing with.

4.4 Conclusions

The objective of this chapter is to clarify what the concept of 'compromise' can contribute to the handling of ethical dilemmas in 'counterterrorism as practice'. The overall assessment is that there are many fruitful points of reference that make the concept of compromise useful to the practice of counterterrorism. From the theoretical perspective of the concept of practice it becomes clear that practical wisdom or *phronesis* can offer useful insights to the practice of counterterrorism. Although there are no documented empirical experiences with ethics support in the field of counterterrorism thus far, *phronesis* can be applied to the practice of counterterrorism. The total rejection of ethics due to the perceived contemporary complexity is not an option for the practice of counterterrorism, as ethics is inherent to counterterrorism. The complexity and secrecy of the practice of counterterrorism makes the creation of an experimental lab-setting to test compromise unlikely, but the potential to create room for ethical guidance to counterterrorism professionals remains.

The next chapter will provide a better understanding of the ethical dilemmas that counterterrorism professionals are facing.

5. Ethical issues of counterterrorism professionals

This chapter bridges the theoretical and empirical parts, since it intends to develop a typology of ethical issues in the practice of counterterrorism based on literature and international comparative research. Counterterrorism is widely characterized by secrecy. This implies that it is quite difficult to develop an informed understanding of the ethical issues that occur in this field. Many counterterrorism measures that can potentially cause ethical dilemmas are based on secret intelligence reports and security agencies and are implemented within the realms of secrecy as well. At the same time it has to be acknowledged that the general impression of the practice of counterterrorism as veiled by a prevailing secrecy is not entirely accurate.

In the case of the Netherlands (any many other democratic countries) there are many publicly available terrorist threat assessments that inform parliament and the public about the threat and make the analysis by the state as transparent and accountable as possible. Examples include the last fifty terrorist threat assessments produced by the Dutch Fusion Center within the national counterterrorism coordinator's office. The public versions of those threat assessments can be accessed in Dutch and English by visiting the coordinator's website under www.nctv.nl. There are also periodic progress reports about the state of counterterrorism that accompany threat assessments and periodic evaluations of counterterrorism policies (Noordergraaf et al., 2016, National Coordinator for Counterterrorism, 2011) and scientific discussions about those threat assessments (Abels and de Roy van Zuijdewijn, 2017; Bakker and de Roy van Zuijdewijn, 2015; Van der Veer et al. 2018). Availability and use of this expertise with the greatest possible transparency also shapes an informed ground on which the parliament can build their measures on. In addition, both parliament and the public have a rich frame of reference about the state of counterterrorism at their disposal when making their own judgements. An analysis of a selection of those publicly available analyses, reports and evaluations could probably identify some ethical issues. Such an analysis, however, would provide predominantly indirect and perhaps also interpreted information. The goal of this chapter is to explore what counterterrorism professionals themselves consider as ethical issues by addressing the following

research question: How can the ethical issues faced by counterterrorism professionals be categorised?

In order to answer the research question two sources of input will be used. First, the findings of a general literature research will be presented. Second, the findings of an international comparative study on the handling of ethical dilemmas by counterterrorism professionals in the Netherlands and the United Kingdom will be presented.

5.1 Findings from literature research

In this section the findings from a general literature research will be presented. The basis of this literature is cross-disciplinary as contributions from the field of counterterrorism studies, philosophy, ethics, war studies and political sciences have been consulted. As mentioned earlier there was a growing academic interest in ethics and counterterrorism throughout the process of this research. However, this growing interest did not reflect an interest in the dilemmas of counterterrorism professionals (Badde-Revue et al., 2018; Taylor, 2018). The findings of the literature review will be presented under five different categories.

Terrorism-as-crime paradigm

First, the international counterterrorism efforts after 9/11 have been, for a certain period, coined as a "war against terrorism". To consider counterterrorism within democracies from a military point of view is not only problematic, but dangerous, since "(C)onfusing the different contexts of a well-ordered liberal democracy at peace, a liberal democracy under a state of emergency, and a theatre of war leads to a dangerous blurring of the distinctions, for example, between what is an appropriate police power of detention of suspects under a state of emergency, as opposed to normal peacetime conditions" (Miller, 2009: 11). Within a terrorism-as-crime paradigm there are only exceptional situations in which state action is justified in overstepping the lines of the role of a democratic state. This would be a one-off action that is morally justified, all things considered, as opposed to an institutional practice that is morally justified in the setting of a liberal-democratic state (Miller, 2009: 4 and 116).

General responsibilities of governments

Second, a couple of overarching notions regarding the ethics of counterterrorism are worth discussing before diving into an inquiry of the concrete ethical issues counterterrorism practitioners are facing. When ethics and counterterrorism are discussed on an abstract level, a large portion of the literature is devoted to the ethicality of terrorism as such. As mentioned above, this perspective is not included in this research in order to keep focused on the specific research questions. It has been stated that "an ethics of counter-terrorism can … not be fully understood without reflecting on the ethics of terrorism" (Van Elk, 2017b:

142). The question remains, however, if the often rather politically loaded discussions on the perceived ethical permissibility of some forms of terrorism can make a substantial contribution to the discussion of the ethics of counterterrorism.

From a general point of view, ethical issues are inherent to counterterrorism since states are bound to proportionality in all of their actions. This holds also true for the field of counterterrorism (Wellman, 2013: 109). That governmental officials like counterterrorism professionals carry special responsibilities has been concluded in one of the few studies on the morality of counterterrorism: "… state responses are justified only when they respect the human rights of all those affected, especially the human rights to privacy, liberty, due process and to be tortured. … Public morality, the moral considerations relevant to the actions of public officials, is very different from the morality of private agents" (Wellman, 2013: 131).

Some scholars assume that a reflection on the ethics of terrorism requires a form of "counter-terrorism (that) should be oriented at facilitating political constitutions and institutions that enable others to live a good life" (Van Elk, 2017b: 151). However, they provide little concrete added value when suggesting "the stabilization of conflicting political relations and interests, the enhancement of socio-economic living conditions and the empowerment of communities" (Van Elk, 2017b: 151). Such suggestions are not only general but also based on an ill-perceived understanding of terrorism as being rooted in social-economic conditions or the power of communities as such.

Ambiguity of policies

Third, in looking at some extreme cases of counterterrorism policies, the question arises whether the general responsibilities of a government within a terrorism-as-crime paradigm are guiding all counterterrorism policies. More recent literature on this issue suggests to consider counterterrorism as exceptionalist case and to apply new moral and legal standards (Taylor, 2018). The issue still to be clarified is whether those new standards would reflect on a broader scale certain specific procedures that are put into practice already. The procedures in place in many countries to preventively shoot down a commercial airplane hijacked by terrorists, raises questions of whether such a special moral

responsibility is effectively embraced. A comparable ambiguity might apply in the case of preventing killings of Western citizens in conflicts or war zones by, for example, drones in order to prevent terrorism abroad or in the homeland. One decisive difference between the policies regarding hijacked airplanes in the West and the use of drones is the fact that in the latter case, a war situation can imply different standards. In the case of a hijacked plane in the West, the principle of the lesser evil (Ignatieff, 2004; Ignatieff, 2002) seems to prevail. The basic assumption is that preventively killing all passengers and crew aboard a hijacked airplane would cause fewer victims than an airplane crashing into a populated area or a busy complex of buildings. Different dimensions of the ethical dilemmas attached to such a case are already discussed above. For the purpose of the discussion here, it is interesting to note that there seems to be a gap between the generally held idea of the intrinsic morality of counterterrorism on the one hand, and practices of counterterrorism dealing with moral complexities and relative moralities on the other.

State of emergency

Fourth, apparently there is a kind of terrorism that overrules the generally held idea of the intrinsic morality within counterterrorism. In its ultimate form, this might be the case when a real or perceived state of emergency is at stake (Noordegraaf et al., 2017) or, to put in the words of the just war theorist Michael Walzer, when a "supreme emergency" is applicable: "Though its use is often ideological, the meaning of the phrase is a matter of common sense. It is defined by two criteria which correspond to the two levels on which the concept of necessity works: the first has to do with the imminence of the danger and the second with its nature. The two criteria must be applied. Neither one by itself is sufficient as an account of extremity nor as a defence of the extraordinary measures extremity is thought to require" (Walzer quoted in Wellman, 2013: 118). Practically speaking, it would be not easy to handle those criteria. Imminence in the case of terrorism is difficult to define and the imminence of a threat might be already expired once some form of procedure with checks and balances would have assessed the status of specific threat. Such a potential delay is also related to the reality of counterterrorism practice that the nature of danger is not always clear and rarely unfolds quickly. In addition, as far as the terrorist threat is concerned, relatively limited actions by a small group of people

or even by a lone actor can have far-reaching consequences. The latter opens up the potential range of supreme emergencies and challenges in any system to mitigate the risks of errors in declaring supreme emergencies. In addition, safeguards to prevent overreaction of legitimate state responses, to mitigate the unintended consequences of state responses to supreme emergencies and to repair consequences of state action in cases where supreme emergencies turned out not to be at stake in the end, would be difficult to install.

From an ethical perspective there is no decisive answer: from a Machiavellian tradition in political theory a state can set aside "moral principles for the sake of good outcome" (Benn quoted in Wellman, 2013: 114). On the other hand, even the protagonist of the school of the lesser evil, Walzer, doubts whether such an act-utilitarian stance would be justified (Wellman, 2013: 121). Wellman at least is unsure whether the attacks on 9/11 constitute a supreme emergency and whether it would have been justified to shoot down the planes if the government had known about the situation beforehand (Wellman, 2013: 120). This theoretical deadlock is of little use to the practice of counterterrorism. It might be that a theoretical situation that would qualify as a supreme emergency remains theoretical in nature. Or as Wellman has put it, being "released from the moral obligations that limit measures of counterterrorism …is highly improbable under any foreseeable conditions in the real world" (Wellman, 2013: 113). At least the years following 9/11 illustrated that the idea that we are facing catastrophical terrorism (Bakker, 2015a) as a threat to the very existence of our free societies turned out to be exaggerated. Without playing down the potentially devastating effects of terrorism, the perceived exception of a supreme emergency and the related blurring of ethical standards of counterterrorism is more a theoretical construct than a constructive contribution to the practice of counterterrorism.

Ticking bomb scenario

Another issue often mentioned when discussing the ethics of counterterrorism is, fifth, torture in the light of a ticking bomb scenario (Ginbar, 2008). In this scenario, we are aware of a ticking bomb that will soon detonate, and have a potential terrorist in custody that is suspected of knowing the whereabouts and technicalities of the bombs. In this case, shouldn't we do our best to stop the

bomb from going off by torturing the individual when necessary? As mentioned above, this research does not focus on the implications of such scenarios, or the ethical issues attached to torture. The main reason is that it is a rather fictional scenario for the Western democratic context, since the terrorist threats deriving from groups, networks and even lone terrorist actors are rarely totally detached from other societal actors, as publicly available threat assessments and studies on lone actors illustrate (Schuurman et al., 2017). However, the implications of applying torture to the entire practice of counterterrorism are ever more important. Torturing in case of a perceived or real ticking bomb scenario could prevent the imaginary bomb from going off, but would blow up the framework of the democratic legal state on the long run. This does not mean that the state should not do its utmost to counter the threat. It is still possible to "do anything humanly possible to save the lives at risk. Which means doing everything in our power that does not involve losing our own humanity. Which in turn means never to torture or otherwise ill-treat another human being, whatever the circumstances" (Ginbar, 2008: 360). Intensive interrogations belong to the arsenal of options available, and are, even in the case of jihadists, considered as more effective than threatening or using torture (Soufan Group, 2011).

The next section will turn towards an international comparative study in which ethical issues of counterterrorism professionals have been identified.

5.2 Findings from study among counterterrorism professionals

In 2013, the National Coordinator for Counterterrorism and Security commissioned research on the handling of ethical issues in sectors like health care, police and defence, and the potential lessons to be learned in the field of counterterrorism. After completion, the study has been sent to the Dutch parliament with the intention to further inform counterterrorism practices. In the letter of the Minister of Security and Justice, it is stated that the conclusions of the report can help in implementing and deepening counterterrorism policies (Ministry of Security and Justice, 2014). The interest attached to ethics emanates from the identification of the issue of ethics and counterterrorism as a strategic theme by the first counterterrorism coordinator Tjibbe Joustra. By highlighting ethics as strategic, special attention was devoted to ethical issues within the Dutch public service. External interest into the ethics of counterterrorism was encouraged and displayed, for example, with a public conference on the issue in 2010. The main proceedings of this conference have been collected in the Dutch publication Counterterrorism and ethics (Kowalski and Meeder, 2011). Nevertheless, in a period in which close allies of the Netherlands were involved in the torture of terrorism suspects, it is apparent that highlighting ethics as a strategic theme was not a common practice among other Western allies of the Netherlands.

Within the 2013 international study put together by RAND Europe (Reding et al., 2013), the researchers worked also on an inventory of ethical issues experienced by counterterrorism professionals in the Netherlands, the United Kingdom and, to a lesser extent, in France. The researcher interviewed practitioners in different areas of the practice of counterterrorism. What ethical issues did the researchers come across, and how could the experiences of these counterterrorism professionals be categorised? Due to the confidentiality of counterterrorism work, these ethical dilemmas were abstracted and categorised. In total, four types of ethical issues could be distinguished among counterterrorism professionals. These abstract categories will be illustrated by concrete examples of counterterrorism practice. It is important to note that these examples have not necessarily been mentioned by the interviewees. However, they can illustrate and clarify what the separate categories stand for.

First, the legitimacy of interventions is often an issue for professionals. Does a given situation justify the use of special powers? Is sufficient verified information available to support specific interventions that limit civil liberties for the sake of containing a threat?

Second, the operational cost-effectiveness and the underlying issue of risk avoidance present puzzles on the desks of counterterrorism professionals as well. How many resources should be spent on the collection of information in order to ensure that difficult decisions are based on an accurate assessment?

Third, core characteristics of counterterrorism like secrecy and transparency also constitute ethical problems regularly. How to balance the secrecy of information that is often intelligence-based, on the one hand, and the need for transparency in a democratic society on the other? How to spread out this balance in different situational contexts? How to handle this tension in a highly internationalized web of information exchange?

Fourth and finally, and as an addition to the findings of the RAND-report, the political nature of counterterrorism seems to constitute another key ethical problem. What are the political consequences of certain interventions for the management of governmental organizations, governmental leaders and the broader society? How to handle professional assessments or decisions given the overruling political dimension of all major actions of counterterrorism professionals? Does the fear of being held accountable politically affect assessments or decisions?

5.3 Analysis and discussion

This section provides an analysis of the previous findings. The outcome of the analysis is laid down in a typology of the current ethical issues counterterrorism professionals are facing. What would an overall typology based on the input so far look like, and how would it be structured? I propose a typology that tries to meet three criteria: First, I try to differentiate between various levels that can be distinguished. Second, I seek to distinguish between different key ethical issues within each level. Last but not least, I aim to integrate the findings into the typology and to suggest a sound typology in itself. In doing so, I suggest differentiation between four levels: the structural level, the political level, the professional level and the personal level. All these levels would include, in total, ten categories of ethical issues. The different levels, as well as the associated ethical issues, will be explored in the remainder of this section.

The distinction between different levels is, like the establishment of the typology itself, an effort to build a more abstract representation of the research findings. It is important to note as well that this typology is explorative in nature and intends to contribute to an understanding of how and why counterterrorism professionals are dealing with ethical issues. In the remainder of this section I will run through the different levels of the typology and the different categories of ethical issues of each level.

Structural level

When discussing a preliminary typology of ethical issues in the practice of counterterrorism, different categories of ethical issues will be linked to different levels. The first level is the structural level, as opposed to the political, professional and personal level. This is not to say that on these other levels structural affairs do not matter. The structural level influences all the other levels, as it forms the basis of each of the other three. The core characteristic of the structural level is that the ethical issues are predominantly rooted in the structural domain. As such, the first level of the typology of ethical issues in the practice of counterterrorism is the structural level, composed of three categories.

The first category is the morality of counterterrorism in our world risk society. As shown above, the context of our current world risk society implies the perpetual anticipation of governmental policies and actions to avoid risks as posed within our liquid times. This anticipatory spirit permeates society and citizens alike and constitutes an overarching structural ethical issue in itself. As such, it brings the following questions into play: How far should the anticipatory character of policy making go in shaping our society and how much structural space is left to intrinsically limit the consequences of the anticipatory character of our world risk society? What are the effects on counterterrorism?

The existence of inconsistencies within and among democratic counterterrorism approaches constitutes the second category of ethical issues. The Dutch counterterrorism approach is based on the national democratic legal order embedded in European law and human rights declarations on the level of Europe and the United Nations. One crucial notion of this fundament is to observe human rights and respect human life. This implies that preventive killings of citizens on a domestic level are illegal. Yet at the same time, it is possible, as shown above, to shoot down an aircraft and preventively kill innocent citizens on behalf of a larger cause. The latter demonstrates an inconsistency with the way policies in a democratic state in general and counterterrorism policies in particular are designed. Such an inconsistency can cause and feed ethical issues in the practice of counterterrorism. If structural frameworks of counterterrorism can be applied in a fundamentally different way in one case, the question remains present within the practice of counterterrorism whether this would be applicable in another case as well. The example of the hijacked airliner is of course an extreme and exceptional case. As mentioned before, the practice of counterterrorism is much more rooted in less dramatic cases, in which bureaucratic routines play a large role. But even in such unspectacular cases human lives can be at stake if, for example, certain sensitive information on individuals is exchanged with certain partners. The extreme example has been used in this case to demonstrate the ultimate effects of the much more nuanced practice of counterterrorism.

Political level

The issues of the structural level are partly interwoven with the political level, since choices of structural nature can and are made at the political level as well. The important distinction between the structural and political level is, however, that ethical issues at the structural level are not, or are only to a minor degree, subject to political considerations. They exist, so to say, as an expression of how societies and the world are, or, to be more precise, how societies and the world as such can be understood and explained with the use of concepts. The political level will reflect on ethical issues that are mainly the outcome of political choices. Furthermore, ethical issues present at the professional and personal level can have political dimensions or can be the outcome of a political decision. The basic distinction here is that ethical issues on the political level are predominantly of a political nature. In many concrete cases, the theoretical distinction might be less clear in practice than in theory.

On the political level the third category of ethical issues can be distinguished, the dealing with a real or perceived state of emergency. The basic origins of ethical tension are rooted in the idea that a state of emergency would change the ethical limits of counterterrorism action in order to face an existential threat to society or the democratic legal order. Besides the legal implications of a state of emergency, there remains the ethical question of whether certain values would have to be observed regardless of the situation. Three dimensions can be considered as important here. First, a reason to respect certain values could be to avoid lowering counterterrorism to the ethical standards of terrorists in general (Clarke, 2004). Second, a more practical approach could be to avoid the trap of going for the 'lesser evil' in the face of evil. A confrontation with the evil might contribute to an escalation and could provoke an uglier evil as well (Ignatieff, 2004). This could end up in a downgrading spiral of lowering ethical standards (Ammicht Quinn, 2016). Third, especially in the field of terrorism the notion of terrorism as theatre and its performative power (De Graaf, 2010) implies a risk of a blurred line between a real and a perceived state of emergency. After 9/11, the concept of catastrophic terrorism has earned some support, although the terrorist threat as such was not quite existential in nature. In recent years, it turned out that, due to intensive media coverage, the period of recovery after an attack and subsequent hunt for the perpetrators can

constitute a perceived state of emergency for large parts of society. To announce a state of emergency, like in France, or to act like as if there is one after the lockdown of Brussels, can be a way to counter certain concrete threats. In general, however, such an approach has been rather ineffective, if not counterproductive (Noordegraaf, 2017).

A fourth category of ethical issues to be considered is the politicization of counterterrorism. In the findings feeding this typology, the political character of counterterrorism has been mentioned as a characteristic feature. It somehow mirrors the political nature of terrorism that was discussed above when dealing with the issue of defining terrorism. Another aspect of the politicization of counterterrorism is the reproduction of permanent pre-emptive counterterrorism policies in the light of terrorist threats. The pre-emptive nature of counterterrorism policies has already been mentioned earlier as a prominent feature of the world risk society, as coined by Beck (Beck, 2007). This category has a special role within the typology of ethical issues. The degree of politicization of counterterrorism can determine to a large extent the (intensity of the) presence of other ethical issues at both the structural and professional level. Through the means of politics the circumstances at the structural level can be influenced. At the same time politics can shape the conditions at the professional level.

Whether an intervention in the field of counterterrorism is legitimate or not is the fifth category of ethical issues. Crucial questions raised in the literature review above can be seen from this perspective, like the question whether the use of special powers is justified. It is precisely this question that touches on the cornerstone of ethical reasoning within intelligence services and law enforcement agencies as primary implementers of special powers. The answer to this question boils down to other actors within the practice of counterterrorism as well. The framework of reference to deal with this question is primarily of a political nature. Politics sets the boundaries of counterterrorism in law and determine, to a large extent, the gravity of ethical issues. As such, there is a far reaching influence of politics on this category.

The genuine tension between secrecy and transparency is the sixth category of ethical issues. Secrecy dominates the operations of intelligence and security

services in the field of counterterrorism. Since many follow-up actions outside the intelligence and security services are based on secret intelligence and reports, the secrecy of those services permeates the overall operation of the practice of counterterrorism. Although a certain level of secrecy is needed to ensure efficiency of governmental authorities (Frissen, 2016), it is obvious that this secrecy is challenged by the key principle of transparency in an open democracy. This tension between secrecy and transparency is reflected by ethical dilemmas within the practice of counterterrorism.

Professional level

The next level of the typology of ethical issues is the professional level. The attribution to the profession might cause some misunderstanding, since all ethical issues dealt with in this chapter manifest themselves in the practice of counterterrorism. They are therefore experienced by counterterrorism professionals during the execution of their profession. Naming this level as 'professional' does not disregard or neglect the manifestation of ethical issues from other levels within the professional life. The basic distinction of the professional level is that the associated ethical issues are mainly rooted within the execution of the profession itself.

The seventh category of ethical issues is about professional values in the light of opposing interests. It is a quite broad category in the sense that it addresses principal questions like the weighing of prevention versus repression, the implementation of special powers, or the extensive strive to challenge the limits of the law. The practice of counterterrorism raises on a regular basis those kind of issues where professional values are key to the debate. On a less fundamental level there are other professional concerns regarding resources, measures and policies at stake which constitute the eighth category. It brings together different ethical issues from the professional level. One string of those issues is related to the availability and allocation of resources and raises the following questions: are there enough resources available, are the resources allocated well, and is counterterrorism action based on a sound allocation of available resources in a given situation? Another string deals with measures and policies and all ethical

issues that are related to their conception, interpretation, implementation and evaluation.

Personal level

The last level of this typology is the personal level, which represents ethical issues that are rooted in the person or personal circumstance of the counterterrorism practitioner but manifest themselves within, or as a consequence of, the practice of counterterrorism. This level can be confusing, given the fact that most of the ethical issues counterterrorism practitioners are experiencing have an impact on the practitioner as a person and can be considered as ethical dilemmas. The main distinction here is that the personal level does not include the level in which ethical issues manifest themselves, but rather the level of origin of those very ethical dilemmas.

The effects of conflicting values on the integrity of the counterterrorism practitioner constitute the ninth category of ethical issues. The core of the ethical issue is rooted in personal values that might conflict with the values of the team, department, organization or government the individual is serving. These conflicts can differ in intensity, but in their ultimate form can lead to serious situations, such as whistleblowing.

The last category of ethical issues is about authenticity in private life. This rather abstract denominator brings together all those examples in which counterterrorism practitioners experienced ethical dilemmas in the conduct of their private lives due to knowledge about threats or the effects of particular measurements. While last in the list, this category can cause considerable ethical hardships, due to the fact that ethical issues of a professional origin interfere with the personal life.

All distinguished levels and the corresponding categories of ethical issues have been summarized in Figure 3. The aim of the proposed typology is to clarify different ethical issues and to distinguish between them in order to better understand the diversity of ethical issues and their backgrounds. The typology remains to a certain extent a scientific construction, since in practice the

boundaries between the different levels remains less strict than the typology might suggest.

Figure 3

Typology of ethical issues in the practice of counterterrorism

	Level		Category of key ethical issue
I	Structural	1	Morality of CT in world risk society in liquid times
		2	Fundamental inconsistencies
II	Political	3	State of emergency
		4	Politicization of CT
		5	Legitimacy of interventions
		6	Tension between secrecy and transparency
III	Professional	7	Discovering and upholding professional values
		8	Professional concerns regarding resources, measures and policies
IV	Personal	9	Integrity in the face of conflicting values
		10	Authenticity as professional in private life

5.4 Conclusions

The goal of this chapter is to develop an understanding of how the ethical issues faced by counterterrorism professionals can be categorized based on general literature research. In addition, an international study based on interviews with counterterrorism professionals in the Netherlands, the United Kingdom, and France has been consulted. An analysis of the findings leads to the proposition of a typology of ethical issues in the practice of counterterrorism. This typology suggests that some ethical issues are structural in nature, as they are an expression of the world risk society or a reflection of fundamental inconsistencies. All other types of ethical issues – whether political, professional or personal - are not only connected to this structural level, but are often closely related to each other.

The boundaries between the different levels and, to a lesser extent, the different categories, remain fluid. A striking observation is that many personal or professional dilemmas are connected to the political level of ethical issues. The role of politics in the field of counterterrorism can therefore influence to a certain extent some of the structural conditions in which ethical issues in counterterrorism occur. Politics can also shape the conditions in which professional ethic issues can appear and can be dealt with. This typology can strengthen our understanding of ethical issues that counterterrorism professionals are indeed facing. Furthermore, the different categories of ethical issues can offer tailor made opportunities to deal with those categories as well.

Before diving into the application of ethics support within the practice of counterterrorism, the next chapter will identify how counterterrorism professionals are currently dealing with ethical dilemmas.

III.   Empirical part

6. Dealing with ethical issues by counterterrorism professionals

Ethical issues are present in the practice of counterterrorism (Van Gunsteren, 2014; Van Den Herik and Schrijver, 2013; Reding et al., 2013; Wellman, 2013). Efforts to map some of these issues have led to a preliminary typology of ethical issues, as presented in the previous chapter. The presence of ethical issues in the field of counterterrorism and the (political) urgency of counterterrorism in Western societies raise the question how counterterrorism professionals are dealing with those ethical issues in general and with concrete ethical dilemmas in particular. The research question of this chapter therefore asks: How are counterterrorism professionals in the Netherlands dealing with ethical dilemmas?

The findings of this chapter derive from semi-structured interviews with counterterrorism professionals from the Office of Dutch National Coordinator for Counterterrorism. The research methodology, limitations and research ethics have been described in Chapter 2. The methodology section of that chapter has clarified the importance of a relatively small number of participants in an empirical research on the practice of counterterrorism, given the limited accessibility of the often secret practice of counterterrorism. Having the semi-structured interviews with professionals from the Office of Dutch National Coordinator for Counterterrorism prior to the moral case deliberations can help to develop an understanding of the context they are working in. In addition, in order to understand the context of the research it is useful to learn how those professionals are handling ethical issues before delving into the moral case deliberations themselves in Chapter 8.

This chapter will first examine the background of the Dutch National Coordinator for Counterterrorism and Security in which the interviews and the moral case deliberations took place. This is important in order to understand the character of the organization that forms the core of the empirical part of this thesis. A closer look at the broader field in which the organization operates – like the wider international counterterrorism coordination community - can help to better understand the context of the empirical focus of this part of the thesis. Afterwards, the findings of the semi-structured interviews will be presented and, finally, an analysis of the findings will be provided. This analysis will help

clarifying ways in which counterterrorism professionals are dealing with ethical dilemmas. Indirectly, this thesis offers further insights into the backgrounds of counterterrorism professionals and the characteristics of their work. This can be interesting from an anthropological and sociological point of view and can generate a better understanding of the closed realms of the practice of counterterrorism. The importance of a thorough understanding of the moral working of state institutions has been claimed regarding other areas of governmental work, such as policing (Fassin, 2015: 93).

6.1 Context of study

The Dutch National Coordinator for Counterterrorism and Security has existed since November 2004. Due to the establishment of comparable institutions around the world, it has become part of what can be considered as the international counterterrorism coordination community (Persson, 2013). Chapter 2 already laid out how and why this thesis focuses on the National Coordinator for Counterterrorism and Security and not, for example, an intelligence service. Here, the rise of the National Coordinator for Counterterrorism and Security, its major responsibilities and organizational characteristics will be explained.

National Coordinator for Counterterrorism

On 1 November 2004, the Dutch National Coordinator for Counterterrorism was established. On that day, it was only the Coordinator himself and a few civil servants who began building up the organization. A day later, on 2 November 2004, the terrorist Mohammed Bouyeri killed filmmaker and publicist Theo van Gogh in the streets of Amsterdam. Clearly, the Coordinator and his staff were not prepared to prevent this attack. Closer research has been conducted on the issue of whether other actions could have prevented this attack (CTIVD, 2008). The political momentum to set up the institution of the Coordinator was triggered by the attacks in Madrid that took place on 11 March 2004. While the attacks of 11 September 2001 in the United States seemed far away enough to avoid changing the institutional architecture of counterterrorism in the Netherlands, 'Madrid' was a game changer. First of all, Madrid was geographically closer to the Netherlands. In combination with the previous experiences in the United States (9/11), the political urgency to act was growing. Second, the terrorist threat in Spain was quite similar to the terrorist threat in the Netherlands. This fact contributed to the fear that what had happened in Spain could happen in the Netherlands as well. Third, many professionals and specialized politicians in the Netherlands already shared the impression that the coordination of counterterrorism activities within the Netherlands needed significant support. This was partly due to the fact that the number of actors obtaining or claiming a role in counterterrorism was growing. Before the jihadist wave of terrorist activity in that period, the General Intelligence and Security Service held more or less a monopoly in this field. In the period prior to the establishment of the National Coordinator for Counterterrorism, more than twenty governmental

actors were in some way involved in counterterrorism. However, there was no actor assigned or positioned to coordinate all those different activities (Minister of Justice, 2003).

The first counterterrorism coordinator Tjibbe Joustra started as National Coordinator for Counterterrorism, with an abbreviation of its Dutch name NCTb. From 2004-2013 the major organizational architecture was designed as follows: The work of an analysis and expertise department was considered as the point of departure for all activities of the Coordinator's office. Based on analyses like the all source threat assessment (Abels and De Roy van Zuijdewijn, 2017), a policy and strategy department designed policies to counter identified threats. Subsequently, it was up to an implementation and project management department to make sure that major policy programmes were implemented successfully. Beside the circle of analysis, policy and implementation, an additional task was added to the Coordinator's responsibilities: the development of a protection and surveillance department, as well as a department on civil aviation security. Particularly in the early years of this period, the Coordinator was considered both powerful and effective. This can be illustrated by the concern, often expressed in the political debate at that time, that the National Coordinator for Counterterrorism might become the third intelligence service of the Netherlands (de Volkskrant, 2006). The analytical unit of the National Coordinator for Counterterrorism did not comprise of more than 25 staff members at this time. One of the core tasks of this unit was the assessment of the terrorist threat to the Netherlands (Bakker and De Roy van Zuijdewijn, 2015). In this period, the National Coordinator for Counterterrorism reported to both the Minister of Justice and the Minister of Interior and Kingdom Relations. Since the Minister of Justice was assigned as coordinating minister in the field of counterterrorism, the staff of the National Coordinator for Counterterrorism was positioned administratively under the Ministry of Justice. Within the rather decentralized Dutch bureaucracy, the National Coordinator for Counterterrorism has been considered as un-Dutch due to its powerful and centralized position (Olgun, 2006).

National Coordinator for Counterterrorism and Security

In 2013, the Coordinator broadened its focus to include national security, crisis coordination and cybersecurity into its responsibilities, changing its name to the National Coordinator for Counterterrorism and Security accordingly. Its new abbreviation, based on its Dutch name, is NCTV. This change mirrored the political developments of the time, in which a minority government supported by the Party for Freedom took a special interest in security issues. Not only did this lead to the transformation of the Ministry of Justice into the Ministry of Security of Justice, it also implied that the politically shared responsibility regarding the Counterterrorism Coordinator was altered. From now on, the Coordinator reported exclusively to the Minister of Security and Justice; the political line with the Minister of Interior was cut. The new organization was underlain by the principle of risk assessment, which is often expressed through the triangle of interests, threats and resilience. Consequently, the National Coordinator for Counterterrorism and Security had, first, a department on surveillance, protection, and civil aviation security, second, a department looking into threats and risks and, third, a department responsible for resilience in a broader sense. In addition to the architecture following the "risk triangle", there was also a department for cybersecurity, combining all functionalities into one department that have been separated regarding counterterrorism and national security along the lines of the "risk triangle".

When the situation in Syria escalated and the threat level was raised in 2013, an additional department on counterterrorism was established, in which the counterterrorism tasks of the resilience department were integrated. The continuous growth in both tasks and staff for the Coordinator nurtured a need for internal coordination, in addition to the main task of external coordination. In 2017, a principal decision was taken to concentrate the tasks of the Coordinator and downsize the staff accordingly. Counterterrorism is one of the core tasks that remains within the Coordinator's responsibility.

Counterterrorism professionals

Before turning to the findings, I will provide some more information about the background of the counterterrorism practitioners at stake. Who are they, what kind of work are they doing and how can their work culture be described? The

counterterrorism professionals who are the source of the findings here work in different areas of counterterrorism: analysis, policymaking, policy implementation, policy coordination, policy accountability, national and international cooperation, protection and surveillance. The involved professionals cover wide parts of the practice of counterterrorism. They assess threats, they conceptualize policies to counter the threats, and they coordinate efforts to implement those policies. Furthermore, they are responsible for providing accountability regarding the counterterrorism policies towards parliament. Finally, they are also involved in strengthening national and international co-operation and exchange of information and managing the protection and surveillance of potentially threatened persons and institutions. The large variety of professional activities included in the practice of counterterrorism offers the opportunity to include multiple perspectives of this practice into this research.

The practical work situation and the resulting work culture are worth explaining as well when introducing the practice of counterterrorism. To start with, the involved professionals have the most sensitive security clearance for government officials, the so-called A+ screening. This screening allows for the handling of all state secrets, including top secret documents, briefings and discussions. In order to qualify for this clearance, the professionals are screened every five years by the General Intelligence and Security Service. The workplace of the officials is considered as a "secret place" according the law on state secrets and is only accessible to employees holding the highest security clearance. To enter the workplace the professionals have to scan their personal pass with an electronic entrance system and complete this process by presenting physical biometric evidence to the entrance system. Within the office the entire procedure, or parts of it depending on the location of the professional, has to be repeated upon moving to another part of the office. The physical work environment nurtures potentially a work culture of secrecy, exclusion and perhaps even some form of elitism.

With the growth of the Coordinator's office in 2013 due the increase of responsibilities, staff members from different organizations were merged into one office. This led to a certain fragmentation of the organizational culture. The

growth of staff in the field of counterterrorism from 2014 onwards led to an influx of many young and inexperienced staff members. The attached dynamic and enthusiasm was, to a large extent, counterbalanced by the need for qualification and an ever growing need for greater internal coordination. Last but not least, it is important to mention the openness towards ethical reflection within the organization. As previously described, this openness came up quite early in the existence of the organization and endured at least as long as the period covered by the moral case deliberation in this thesis, 2016. The personal commitment to moral case deliberation from the top leadership differed throughout these years.

Presentation of National Coordinator for Counterterrorism and Security

"The National Coordinator for Counterterrorism and Security protects the Netherlands from threats that could disrupt Dutch society. Together with the partners within the government, the research community and the private sector, the National Coordinator for Counterterrorism and Security ensures that the Netherlands' critical infrastructure is safe and remains that way. Since the establishment of the National Coordinator for Counterterrorism and Security, central government has had a single organisation that deals with counterterrorism, cyber security, national security and crisis management. Together with our partners in the security sector, the National Coordinator for Counterterrorism and Security is committed to making the Netherlands a safe and stable place. The focus is on preventing and minimising social disruption.

What does the National Coordinator for Counterterrorism and Security do?
"The National Coordinator for Counterterrorism and Security main tasks are:
-    analyzing and reducing identified threats
-    providing surveillance and protection for persons, property, services, events and vital sectors
-    ensuring cyber security
-    making property, individuals, sectors and networks more resistant to threats
-    ensuring effective crisis management and crisis communication.

Combining these tasks into a single organisation makes the government more effective in these areas. The National Coordinator for Counterterrorism and Security and its staff fall under the responsibility of the Minister of Security and Justice. For management and organisational purposes, the National Coordinator for Counterterrorism and Security comes under the aegis of the Ministry of Security and Justice, functioning in a similar way to a directorate-general.
Tasks
-    analyzing and reducing identified threats;
-    providing surveillance and protection for persons, property, services and events, as well as for vital sectors;
-    expanding and strengthening cyber security;
-    making property, persons, structures and networks more resistant to threats;
-    ensuring effective crisis management and crisis communication.

Mission
The National Coordinator for Counterterrorism and Security helps keep the Netherlands safe and stable by identifying threats and strengthening the resilience and security of vital interests. Its ultimate purpose is to prevent and minimise social disruption."
https://english.National Coordinator for Counterterrorism and Security.nl/organisation/,
retrieved 24.07.2017

6.2 Findings from interviews

In this section the findings that emerge from the interviews will be presented. The presentation of the findings follows the structure of the semi-structured interviews and is subdivided into two parts. First, the way in which counterterrorism professionals are dealing with ethical dilemmas will be characterized. Second, the institutional arrangements and training possibilities to deal with ethical issues in the practice of counterterrorism as presented in the interviews will be sketched.

As a general finding, it can be determined that counterterrorism professionals are indeed facing ethical dilemmas in their work. All nine interviewed practitioners say that they face ethical dilemmas in their work. Seven of the nine interviewees are facing ethical dilemmas on a regular basis.

> *"There are quite a lot of dilemmas I am facing during my work. They change in nature and intensity but they are absolutely present in my daily work" (interview 6).*

One of the interviewees is even facing ethical dilemmas very frequently. One other interviewee is facing ethical dilemmas only from time to time. The responses regarding the ethical dilemmas can be subdivided into five different types. Those types have not been predefined before the interviews took place and rather arise from an analysis of the responses.

Type of dilemmas

Information sharing

The first type of dilemma can be summarized under the header of information sharing. It turns out that there are often situations in which the question of whether or not to share certain information, and to whom, poses ethical dilemmas. The issue of information sharing was quite frequently mentioned as an ethical issue (interview 1, 4, 5, 7). The ethical dimension of the issue of information sharing has at least three layers focussing on the pros and cons of sharing information. First, sharing certain information can prevent or reduce the manifestation of a certain threat. As many individuals might benefit from a prevented or reduced threat, the pressure to share information for the sake of

potential innocent individuals is rather high. These ethical tensions can pressure counterterrorism professionals to share as much information as possible. Information sharing can, second, also put individuals at risk. The sharing of information can put the liberties or physical integrity of those individuals mentioned at risk. It is worth noting that the information shared within the practice of counterterrorism often involves intelligence that is by nature not fully confirmed at the moment of sharing.

Last but not least, the professionals involved in the sharing of information can be exposed to sanctions, as the legal arrangements of the practice in which they have to share information can, for example, be either unclear or not designed to deal with those issues. Besides the professionals themselves, the democratic legal order can also come under pressure. An example mentioned by three respondents (interview 1, 7, 8) is the instrument of local case consultations that are at the core of dealing with Dutch foreign terrorist fighters. The local case consultations were installed after the rise of youngsters joining the jihad in Syria and Iraq from 2013 onward. As the name of the meetings suggests, the local municipalities were in charge of organizing a meeting in which tailor-made measurements regarding inhabitants from their cities who travelled to Syria and Iraq had to be developed.

> *"It seems that large parts of the local approach are taking place – at least in the eyes of many actors - in a grey area in which it is unclear who is allowed to share what with whom"* (interview 1).

Those meetings include many partners from outside traditional national security circles, with different backgrounds, levels of experience in dealing with confidential information, etc.[4]

Independent reporting

The second type of dilemma is related to what can be summarized as independence of reporting. This type refers to a form of reporting that is objective, neutral and free from political interference. This issue has been brought up quite frequently (interview 2, 4, 7, 9) with regard to different

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[4] In July 2017 a default covenant has been provided by the national authorities to municipalities that allows for the governance of the exchange of information. See: NCTV, 2017.

settings. One example is the independence of counterterrorism analysis which is first and foremost at stake regarding matters that are considered as politically sensitive. As a concrete example, the analysis about the relationship between the influx of refugees and terrorism has been mentioned. The concern here is as follows: Terrorism analysis is most of the time about small numbers of a broader group, as terrorist attacks are mostly prepared and committed by a very limited number of actors. When the influx of refugees occurred, the risk of having terrorists among the refugees was considered as unlikely and not proven yet because there were no signs of terrorist suspects among the refugees on a large scale. However, terrorism is not about large scale participation. So the issue arose whether the occurrence of a small number of potential terrorists as part of the influx of refugees had been ultimately assessed differently than in normal terrorism analysis. The ethical question here is whether it is justified to apply different standards of threat analysis in order to avoid political sensitivities.

Related to the issue of independence of analysis there has also been made a more subtle observation that addressed intergroup processes as an influencer on the final version of the analysis:

> "How do hierarchical lines run? How are discussions concluded or not? To what extent do naked facts matter in the end? You cannot be just a little bit objective" (interview 2).

These observations raise indirectly the question of how much courage is needed to stand up in a group discussion on true analytical conclusions within a context that is permeated by both visible and hidden power relations.

This contribution expresses the experience that in decisive group discussions about draft analyses not only arguments or facts matter. The way in which a discussion is led or the extent to which participants of a meeting are in the position to actively participate can influence the outcome of the discussion about an analysis. This is also true for the manner in which a discussion is concluded and by whom. Last but not least, it can also be decisive whether there is any critical internal discussion about draft analyses at all.

Another example related to the issue of independent reporting touched the briefing of parliament. In the field of counterterrorism the Dutch parliament has been informed periodically about the progress of counterterrorism efforts. In the aftermath of terrorist attacks in other Western countries there was also an additional need for information expressed by parliament. Obviously, the state of affairs in the field of counterterrorism has to be reported to parliament as faithfully and realistically as possible. Nevertheless, two of the respondents indicated that they were wondering more than once whether the situation regarding the progress of a certain policy initiative was not presented too optimistically, as an outcome of some kind of bargained communication between different departments and ministries. The ethical question is at what stage of blurred reporting on the state of policy progress it is morally necessary to speak up and adjust the reporting.

> *"Sometimes the final result of a letter to parliament felt nearly like lying. Luckily this is much less the case in recent times. But this whole tension remains an issue" (interview 7).*

Those concerns indicate that the societal and parliamentary trust in the government in general, and the specific governmental measurements in particular, can be at stake. The potential ethical dimensions in such a case range from the ethical tension at an individual or professional level up to consequences for the democratic society as a whole.

Navigating legal boundaries

The third type of dilemma expresses the ethical tensions that are attached to navigation along and across legal boundaries. Adapting to new threats for example can go hand-in-hand with navigating the fringes or crossroads of legal boundaries. It can also imply to navigate legal space without specific provisions regarding certain concrete threats. These encounters with law can take place before lawmakers become aware of a specific threat or before they are able to update existing laws or establish new laws (interviews 1, 4, 9). This can imply that counterterrorism professionals might have to be pioneers in new threat situations. They might also be confronted with new constellations of national and international cooperation.

> *"In those cases you just cannot avoid exploring and sometimes maybe even crossing the legal boundaries, if they exist at all"* (interview 4).

The manifestation of those tensions can imply an undermining of the legal democratic legitimization of certain actions of the state. Such an action would take place, however, based on the intention to serve the national security of the state as practical and prompt as seems appropriate in certain circumstances. An example has already been put forward of the above mentioned case consultation approach, in which new forms of national cooperation emerged. The dealing with personal data in the field of policy implementation regarding potential jihadists was mentioned as an example as well. The latter ranges from consequences of being part of the case consultation approach up to documenting and reporting activities in the field of social media monitoring.

Impact of policies and measures

The fourth type of dilemma touches ethical tensions that occur as the impact of policies and measures unfolds. Counterterrorism practices are like many other practices based on the development and implementation of policies and measures. The impact of those policies and measures has been mentioned as a potential ethical issue (interview 3, 6 and 8). Such issues can appear in different forms. One example reflects on policies that have a strong performative impact on society but are considered by professionals at best symbolic if not counterproductive.

> *"What this measure is aiming at, can also be realized based on other grounds. Nevertheless, a lot of scarce resources have to be devoted to this measurement in order to show that it works"* (interview 7).

The obligation to loyally implement rather symbolic policies can conflict with the professional values to do what is most useful to counter terrorism instead.

Another example that has been mentioned arose during the process of the implementation of the policies and measures in which not all partners are developing at the same pace.

> *"It is difficult to act in those situations. You are very much aware of the fact that you are just a tiny part in a larger machinery. The most important thing to do in those situations is to get people into motion"* (interview 3).

The ethical tension in this example reached its climax when it seemed that structural shortcomings of at least one of the partners within the counterterrorism community did constitute a severe limitation for the success of a specific policy goal. When are counterterrorism professionals obliged to speak up about those shortcomings? Are they obliged to assess and address larger systemic failures as a result, with potentially severe consequences?

The dealing with perceived inconsistent or unwise policies has been brought forward regarding the impact of policies or measurements as well. One example is a situation in which certain relevant tasks are - due to limited capacities - temporarily put on hold. Another example concerns developments that could expose vulnerable groups in society to avoidable negative side effects of measurements. This can raise the following ethical questions: According to which criteria do counterterrorism professionals have to speak up when facing such policies or even to refuse to execute those policies? Or to put it differently: to what extent must counterterrorism professionals be heard or consulted when designing counterterrorism policies? What is the value and position of practical wisdom *(phronesis)* as far as the conceptualization and implementation of counterterrorism practices are concerned?

Working in the field of counterterrorism

Last but not least, it seems that working within the field of counterterrorism raises ethical issues in itself (interview 5, 8). A striking example in this case is the following:

> *"I knew about a certain concrete threat against a concrete target where my partner was supposed to be next week as well. Do I have to tell her?"* (interview 8).

Such a situation highlights the potential tension between maintaining the confidentiality of professional information on the one hand and caring for one's family or oneself on the other hand.

Another dimension of being employed in the field of counterterrorism concerns the issue of secrecy. Respondents struggle with the extent they can be open about their work with their family and friends as part of fostering honest and authentic personal relations. Such an attitude can conflict with professional standards to be upheld although. However, it has to be mentioned that the interviewees perceived the guidelines and instructions about dealing with their secret position as rather vague when compared with the guidelines and instructions available inside intelligence services. Besides the professional values there can also be personal values at stake. Being too open about work could undermine not only the interests of the employer. It could also harm the security of the professional in question or the security of his or her family.

How counterterrorism professionals will deal with those issues will be dealt with next.

Way of dealing with ethical issues

This section will provide some clarification about the ways in which counterterrorism professionals are dealing with ethical issues. Based on an explorative analysis of the responses, it appears that there are four ways of dealing with ethical issues to be distinguished: reaching out to colleagues, addressing leaders, consulting a mentor, or initiating a dialogue within oneself.

First, colleagues (either one or more) were most frequently mentioned as partners in deliberation on ethical issues. Eight of nine interviewees stated that they reach out to colleagues if they are facing ethical issues (interview 1, 2, 3, 4, 5, 6, 7, 8). Three of those eight interviewees stressed that they prefer to connect with colleagues who are neither part of the ethical issue at stake nor belong to the same organizational unit.

> *"I would definitely turn towards colleagues that I do trust. In sensitive cases it might be wise to turn towards colleagues working at other departments" (interview 7).*

The citation seems to reflect a certain need for a secure and independent environment in which ethical issues can be discussed.

Reaching out for a dialogue with a colleague, however, does not automatically imply an open dialogue within a group of colleagues. As one respondent put it:

> *"I am still unsure whether I should address such an issue in a group discussion. Messengers are easily dishonoured. If I would do so, I would have to be quite sure about the absence of the abuse of power within the group" (interview 2).*

These concerns about the conditions for a true dialogue with a group of colleagues underline that there is a need for some basic safeguards before entering a dialogue about ethical issues with colleagues.

Second, team leaders were mentioned by five interviewees as a point of reference when ethical issues occur (interview 4, 5, 6, 7). The experiences with discussing ethical dilemmas with representatives of the leadership, however, have not been unequivocal. Two interviewees feel very happy about addressing ethical issues with their leadership. As one has put it:

> *"Luckily, I always had a great dialogue with my superiors when needed" (interview 4).*

Two other respondents, however, are less positive about their experiences with their leaders. One respondent stresses that if the interests at stake may be very important and would include for example political interests, it is unlikely that those functionaries could be of use in dealing with ethical dilemmas. Another respondent mentions that higher management in general is often not seen as an example of ethical leadership.

> *"Leadership here, as elsewhere in government, is no moral leadership. But is should be. Unfortunately, this is not the way in which leaders are selected" (interview 1).*

The third way of dealing with dilemmas is consulting a mentor. Three interviewees mentioned consulting someone based on his or her perceived

wisdom, regardless of the official function or status of the person in question (interview 1, 8, 9). This was considered as especially valuable, since being considered as someone who gives wise advice based on professional experience and a high quality of judgement ('mentor) is considered as necessary when addressing an ethical issue.

Last but not least, the professionals themselves seem to be relevant. Two interviewees mentioned the importance of the self in addressing ethical questions explicitly (interview 1, 9).

> *"Eventually you need to sort things out in an internal dialogue with yourself. Ideally you build and constantly adjust your own ethical compass" (interview 9).*

As conditions for a fruitful internal dialogue, sufficient time and distance (in the sense of having space for reflection outside the heat of the moment) were mentioned.

The next section will address the extent to which professionals are trained and prepared to deal with ethical dilemmas.

Institutional arrangements and training

This section will explore what kind of institutional arrangements and training facilities are in place to prepare and qualify counterterrorism professionals in dealing with ethical dilemmas according to the respondents. In the semi-structured interviews it has been asked what institutional mechanisms or training opportunities counterterrorism professionals have at their disposal in dealing with ethical issues. In addition, it has been asked what they would recommend to the practice of counterterrorism in general and their employer in particular.

The impressions gained on mechanisms or institutional arrangements dealing with ethical dilemmas is quite clear: none of the respondents are aware of any mechanism or arrangement that are specifically dedicated to the handling of ethical dilemmas. Regarding training opportunities within the organization, the picture is comparable: none of the respondents are aware of any structural

training available specifically focussing on how to deal with ethical issues. On an incidental basis, however, three respondents joined a pilot moral case deliberation organized by the author in the past, or a module on ethics and counterterrorism within a course for practitioners organized by Leiden University on request of the Dutch National Coordinator for Counterterrorism and Security.

Two respondents did follow ethics training with another organization such as defence or professional academic teaching before joining the National Coordinator for Counterterrorism and Security. Several respondents mentioned that it would be useful to have such training, given the dilemmas present in their daily work or in the light of the high number of incoming new employees to the field just before and during the research period in 2016.

Time for reflection, confidence and ethical clarity

Under the umbrella of other suggestions, three interesting observations were shared as well. The first one was related to time. Time for reflection and communication was suggested as necessary for dealing with ethical issues. It was mentioned that, though it sounds banal, it is still difficult to realize and to find rest during the daily routine. The second suggestion refers to confidence required among colleagues, but especially towards the leaders. The leaders often set the stage as a role model and can therefore shape an environment that is conducive (or hindering) to an open and trustful dialogue about ethical tensions within the practice of counterterrorism. Last but not least, it was questioned whether it is always perfectly clear, even to those talking about ethical dilemmas, what an ethical dilemma is compared to an urgent practical dilemma. Clarity on that point was suggested to be necessary when talking about issues in general and when talking about how to handle particular issues.

6.3 Reflection on findings and discussion

In this section the analysis of the findings of the semi-structured interviews will be presented and discussed. This leads to the following general observations that are subject to the general limitations of this research.

Occurrence of ethical dilemmas

First, it seems to be quite clear that ethical dilemmas occur within the practice of counterterrorism. This observation supports earlier conclusions based on literature research. The findings based on the interviews also suggest that the occurrence of ethical dilemmas in the practice of counterterrorism is rather common within democracies. Primarily reasons for that are rooted in the fact that the practice of counterterrorism implies – partly by applying methods of intelligence services - the inherent infringement on civil liberties for the sake of the right to live. This context inherently constitutes intense ethical tensions, as they touch on the fundamentals of the democratic legal order (Van Den Herik and Schrijver, 2013; Wellman, 2013).

Lack of institutionalization of ethics policies within counterterrorism

Second, there is little attention devoted to dealing with ethical dilemmas as far as institutionalized ethics support is concerned. This situation seems to fit with a broader assessment regarding ethics within the public sector, where integrity issues have garnered a great deal of attention. Mostly, however, mechanisms to uphold integrity concentrate on the observance of (legal) compliance.

In a European study exploring the effectiveness of good governance and ethics in public administration, it has been argued that ethics policies are not taken seriously as far as their practical implementation is concerned (Demmke and Moilanen, 2011: 124) and that there is "a gap between political and media activism and the effective institutionalization of ethics policies" (Demmke and Moilanen, 2011: 16). At the same time, it would be an illusion to consider one instrument alone as "sufficient to create an honest civil service and ethical civil servants" (Demmke and Moilanen, 2011: 20). In the field of counterterrorism there are no findings from empirical studies on the institutionalization of ethics policies within the public sector as of yet.

At least in the Netherlands, there are, besides an institutional apparatus to maintain integrity in a more narrow and compliance-based sense, also initiatives to develop ethical judgement capacities in a value-based sense or to apply ethics in daily work practices (Delnoj et al., 2006; Kessels, 1997). The value-based initiatives imply a central interest in the values at stake and at work, and can be considered as a form of ethics support. The field of counterterrorism has not yet experienced institutionalized ethics support and can therefore still be considered as lagging behind developments in other areas (Overeem, 2017; Kowalski and Meeder, 2011). This lagging behind offers the opportunity to learn from the experiences in other parts of the public sector where a strong and at the same time less fruitful focus on compliance and regulation has been observed. These lessons suggest that a more value-oriented approach stressing prevention, awareness and institutionalization would be appropriate to be applied in the field of counterterrorism (Overeem, 2017: 30).

Reflection of typology of ethical issues

Third, the types of dilemmas emanating from the interviews seem to fit within the conceptualization of the typology of ethical issues in the practice of counterterrorism. Although the input from the interviews itself would not be detailed enough to confirm in detail the typology suggested in Chapter 6, the findings from the interviews support the differentiation within the typology between structural, political, professional and personal levels. Furthermore, certain key ethical issues suggested in the typology are reflected by the interviews as well which can help to understand how and why counterterrorism professionals are facing ethical dilemmas. A case example is fundamental inconsistencies that are rooted in the way international counterterrorism is shaped like in the "global war on terror" and the related mechanisms of information exchange that can challenge professional and personal values. Another comparable example is the politicization of counterterrorism that can put the standard of threat analysis or reporting on policy progress towards the parliament under pressure. There have also been examples in which confidential information about threats interfered with the personal situation and interests of professionals. The differentiation between different levels clarify the rise of certain ethical issues. For example, organizational cultures or personal beliefs are

of a different nature than geopolitical developments. In addition, the differentiation can contribute to a reflection on tailor-made strategies to meet those issues as well. Where ethical issues caused by the inconsistencies of the world risk society are quite difficult to tackle, it remains feasible to address issues at an organizational or personal level. The overall diversity of ethical issues eventually expresses the critical role of internal goods in the practice of counterterrorism as reflected in the theory of Macintyre.

Need for ethics support

Fourth, based on the current findings, there is a clear need for ethics support within the practice of counterterrorism. Meeting those needs can be difficult given the secrecy of the (national) security sector like police, intelligence and defence. Especially in the confidential realms of security and intelligence services, arrangements might be in place that cannot be taken into account in this research. Based on open documents, however, no special arrangements that facilitate handling ethical dilemmas have been detected, in spite of the transparency of many organizations that are working in secrecy. In the more open realms of the Dutch security sector that are not considered categorically as forbidden places, according to the law on state secrets, there are two initiatives that do reflect a value-oriented interest towards dealing with ethical dilemma. First, a program has been implemented within the national police force to solve practical and ethical issues in a multidisciplinary and contextual approach. It involves, besides relevant stakeholders, first and foremost police professionals on the ground and aims at identifying "good" police work (Nap, 2012). Second, within the defence organization, a multidisciplinary course on advanced military ethics has been developed and implemented in which ethical theory is taught alongside practical ethical tools aiming to increase moral competences and creating a web of alumni and potential multipliers across the defence sector (Baarda and Verweij, 2010; Van Baarle, 2018; Bosch and Wortel, 2009).

Role of leadership

Fifth, the issue of leadership appears to be crucial in the dealing with ethical dilemmas in the practice of counterterrorism. In the interviews itself, the involvement of leaders has been considered as powerful if their involvement is

genuine and not determined by hidden agendas. These conditions include safeguards regarding the responsible use of power when discussing and dealing with ethical dilemmas. On a more fundamental level it appears to be crucial for fruitful dealings with ethical dilemmas that the capacity to deal with ethical issues should be an important criterion when selecting managers and leaders. Capacity can be understood here as sensitivity towards ethical issues, willingness to get involved in ethics deliberation and courage to make ethical considerations part of daily decision-making. Although this has explicitly not been raised with regard to the higher management of the National Coordinator for Counterterrorism and Security, there is research supporting the idea that high-ranking officials in a hierarchy are less likely to engage in principled dissent (Kennedy and Anderson, 2017). In other words, the less managers fuss over ethical issues, the better their career opportunities. This impression cannot be confirmed in this research setting. However, the ethical leadership in the practice of counterterrorism of this research is somewhat ambiguous. Although the management agreed with the execution of this research and approved the conditions to do so, there has been, throughout the research period, no special interest detected in the progress of this research and the ethical state of the professional practice. Such an ambiguity of ethical leadership is not conducive to the fostering of internal goods in the practice of counterterrorism.

Transparency, power and fear

Sixth, internal group processes and power structures can be considered as crucial factors in dealing with ethical dilemmas. Therefore it can be learned from the findings of the interviews that it is important to raise awareness for those dimensions when engaging in the deliberation about ethical issues. Based on this awareness, it is crucial that the environments where the handling of ethical dilemmas takes place are conducive to have an open, transparent environment free of fear and power abuse (Foucault, 2011). This is important as it may be conducive for the development of virtues supporting internal goods.

Importance of training

Seventh, training counterterrorism professionals and empowering their ethical competences is potentially beneficial to all ways of dealing with ethical dilemmas that occurred during the interviews. Dialogues and ethics deliberations with

colleagues, leaders, mentors, as well as a personal internal dialogue, can benefit from strengthened abilities to reflect, identify ethical questions and different ethical options to act. This implies that the application of virtue ethics in training counterterrorism professionals, as individuals and as a group, can be especially useful because virtue ethics through training can build and strengthen capacities to deal with ethical dilemmas (Overeem, 2017). Such a use of virtue ethics also contributes to the reflection and nurturing of internal goods.

Use and institutionalization of ethics support

Eighth, some potential useful methods to address ethical issues can be identified, as interviewees suggested positive experiences with training programmes at the department of defence or try-outs of moral case deliberations at the National Coordinator for Counterterrorism and Security. Theoretically, there are many tools present in the security sector to help in dealing with ethical issues. Examples are the use of legal advisors, leadership development and focused recruitment, mentoring and training and oversight arrangements (Reding et al., 2013). Especially an investment into a structural training curriculum could strengthen the virtues of counterterrorism professionals. As already mentioned before, there are no institutionalized tools of ethics support in the field of counterterrorism, such as an ethics advisor or the structural implementation of a tool of ethics support. Similarly, methods such as moral case deliberation are, as far as publicly known and mentioned before, not applied on a structural level within the practice of counterterrorism. This can be considered as a disadvantage as far as facilitating the development of internal goods is concerned. At the same time it has to be acknowledged that the issue of institutionalization is by no means a guarantee for the development of internal goods. To the contrary, a fixation on the building of institutions can turn out to be counterproductive for the intrinsic development of internal goods on the long run as well.

Within the Netherlands there are some initiatives to institutionalize ethics support from a value-oriented perspective which suggests at least sensitivity regarding internal goods. The practice of counterterrorism could be connected to the initiatives that have been implemented within police (Nap, 2014) and defence (Van Baarle, 2018; De Graaf, 2016). Moral case deliberation has been mentioned in studies as a potentially relevant method in that regard (Weidema

and Molewijk, 2017). Given the suggested usefulness to professionals, moral case deliberation as a tool of ethics support will be further explored in the following chapter.

6.4 Conclusions

Ethics is inherent to counterterrorism. According to the interviewed counterterrorism professionals, ethical issues are common within what can indeed be considered as the practice of counterterrorism. From semi-structured interviews with counterterrorism professionals it becomes clear that four ways to approach an ethical dilemma can be distinguished: to reach out to colleagues, to the management, to a mentor, or a "self-dialogue". In general, it also comes to the forefront that at the time of the research employees at the National Coordinator for Counterterrorism and Security are not specifically trained to handle ethical dilemmas. In addition, they are not aware of any specific institutional arrangements available to address ethical issues in the practice of counterterrorism. Nevertheless, potential methods to deal with ethical issues and to strengthen the internal goods of the practice of counterterrorism were identified.

In the next chapter the relevance of moral case deliberation as a tool of ethics support within the practice of counterterrorism will be explored more in detail.

7. Relevance of moral case deliberation to the practice of counterterrorism

International comparative research suggests that the tool of moral case deliberation could be of added value to the practice of counterterrorism, like it has been to other societal sectors. The method of moral case deliberation has been recommended by researchers of RAND Europe as a suitable method for the practice of counterterrorism. In their previously mentioned explorative study, they look at methods for handling ethical problems that are available and helpful in other societal sectors (Reding et al., 2013). Moral case deliberation is already broadly applied in the health care sector in the Netherlands and other parts of Europe, with a special focus on the Nordic countries Norway and Sweden (Svantesson et al., 2014).

This chapter explores the relevance of moral case deliberation to the practice of counterterrorism. Doing so, the method of moral case deliberation will be situated within the empirical context of the practice of counterterrorism of this thesis. Therefore this chapter precedes the chapter on the explorative application of moral case deliberation and is part of the empirical part of this thesis. The following research question will be addressed in this chapter: What is the relevance of the method of moral case deliberation to the practice of counterterrorism?

This chapter can be divided into three parts. To begin, the first section will explain what moral case deliberation is, how it works and which general lessons have been drawn from the use of moral case deliberation in the medical field. Then, the philosophical roots of moral case deliberation will be clarified in the second section. Finally, the relevance of the method of moral case deliberation to the practice of counterterrorism in general and to the pilot case of an explorative application of moral case deliberation at the Office of the Dutch National Coordinator for Counterterrorism in particular will be explored.

7.1 Introducing Moral Case Deliberation

Method of Moral case deliberation

Moral case deliberation is a method for ethics support that has been implemented in various professional sectors such as health care, military, police, youth care and prison (Van Baarle, 2018; Hartman et al., 2016; Reding et al., 2013; Stolper, 2016; Spijkerboer, 2018). Currently, the health care sector appears to be the sector where this method is used most frequently. In the Dutch context it seems that more than half of the health care institutions are using this method to support professionals in dealing with ethical issues (Dauwerse, 2014). There are different methods for moral case deliberation like: the Amsterdam VUMC dilemma methods (see box below), the Utrecht Roadmap or the Socratic methods. The differences amount to the procedural steps that need to be taken into account. The most important difference is whether to work around two different options of a dilemma (option A and option B) or to consider one ethical question as the core of further ethics deliberations.

The VU Dilemma Method for Moral Case Deliberation

The dilemma method consists of 10 steps:
1. Introduction
- Participants introduce themselves
- Brief discussion of the aim of the deliberation
- Brief discussion of procedure (dialogue, confidentiality, making a report)

2. Presentation of the case
- Focus on a specific moral problem experienced by a participant
- Description of the situation by the participant, focusing on facts, actions, and feelings (the 'film' of the case)
- Defining the moment in which the problem is experienced most intensely (the 'moment of heat')

3. Defining the moral dilemma
- What is the dilemma (A <-> B)?
- What is the damage when I do A?
- What is the damage when I do B?
- What is the moral question?

4. Questions for clarification
- Aim is to enable participants to put themselves in the shoes of the case presenter
- Only questions about facts

5. Analysis of the perspectives in the case
- Define perspectives in the case (relevant person or larger group (the general public, the healthcare institution))
- For each perspective, make explicit values (core motivations) and norms (concrete guidelines for action following from the values)

6. Exploring alternatives
- Brainstorm on (real or fictional) alternatives to deal with the dilemma

7. Making an individual judgement
Each participant answers the following questions:
- I consider…. (A, B, or an alternative C) the morally right action
- Because of value…
- This does damage to value…
- In order to repair the damage, I will do…
- For this I need…

8. Dialogue
- Comparison of the individual judgement and values involved
- Do we understand each other's position?
- What can we learn from the differences?

9. Conclusion
- What is the best answer to the dilemma?
- What core insights have we gained?
- What actions follow from that? Which follow-up is needed?

10. Evaluation
- Content: what did we learn as a group?
- Process: how do we evaluate the deliberation? What can we do better next time?

Source: Van Dartel and Molewijk, 2014: 301-302; Hartman et al., 2016: 261-262.

In order to explore the relevance of ethics support, I will clarify what moral case deliberation is and how it works. Roughly speaking, there are five characteristics constituting an ideal-typical moral case deliberation that will be explained below (Molewijk, 2014). Before doing so, I will turn to an example from the practice of counterterrorism in order to illustrate the working of a moral case deliberation.

Example of moral case deliberation

A further explanation of moral case deliberation will be introduced by a concrete example from the field of counterterrorism that I have dealt with outside the empirical part of this thesis. This example can help to understand the steps taken within a moral case deliberation (Graste, 2003; Stolper et al., 2016). The session of the moral case deliberation will start with an introduction of the facilitator, the participants and a brief discussion of the session and the procedure. The facilitator of a moral case deliberation has to be qualified and ideally certified by an institution like the UMC Amsterdam in facilitating this deliberation in order to guarantee quality in running this method. The next step would be the selection of the case to be dealt with. This could imply that different cases are presented by the participants who eventually have to choose one case that one of the participants has been dealing with or still is experiencing. The example to be mentioned here is that a counterterrorism professional is aware of classified information about a potential concrete threat against a specific target where one or more members of his family will be in the upcoming days as well. Does he warn his family members from going there (option A) or does he uphold the confidential nature of the information, which was only provided for professional use and forbids sharing with others (option B)?

In the remainder of the dialogue the participants figure out what values are at stake and which alternatives are available to deal with this dilemma. Before doing so, the participants would clarify all circumstances and details of the case, testing often implicit assumptions as well. Finally, the participants would be put into the position to make their own individual judgements, to compare them with the views of other participants and to come up with suggestions for what would be needed as professional, team or organization to deal with the complexities of the case. The latter is often not necessarily confidential and therefore widely used as a take-away to the work floor and management.

In the upcoming parts of this section I will explain the five main characteristics of moral case deliberation in general. Afterwards, I will present the general lessons from the use of moral case deliberation in the medical sector.

Concrete experienced case as basis

First, as the name of the method - moral case deliberation - already suggests, a concrete case is at the core of such a deliberation. According to specific philosophical roots of moral case deliberation, the concrete case to be discussed in the session has to be a case experienced by one of the participants of each separate session. It can be a case that the participant in question has experienced in the past or is still in the midst of the moment the session is taking place. Fictional cases or cases someone heard of but did not experience themselves are thus excluded. After recounting the case, the ethical dimension of the case is put into the spotlight by formulating an ethical question attached to the specific case or by identifying two opposing options A and B.

Inquiry into facts, assumptions and values

Second, during a moral case deliberation it is important to get facts, assumptions, and values very clear. The inquiry during a moral case deliberation is focused on the presented case in question and the identified ethical question. In a moral case deliberation it is crucial to continue to ask questions about what happened and who said or did what and why. One of the rationales behind this is to differentiate between assumptions, interpretations, and facts and especially to clarify the latter eventually. Another rationale is to subsequently identify values at stake in the specific case. Although the starting point would be the values held by the one who presented the concrete case, the values of other actors that play a role in the concrete case are part of the dialogue as well. In sum, through the moral case deliberation the relation between facts, assumptions regarding the facts and the underlying values will be clarified. Done thoroughly, this part of the ethical inquiry could provide a brief analysis of all relevant options to act on in the face of an ethical dilemma. Many alternative options to deal with a specific

case could be investigated against the background of their underlying values (Molewijk, 2014; Stolper, 2016; Weidema, 2014).

Dialogue instead of discussion

Third, the entire session is based on the principle of a dialogue rather than a discussion. The main principles of a dialogue are the equality of all participants regardless of their position, age or any other characteristic. Besides, it is important that all participants are committed to postpone judgements during the session and to talk as freely and as honestly as possible. Since many professional contexts are designed to exchange arguments in order to win a dispute by the means of discussion, it might be uncommon, if not difficult, for many professionals to apply the principles of a dialogue. This is not only a matter of observing certain rules during the session. In fact, the underlying mind-set and judgemental customs are at stake, as it is important whether participants have an opinion or judgement readily available, are open to other views and are able to pose open questions. Once properly applied, the principles of a dialogue can lift the group interaction to a higher level than most professional encounters (Bohm, 2014/1996).

Explorations of options to act

Fourth, part of the ethical inquiry during a moral case deliberation is to identify answers to the formulated ethical question and to explore potential options of action. This part of the deliberation is confined to the case in question as well and all participants are invited to answer the ethical question by themselves. Each participant is put in a position to reflect on what he or she would do, what values would be at stake, and determine what he or she would need as an individual, team, or organization to realize their individual choices. Collecting all the different considerations can not only enrich the understanding of the values at stake but also provide a comprehensive overview of different options to act and the values and downsides attached. In doing so, a broader perspective on the issue at stake can be reached. The reflection on a specific case often provides rich perspectives on that case that can be used to inform considerations on ethical issues beyond the specific case on a more abstract level. Where one individual case seemed to be part of the deliberation in the beginning, a more

general take on ethical issues related to the concrete case of the deliberation can be harvested in the end and enrich options to act (Kleinlugtenbelt and Molewijk (2011); Molewijk, 2014; Stolper, 2016; Weidema, 2014).

Guiding conditions

Fifth, several conditions, like the quality of the facilitator, the confidentiality of the deliberation and purity of the purpose of holding a moral case deliberation, have to be met to guarantee a true moral case deliberation. To start with, it is important to have a qualified facilitator when holding a moral case deliberation. An effective facilitator is not only skilled to run through the process and reach results, but would also be aware of potential pitfalls and would be prepared to handle trouble and emotions arising in the dialogue. The facilitator would also ensure that all conditions for a fruitful and free dialogue will be fulfilled. To meet the quality standards of a moral case deliberation it is important that the facilitators are properly educated. An assurance for their quality can be their certification by a recognized educational institution (Molewijk, 2014; Stolper, 2016; Weidema, 2014).

Another condition would be the issue of confidentiality. This implies that all thoughts shared during the moral case deliberation, as well as the content of the case and the attached ethical dilemma discussed, remain within the group. This is important to enable a free exchange during the moral case deliberation without fear of being quoted outside the moral case deliberation, being the subject of gossip or to be held accountable. Often participants agree unanimously to share the general topic with others, while others only feel comfortable to share some elements of the harvest when suggestions addressed to the organizational or professional context are at stake. The only reason to breach confidentiality would be the unlikely case in which a participant would present a case in which a serious crime has been, or is about to be, committed.

Last but not least, the purity of purpose implies that the use of moral case deliberation should be only driven by an open inquiry into a moral issue without predefined answers or strategic goals. Such goals or other hidden agendas, like unveiling or blaming certain behaviour, an upcoming reorganization or any other interest not related to the ethical inquiry should strictly be avoided.

Before turning to the reflection on applying moral case deliberation within the practice of counterterrorism, the experiences with moral case deliberation in the medical sector will be explored first.

General lessons from use of moral case deliberation in medical sector

Experiences in the medical sector found that holding a moral case deliberation can strengthen professionals in general: "Through the methodology and the codes of conduct of the moral case deliberation sessions, participants became more open-minded, constructive and still critical. A concrete example is the reflection on the conceptual and moral status of 'making an agreement' and on the process of decision-making in general" (Molewijk et al., 2008: 60). Similarly, the added value of moral case deliberations has been indicated in the related field of the inspectorate on health (Seekles et al., 2013). The explorative application of moral case deliberation to the practice of counterterrorism, however, would be unique as of now.

Moral case deliberation has been applied extensively in the medical sector. When discussing the relevance of this method of ethics support to the practice of counterterrorism, it is insightful to learn more about the general lessons from the use of moral case deliberation in the medical sector. First of all, it seems that moral case deliberation can be considered as an ethical conversation method that facilitated practical knowledge raised within the professional practice as a source of moral wisdom (Abma et al. 2009: 232). Second, the use of the dialogical practice in which professionals are fully involved in the process of reflection and analysis, turned out to be a powerful tool for empirical ethics as a cyclical process between empirical data and ethical theory (Widdershoven et al., 2009: 244). This practice enables an interactive learning process between theory and practice and marks the shift from external critique of practices towards embedded ethics and interactive ethics improvement (Abma et al., 2010).

For the use of moral case deliberation within the field of clinical ethics support an evaluation instrument has been developed, founded on literature review and interactive Delphi panels. The development of an evaluation instrument identified six domains suitable for measuring the outcome of moral case deliberation: enhanced emotional support, enhanced collaboration, improved moral reflexivity,

improved moral attitude, improvement on organizational level, and concrete results of the specific dialogue (Svantesson et al., 2014: 1).

Concrete experiences with moral case deliberation widely reflect aspects of the evaluation instrument and show the various contributions of this tool in dealing with ethical dilemmas (Dauwerse, 2014; Janssens et al., 2015; Spijkerboer, 2018; Stolper, 2016; Weidema, 2016). Moral case deliberation – and especially the dilemma method of moral case deliberation - both supports and structures the dialogical reflection process of the participants (Stolper et al., 2016: 8).

The general lessons can be summarized by seven observations: First, moral case deliberation helps in finding answers to concrete moral dilemmas professionals are dealing with. Second, participants of moral case deliberation learn how to differentiate between different perspectives when approaching a moral issue. Third, it is clear that moral case deliberation can improve decision making processes within the professional practices at stake. Fourth, moral case deliberation can support collective learning processes of professional practice. Fifth, through moral case deliberation cooperation and communicative skills are improved and strengthened. Sixth, the application of moral case deliberation empowers individuals, especially underrepresented individuals within professional practices. Last but not least, the more general insights raised through moral case deliberation can contribute to the development of policies in the professional field or guidelines of the professional practices at stake (Weidema and Molewijk, 2017: 95).

With the general lessons from the medical sector in mind, I will turn to the practice of counterterrorism. In the following section I will examine the philosophical roots of moral case deliberation in order to consider their relevance to the practice of counterterrorism at a later stage.

7.2 Philosophical roots of moral case deliberation

In this section I will identify and explain major philosophical roots of moral case deliberation. Based on these insights, I will be able to explore the relevance of the method of moral case deliberation to the practice of counterterrorism in the following section. When turning to major philosophical roots it is important to stress that holding a moral case deliberation demands neither the use of a philosophical discourse or language nor specific knowledge of philosophy or ethics. What is needed is a concrete case, a qualified facilitator and participants to the moral case deliberation session. At the same time, the kind of moral case deliberation which is practiced in this study, as a specific kind of ethics support, has philosophical roots that can inform interested participants about underlying philosophical viewpoints of moral deliberation. Further engagement with the philosophical roots of moral case deliberation can inspire those involved in ethical inquiries as they can get more acquainted with philosophy as science as opposed to their engagement in practical wisdom during the moral case deliberation. The bottom-line, however, remains that knowledge of these philosophical roots of moral case deliberation is not necessary to participate in a moral case deliberation.

Roughly speaking, there are four philosophical roots of moral case deliberation as currently applied in Europe (Molewijk, 2014). These are pragmatic hermeneutics (Gadamer, 1960), practical wisdom going back to *phronesis* of Aristotle (Shotter and Tsoukas, 2014), Socratic inquiries regarding claims on knowledge (Nelson, 1994; Kessels, 1997) and the principles of dialogue (Bohm, 2014/1996). These four roots will be explained and related to the practical setting of moral case deliberations.

Pragmatic hermeneutics

Pragmatic hermeneutics implies, first and foremost, that the interpretation of experiences depends on time, context, and subject. Hermeneutics considers experiences as an epistemological source of morality (Widdershoven and Molewijk, 2010). Therefore, the validity of interpretations and opinions is relative

and goes automatically along with an openness regarding other interpretations and opinions. Ideally, this openness and diversity of interpretations leads, in a certain context and at a certain point of time, to a melting or fusion of different horizons in which actual, personal and historical horizons fuse into an overarching horizon (*Horizontverschmelzung*) (Gadamer, 1960). The focus on concrete cases within a moral case deliberation mirrors the focus on experiences in a specific context and period of time which can strengthen the real world use of ethics support. At the same time, it is inherent to moral case deliberations to engage in an open exchange from different perspectives and to explore the extent to which a common perspective or way forward could be prepared.

Practical wisdom (phronesis)

The notion of practical wisdom, going back to the concept of *phronesis* of Aristotle, can be considered as the second philosophical root of moral case deliberation. As described above, *phronesis* can be considered – besides science (*techne*) and craftmanship (*episteme*) - as one of the sources of knowledge, putting practical wisdom of individual practitioners at the core (Flyvbjerg, 2011). Here the expertise and wisdom of practitioners is seen as a crucial source of inspiration and guidance. Practical wisdom is generated by professionals and is nurtured and reproduced by their professional experience. Being part of a dilemma and representing a position in a concrete situation makes use of the potential power of practical wisdom. The perspective of practical wisdom is reflected within a moral case deliberation by involving professionals themselves instead of falling back on scientists or experts (as other sources of wisdom). Ideally the professionals come from different hierarchical levels, as only their individual and professional contributions count, and status, rank or standing within the group are neglected.

Socratic inquiry

Third, the Socratic way of challenging assumptions and knowledge claims play a key role in the Socratic attitude of the facilitators of the moral case deliberations. The main point of reference is the characteristic behaviour by Socrates, who reportedly challenged foundations of knowledge and opinions. By continuing to

ask questions, Socrates challenged the assumptions and positions of others and eventually led them to find the right answers themselves. Reconsidering opinions and positions contributes to a fruitful dialogue and critical examination of perspectives on how to handle dilemmas. During the inquiry into the facts, assumptions and values at stake in a specific case, the Socratic method of asking questions and finding questions is both present and instrumental. The Socratic idea of obstetrics is illustrative for this approach. Obstetrics is the art of midwifes in facilitating a mother to give birth to a child. The mother of Socrates was a midwife and, according to some scholars, he may have been influenced by her. While she helped others to give birth to a child, he stimulated others to give birth to knowledge based on their own thinking (Sluiter, 2014: 61). Transferred to the field of moral case deliberation, this implies that a moral case deliberation is not about bringing an ethicist in but about drawing thoughts and ethical positions out of the individual participants. The practical wisdom of the participants will be at the core of the moral case deliberation.

Dialogue

Fourth, the dialogical character of moral case deliberations can be traced back to thoughts on dialogue as developed by Bohm (Bohm, 2014/1996). An open attitude towards others' expressions, as well as an honest willingness and thorough means of exploring the views of others, are at the core of a real dialogue. Written before the impact of social media was felt in society, Bohm located the roots of many conflicts and problems in superficial listening, the lack of dialogue, and the predominance of winning all battles and taking down opponents in discussions. In a moral case deliberation it is key to establish a dialogue among the participants instead of a discussion. A dialogue ensures the free exchange of open thoughts among equals who postpone their judgements longer than normal in order to come up with a nuanced and well-thought-out position. The intended effect of having a dialogue is indeed to discover individual thoughts, assumptions and values, and to strive towards finding answers to ethical questions.

The relevance of these philosophical roots of moral case deliberation for the implementation of this tool of ethics support within the practice of counterterrorism will be explored in the next section.

7.3 Relevance of the method of moral case deliberation to counterterrorism

In this section the philosophical roots of moral case deliberation will be discussed in the light of their potential relevance as far as application within the practice of counterterrorism is concerned. The relevance will be considered based on the insights raised so far in this thesis about the context and practice of counterterrorism on the one hand, and what is known in the literature on the other hand (Reding et al., 2013; Weidema and Molewijk, 2017). The discussion will follow the four major philosophical roots as presented in the previous section.

Hermeneutics and concrete terrorism cases

To begin with, pragmatic hermeneutics responds well to the importance of contexts to be considered in each single concrete case in counterterrorism. The practice of counterterrorism is predominantly linked to different cases in which potential terrorist individuals and terrorist networks constitute potential threats. The case-based counterterrorist practice corresponds with the case-oriented philosophical underpinnings of moral case deliberation in which interpretations are dependent on time, context and subject.

In addition, there is a diversity and multiplicity of teams and institutions involved in counterterrorism. Professionals operating in those teams and institutions will be eventually in need of a common vision, threat assessment or operational plan to counter potential threats. Developing such a common approach needs openness towards other interpretations and opinions, as the validity of separate interpretations and opinions is relative to the individual. The potential of melting or fusion of horizons from the philosophical perspective is mirrored by the relevance of the fusion of intelligence and information. The latter is often realized through all-source threat assessments, like those performed by counterterrorist fusion centers as part of the coordination community presented in Chapter 6 (Abels and De Roy van Zuijdewijn, 2017; Bakker and De Roy van Zuijdewijn, 2015; Persson, 2013) Running a moral case deliberation would therefore offer fertile soil to bring insights to the practice of counterterrorism.

Phronesis and practice of counterterrorism

The concept of practical wisdom (*phronesis*) implies, second, a theoretical perspective that is relevant for the practice of counterterrorism. As has been clarified in Chapter 5, there is a whole range of ethical issues counterterrorism professionals are facing. Their role and expertise is often crucial in finding the right balance or solution in concrete ethical dilemmas. Having practical wisdom at the core of moral case deliberation offers a rich potential for applying this method of ethics support to the practice of counterterrorism. The potential fruitfulness of *phronesis* in counterterrorism would be in contradiction with the general role of *phronesis* in society. As mentioned above, *phronesis* is nowadays not only largely underrepresented in the realms of social sciences, but also in societies in general. A striking example is the lack of attention devoted to professionalism in general (Sennett, 2009). Nevertheless, the philosophical root of *phronesis* offers a rich potential to discover and encounter practical wisdom within a moral case deliberation and benefit from it.

Socratic inquiry and counterterrorism reality

Third, the importance of a Socratic inquiry into assumptions and claims on knowledge seems to be, to a large extent, tailor-made for the practice of counterterrorism. In this practice, working with incomplete information and different hypotheses are part of daily business. This daily routine goes along with the necessity to challenge, check and re-check assumptions available by asking questions and applying the principle of 'devil's advocate'. In other words, this conceptual underpinning of moral case deliberation seems to provide a rich potential for the practice of counterterrorism.

At the same time, it has to be remembered that the time sensitivities that particularly shape the practice of counterterrorism can correspond less with the Socratic way of challenging assumptions and claims on knowledge. This can be due to a lack of room for reflection or due to a reluctance to turn operational realities upside down and potentially trigger multiple future pressures. However, the time constraints of counterterrorism professionals are not always present. After a period of stress and unrest there is normally enough time to get detached from stressful operational practices. This leaves enough room to engage in a

Socratic style of practical ethics and to consider moral case deliberation as a potentially useful method in the practice of counterterrorism.

Dialogue and counterterrorism dynamics

The notion of dialogue seems, fourth, to be less intrinsically related to the practice of counterterrorism. Although a dialogue might be ideally useful to set the different cases straight and to come up with the "right" assessment or operational strategy, daily practices, due to time constraints, are rather less receptive to dialogue. Professional discussions under time constraints in multi-institutional settings with different kinds of secrets known to different kinds of professionals do not constitute an environment conductive for dialogue (Reding et al., 2013). In spite of that, there are indications from the interviews with counterterrorism professionals in Chapter 6 that the application of dialogue through moral case deliberation could be of benefit to the practice of counterterrorism. The interviews have shown a willingness of counterterrorism professionals to reach out on different levels in order to reflect on ethical issues. In spite of the time constraints, however, there are some prospects for dialogue within the practice of counterterrorism as time for reflection can be organized. The use of moral case deliberation within the often hectic and time constrained health sector reflects those prospects.

Overall assessment

Three of the four philosophical roots seem to be relevant to the practice of counterterrorism. The importance of context and concrete cases, the application of the Socratic approach of knowledge and the drive towards practical wisdom are all reflected in the philosophical roots of moral case deliberation and the practice of counterterrorism. The fourth philosophical root of moral case deliberation, dialogue, is not as strongly reflected in the practice of counterterrorism at this time. This is mainly due to the structural lack of time for reflection and exchange when ethical issues occur in practice. As far as the professionals' drive of strengthening their internal goods is concerned, however, it is likely that time-consuming dialogue can be of use during downtime like in the health sector.

The philosophical roots of moral case deliberation, their characteristics, as well as their relevance to the practice of counterterrorism have been summarized in Figure 4.

Figure 4

Philosophical roots of moral case deliberation, characteristics and relevance to practice of counterterrorism

Philosophical roots	Characteristics in general	Relevance to counterterrorism
pragmatic hermeneutics	• experience as source for moral epistemology • interpretation of experiences depends on time, context and subject • validity of interpretations and opinions is relative • an openness regarding other interpretations and opinions • melting or fusion of different 'horizons'	• responds well to importance of contexts of concrete cases • reflects diversity and multiplicity of teams and institutions involved • offers outcome of common vision, challenging assumptions before delivering common assessment • corresponds with relevance of fusion of intelligence and information
practical wisdom, phronesis	• expertise of practitioners crucial in finding the right balance or solution • being part of a dilemma rather useful than disturbing	• corresponds with the responsibilities of practitioners as the practice of counterterrorism evolves
Socratic way of challenging assumptions and claims on knowledge	• continuous challenge of assumptions and claims on knowledge • reconsidering opinions and positions • fruitful dialogue, harvest	• fits with the necessity of perpetual questioning of assumptions given the incompleteness of information available • fits less with time sensitivity of CT-operations but off-peak moments offer sufficient room
Dialogue	• open attitude • non-competitive orientation	• less receptive to decision and action-oriented part of CT-practice under time constraints but off-peak moments offer sufficient room

7.4 Conclusions

In this chapter, the nature of moral case deliberation has been explained and its relevance to the practice of counterterrorism in the Netherlands has been explored. It is important to note that there is no other method of ethics support that is applied in the practice of counterterrorism in the Netherlands thus far. The introduction of the method of moral case deliberation within the practice of counterterrorism can be useful because of three reasons. First, the use of moral case deliberation has been suggested by a study into the methods of handling ethical problems in counterterrorism. Second, the added value of moral case deliberation has been proven in the medical context. Third, three of the four philosophical roots of counterterrorism fit well with the practice of counterterrorism: the focus on contextualizing concrete cases on a hermeneutical basis, the important role given to practical wisdom (*phronesis*) and the Socratic way of challenging assumptions and claims on knowledge. One philosophical root – dialogue – responds less to the time sensitivity of counterterrorism but still has the potential to be useful in downtimes situations. In sum, there is fertile ground within the practice of counterterrorism to have moral case deliberation implemented as a method of ethics support.

With the findings of this chapter in mind, it will be interesting to observe if and to what extent the assumptions regarding the potential usefulness of moral case deliberation will materialize in practice. In the next chapter, a first explorative application of moral case deliberation in a specific part of the counterterrorism practice in the Netherlands will be discussed.

8. Experiences with Moral Case Deliberation as ethics support within the Dutch practice of counterterrorism

This chapter deals with the explorative application of moral case deliberation within the Office of the Dutch Coordinator for Counterterrorism and Security in the Netherlands. The practice of counterterrorism can be characterized by its limited accessibility due to the general secrecy surrounding counterterrorism. Therefore, reporting about the experiences of moral case deliberation within the practice of counterterrorism is rather difficult and so far unique. The methodology of the explorative application of moral case deliberation within the practice of counterterrorism at the Office of the Dutch Coordinator for Counterterrorism and Security has been explained in Chapter 2. Currently, academic research within the practice of counterterrorism is also by definition related to a limited research population. Taken together, it makes this research, and especially the analysis of the effects of the application of this tool of ethics support, rather explorative in nature. The research question to be answered in this chapter is: What is the added value of applying the method of moral case deliberation among counterterrorism professionals in the Netherlands to the practice of counterterrorism?

In order to answer this question, the following aspects will be addressed in this part of the chapter. First, the pilot study of a series of moral case deliberation sessions within the Office of the Dutch National Coordinator for Counterterrorism and Security will be briefly recounted. Afterwards, the findings of the explorative application of moral case deliberation will be presented and analyzed based on the reported experiences of the counterterrorism professionals. Finally, the findings will be discussed in order to answer the research question of this chapter.

8.1 Moral Case Deliberation within the Dutch National Coordinator for Counterterrorism and Security

The implementation of moral case deliberation addressed in this part of the chapter took place within the Office of the Dutch National Coordinator for Counterterrorism and Security in 2016. The history of the organization's interests in ethical issues, as well as the chosen research methodology, limitations of this research and the research ethics of this research has been discussed in Chapter 2.

Context of study

The initiative of this study is - as far its announcement is concerned -linked to the wider organizational developments within the Office of the National Coordinator for Counterterrorism and Security and the department of the Ministry of Justice and Security. This leads to the inclusion of this research initiative into the broader organizational objectives which were when conducting the research the following:

1. explicitly address ethical dilemmas at work,
2. encourage collaboration within and between organizational units,
3. promote reflection in the workplace and within the administrative hierarchy,
4. contribute towards an open and critical work culture,
5. strengthen the link between organizational units and the National Coordinator for Counterterrorism and Security.

From the aforementioned goals, only the first, third and fourth goal are explicitly related to this research initiative and will be covered in this research. The other goals are related to the broader organizational developments and are foremost mentioned to demonstrate a coherent management strategy on the development of the organization and its human resources.

The implementation of moral case deliberation to be discussed here takes place in the first half of 2016. In January 2016, all circa 350 employees of the Office at the Dutch National Coordinator for Counterterrorism and Security located in The Hague in the Netherlands received an invitation to register for a dilemma-workshop. Calling the sessions a dilemma-workshop instead of moral case

deliberation was a deliberate choice as the method was largely unknown at that time. Another rationale was that the wording 'dilemma-workshop' was considered to be more neutral and less value loaded that the wording of 'moral case deliberation'. This neutral wording was chosen to attract as many potential participants as possible. There was no pre-set amount of workshops, as the workshops were organized based on the registrations and the availability of the registered professionals.

The text of the invitation is displayed in the box below and reflects the set-up of the setting as described above. The original invitation was in Dutch and has been translated for this thesis into English.

Invitation to join moral case deliberations

"From: Michael Kowalski

Sent: Monday 11 January 2016 9:02

To: All employees of the NCTV

Subject: invitation dilemma workshops 2016

Dear colleagues,

In 2016 a series of dilemma workshops will be offered to the entire organization. In such a dilemma workshop ethical dilemmas from our work will be further scrutinized. This will be done by using a method that is already widely implemented by and among professionals within the health care sector: moral case deliberation. The workshop will be facilitated by colleagues of ours who are certified facilitators of this method by the Free University Medical Centre (VUMC) Amsterdam.

In a small group you will investigate a concrete ethical dilemma from your work. This will take place in a closed setting and last approximately 2.5 hours. Everything shared during a moral case deliberation will remain confidential. In 2015 there have been the first positive experiences with this method at the Surveillance, Protection and Civil Aviation Department as well as at the former Risk and Threats Department. The objective is to strengthen all together our dealings with ethical dilemmas. The method seems also to stimulate critical thinking and reflection on the work floor, an added bonus.

By the way, the dilemma workshops will not only be held but also evaluated. At the end of the series of workshops it will be looked into the benefits we experienced and into what is needed to deal in a good way with ethical dilemmas in the future. At the same time the entire trajectory will be evaluated scientifically, since this is a quite unique initiative within the international field of security and counterterrorism that others might learn from as well. The implementation is in the trusted hands of a NCTV-employee who is seconded in part-time to the Center for Terrorism and Counterterrorism of Leiden University.

You are warmly welcomed to participate in one or more of the dilemma workshops. You can register via e-mail address. For questions you can contact NCTV-colleague Michael Kowalski, mobile phone number. Based on all registrations the data of the series of workshops will be planned.

With kind regards,

Michael Kowalski"

8.2 Research findings and analysis

Findings based on questionnaires

This chapter is organized thematically and will present the findings accordingly. This implies that the presentation of the findings will not follow the sequence of items as presented on the questionnaire from one to nine. The presentation is clustered thematically to give a better insight into the effects of the moral case deliberation. The difference between the sequence of the items on the questionnaire and the sequence of the presentation here is not of a fundamental nature. The idea behind the sequence of questions on the questionnaire was to collect participant impressions directly after each session. The rationale behind the sequence of the following presentation is to facilitate a clear image of the added value of all the sessions held as perceived by the participants of the moral case deliberations.

The five thematic clusters are as follows. First, it will be assessed how many of the respondents are working in the field of terrorism. Second, participant appreciation of moral case deliberations as a method, and of the individual moral case deliberation itself, will be described. Third, the extent to which participants of the moral case deliberations have experienced ethical dilemmas before the experience of the moral case deliberation and how they dealt with these ethical dilemmas will be clarified. Fourth, the participants' major insights related to the dilemmas based on the sessions will be collected and put into perspective. In addition, it will be checked if and how the moral case deliberation in question changed the participants' views in dealing with dilemmas. Last but not least, participants' lessons provided by other open comments within the questionnaire will be presented.

Description of the participants of moral case deliberations

This research examines the added value of moral case deliberation to the practice of counterterrorism. The organized sessions, however, were open to all employees at the National Coordinator for Counterterrorism and Security, including those not working in the field of counterterrorism. In total 53 professionals participated in the moral case deliberations. Each of them participated one time in a moral case deliberation. 43 of them returned the questionnaire. In order to determine whether the input provided through the

questionnaires is related to counterterrorism and therefore useful at all for this research, this issue is addressed first. The vast majority, 86 percent or 37 out of 43 respondents, "are working in the field of counterterrorism or (partly) related to counterterrorism" (Question 1 of questionnaire). Fourteen percent, or six out of 43 respondents, are not working in that field. One respondent did not provide information on that question at all. In sum, there appears to be enough responses from counterterrorism practitioners to give a follow up on the results provided. In the following analysis, the focus will be on those working in the field of counterterrorism, however, if relevant for the overall discussion, the responses of those not employed in the field of counterterrorism will be included in a transparent way.

Appreciation of moral case deliberation

The only exceptions to the open character of the questionnaire were the questions measuring appreciation for the moral case deliberation as a method in general and for the particular moral case deliberation the respondent had joined. The question regarding the appreciation of moral case deliberation as a method was as follows: "How do you rate moral case deliberation as a method? (on a scale of one to five, 1 very good, 2 good, 3 neutral, 4 poor, 5 very poor)" (question 8 of questionnaire). The average response of those working in counterterrorism was 1.65. If the responses of those working in the fields of national security and cybersecurity are included, there average appreciation remains 1.65. The question on the appreciation of the moral case deliberation session the respondent participated in, asked: "How useful did you find the moral case deliberation? (on a scale of one to five, 1 very useful, 2 useful, 3 neutral, 4 not particularly useful, 5 not useful at all)" (question 5 of questionnaire). The average response of those working in counterterrorism was 1.59. If the feedback of the non-terrorism respondents is included, the average remains at this level. These figures hint toward quite a positive evaluation of moral case deliberations, both as a methodology in general and as individually experienced sessions.

Past experiences with ethical dilemmas

Since experiencing ethical dilemmas can be seen as a condition in order to participate in moral case deliberation in the first place, two questions from the

questionnaire asked: "Did you experience ethical dilemmas in your work before joining the moral case deliberation, if yes, what kind of ethical dilemmas? If applicable, how did you deal with those dilemmas?" (questions 2 and 3 of questionnaire). A vast majority, 89 percent, of respondents had experienced ethical dilemmas in the past. Of those involved in counterterrorism, 33 answered 'yes', two 'no', and two did not comment on this question. The majority of thirteen reached out to colleagues when dealing with a dilemma. A considerable group of seven respondents sought dialogue with management. A smaller group of four respondents addressed the ethical issue on the individual level, either by a self-dialogue ("*monologue intérieur*", respondent 23) or by following a "personal compass" (respondent 39). Also interesting were two other options mentioned; weighing the interests at stake (respondent 35) or "seeking guidance by the judicial framework" (respondent 22). Last but not least, it is also striking to realize that quite often (seven times) it was mentioned "to find a way to raise an issue and discuss it".

Insights raised by moral case deliberation

What seems crucial for this research is to gain an understanding of what the moral case deliberation meant to the participants. This can help in determining the added value of moral case deliberations. The questions related to the potential added value of moral case deliberation are: "Did the MCD change your view on dealing with ethical dilemmas? … What is the most important insight of the MCD?" (questions 4 and 6 of questionnaire). More than half of the respondents involved in counterterrorism (59 percent) said that the moral case deliberation did change their view on ethical dilemmas. Twenty-two respondents answered 'yes', 14 'no' and 1 respondent did not answer the questions. The latter remarked that he or she was already familiar with moral case deliberation as a method. Similarly, of those answering 'no', one respondent remarked that they were already familiar with the method. One of the respondents answering 'no' stated that their view was not changed profoundly yet. Five respondents saying 'no' added remarks that they feel reconfirmed in the need to have such sessions (respondents 4 and 15), that they realize how different people think about an issue and that there are more possible solutions to an ethical problem than evident at first sight (respondents 19, 21).

What insights have moral case deliberations provided for those twenty-two participants answering 'yes'? Eight different insights can be identified on the basis of a qualitative analysis of the written responses. In this analysis, insights raised by at least three respondents will be considered.

First, 'recognition' of the fact that others also experience ethical dilemmas was the most prominent issue. The participants in the session found it helpful to discover that virtually all of them encounter ethical dilemmas. Or, as one respondent, put it:

> *"The broadening of a personal dilemma to a collective dilemma was liberating" (respondent 9).*

Second, closer examination of ethical dilemmas usually proved to be an 'eye-opener'.

> *"The reality check that everyone deals with a number of forces that can really put you in the position where doing the 'right' thing can have a lot of (negative) consequences" (respondent 16).*

Participants found it useful to discover different points of view and personal values and to examine the complexity of a specific case in greater depth in order, as it were, to cut to the heart of the dilemma.

Third, the sessions also proved 'inspirational'.

> *"It is so inspiring to realize that ethical dilemmas at work, that look insignificant at first glance, can indeed be of impact" (respondent 6).*

The experienced inspiration can be of benefit to the ethical inquiry as such, but also to the capacity of inquiries in general. The generated creative energy can be applied to deal with ethical issues.

Fourth, the participants' 'room to maneuver' was also increased.

> *"Deepening an issue provides me more angles and potential perspectives to act" (respondent 30).*

A moral case deliberation helped to provide an idea of the various perspectives for action available, thus increasing the room to maneuver in the specific situation. In the end this might lead to a broadening of the practitioners' professional repertoire.

Fifth, 'experiencing personal support and backup from colleagues' was also mentioned.

> *"The added value of doing moral case deliberation is the collective effort experienced together with your colleagues about ethical issues"* (respondent 42).

Participants felt supported in their ethical struggles, that they had had their own values confirmed and bolstered by the sense that an individual dilemma can also be a shared ethical dilemma and that a collective effort to talk about an individual dilemma can be powerful.

Sixth, the moral case deliberations were also seen as 'contributing to the work culture'.

> *"Talking about ethical dilemmas is important for the culture of our organization. It also helps to prevent problems in the long run for both employees and employer"* (respondent 9).

Dealing with dilemmas was found to be a key element of the professional culture and an area requiring further attention. Constantly discussing dilemmas and making them open to debate among colleagues, as well as between staff members and line managers is part of this.

Moreover and seventh, moral case deliberations were also seen as helping to raise the quality of the profession.

> *"It is a necessity for the quality of the employees and their work to stay in dialogue about ethical dilemmas"* (respondent 31).

Constant attention to ethical dilemmas was seen as conditional to the quality of the work and the quality of individual members of staff.

Finally, the 'importance of ethical inquiry' itself became clear.

> *"The exploration of a problem under reflective conditions provides insight into what this issue really is about. Great to be engaged in such a self-inquiry" (respondent 29).*

Participants found that it takes energy to first distinguish practical dilemmas from ethical ones and then to cut to the heart of an ethical dilemma. However, over the course of a single moral case deliberation, it emerged that an ethical question worded in insufficiently clear terms can also result in a less valuable moral case deliberation.

The insights reportedly raised by moral case deliberation and their importance to counterterrorism professionals have been summarized in Figure 5.

Figure 5

Insights reportedly raised by moral case deliberation

Insights	Importance
Recognition of ethical issues	Empowerment, shared responsibility
Eye-opener	Raising ethical awareness
Inspiration	Contribution to creativity
Increasing room to maneuver	Broadening professional repertoire
Experiencing personal support	Empowerment, emotional stability
Contributing to an organizational culture	Upholding necessary conditions
Improving of quality of profession	Broadening the concept of professionality
Ethical inquiry	Supporting ethical capacities

Suggestions for future ethics support

The participants in moral case deliberations were also asked for suggestions for future support in dealing with ethical dilemmas, in light of this first use. The question posed was: "What would you recommend regarding the role of ethics within your organization?" (question 7, questionnaire). The answers given fall into five categories. The first and most frequently mentioned suggestion concerned repeating the moral case deliberation in the workplace. The participants would like staff members and line managers to be given the opportunity to participate in a moral case deliberation more often or even on a regular basis, facilitated by an expert in the facilitation of moral case deliberations. Although this could be done as part of the regular departmental consultations, it was also due to the very fact that the discussions included the management level that caused many participants to value them so highly. Establishing links between organizational units could also increase confidence.

A second suggestion concerned a wish to have ethics support in general as a standard practice. According to participants, moral case deliberation should become part of the structure within the National Coordinator for Counterterrorism and Security and allowed the appropriate amount of time, space and supervision. Another suggestion made by two respondents was to appoint an ethicist within the National Coordinator for Counterterrorism and Security. In addition, one respondent raised the suggestion to consider other moral consultative structures, notwithstanding the appreciation of the moral case deliberation method.

Third, there was a clear call for a 'secure culture' within the National Coordinator for Counterterrorism and Security. Such a culture implies that employees feel free to share their thoughts and concerns without fear of being judged or punished based on their contributions to a dialogue. For many, this is a matter of maintaining the status quo, since such a culture already exists. At the same time, it has become evident that a secure culture requires constant maintenance.

Fourth, there was the request for an ethical reflection method for use during a crisis situation. Initial introductions to moral case deliberation clearly demonstrated that this is a time-intensive method which could only work during quiet moments when a shortage of time is not an issue. Yet, a crisis situation is

when ethical reflection is required most. In principle, the core of moral case deliberation is undoubtedly a suitable method in this regard. An adapted step-by-step plan could make it unequivocally suitable for a crisis situation and thus enhance the ability to deal with a crisis situation. Such a plan could consist of a shortened version of a moral case deliberation or a moral case deliberation facilitated at a higher speed than normal.

Fifth, the personal added value of moral case deliberation and the side effects were also addressed. Discussing ethical dilemmas can put participants in a vulnerable position and can cause psychological harm. This should be borne in mind not only when conducting moral case deliberations but also during ethics education in general.

Other observations and comments

Within the questionnaire, participants of moral case deliberations could also communicate other suggestions in the last and final question of the questionnaire: "Are there any other observations or comments you want to share?" (question 9, questionnaire). In total, sixteen observations or comments were shared, out of which fourteen were from respondents from counterterrorism. Four colleagues expressed support for this initiative and suggested that "it is a good initiative that fits very well with the National Coordinator for Counterterrorism and Security" (respondent 30), it would be "good to be repeated" (respondent 38) or if the moral case deliberation could even be done "periodically, perhaps even compulsory" (respondent 37). Three respondents reflected their appreciation for the moral case deliberation. It was considered as "a nice talk in an open atmosphere" (respondent 2), "a good way to have a conversation with each other" (respondent 13) and "useful to do it in a setting across the National Coordinator for Counterterrorism and Security, with colleagues from other units" (respondent 1). Three comments were related to the ethical complexity. One respondent felt uneasy "due to the complexity of the issue that feels like a heavy burden" (respondent 40). Another respondent stressed, based on previous experiences with the method, the importance of communicating the outcome of the dilemma only at the very end of the meeting in order to stimulate an optimal ethical reflection on an individual basis (respondent 43).

Furthermore, it was mentioned that it is difficult to keep judgements out of the deliberation, and that some can feel vulnerable providing an individual dilemma for deliberation (respondent 24). Four single comments were made about either having a shorter introduction (respondent 27), recalling that an ethics deliberation can also "be done quite quick and have effect at the same time" (respondent 28) and, that it was "a good facilitation" (respondent 29). The main messages of appreciation for the moral case deliberation and support for institutionalization fit with expressions made in other sections of the questionnaire.

8.3 Discussion

In this section the preliminary findings of the explorative pilot study on moral case deliberation will be discussed. It is has to be stressed again – as also addressed in the section on research limitations – that the findings are related to the limited testing of the method of moral case deliberation within the office of the National Coordinator of Counterterrorism and Security in the Netherlands. Nevertheless, the explorative analysis of the findings might be relevant for the wider field of counterterrorism.

Relevance of ethics of counterterrorism

First of all, it seems that the insights gained from the counterterrorism professionals reflect the inherent ethical character of counterterrorism. The experiences from the moral case deliberations indicate, like the interviews before, that the majority of the counterterrorism professionals involved in this research experience the ethical character of counterterrorism in their professional practice. Concrete ethical dilemmas counterterrorism professionals are facing, however, are mostly not as complex and extreme as the case of a hijacked airliner as presented in the beginning of this thesis. The ethical dilemmas they are mostly facing occur during routine activities, rather than exceptional and extreme cases. Although many of the activities of counterterrorism professionals might look rather like ordinary office work, those rare and extreme issues do still exist. Within the workforce of the National Coordinator for Counterterrorism and Security for example, there is a duty officer who can be tasked day and night to prepare a decision in the case of a potentially hijacked airplane. Another observation is that both daily and exceptional ethical issues shift over time as the terrorist threat and the context in which the threat takes place continue to evolve and change.

Usefulness of typology of ethical issues

Second, an analysis of the answers to the questionnaires results in the suggestion that the experiences of counterterrorism professionals with ethical issues seems to a large extent fit well with the typology of ethical issues proposed in the theoretical section in Chapter 5. Professionals face ethical issues

that are either situated on the structural level, the political level, the professional level or the personal level, or a combination of levels like the structural and political level on the one hand and the professional and personal level on the other. At the same time the analytical differentiation between levels remains a constructed reflection of the much more complex reality that cannot be grasped in its entirety by theoretical dividing lines of a typology. Given the fact that the differentiation of the proposed typology has been largely reflected in the particular practice of counterterrorism of this research, the typology can be considered as useful. It not only shows the diversity of ethical issues to be addressed by counterterrorism professionals. It also contributes to an explanation of how and why counterterrorism professionals are struggling with ethical issues. In addition, the proposed typology offers different potential angles to promote and support internal goods in the practice of counterterrorism. Ethical issues occurring at the professional or personal level require different strategies to be addressed than ethical issues existing at the political or structural level as the latter remains outside of the primary circle of influence of counterterrorism professionals.

Compromise between principles in practice

Third, another observation from the empirical findings is the apparent engagement of counterterrorism professionals in striving towards compromise. Professionals engaged in a collective dialogue about ethical issues turn out to explore different options to deal with a specific ethical dilemma, very often aiming at the ideal option supported by the entire group. The experiences of counterterrorism professionals with ethical issues reflect the debate in the theoretical part of this thesis. In Chapter 4 it has been suggested that there is no single key ethical approach that offers satisfactory guidance in ethical affairs. It is rather a compromise between opposing principles and underlying values emanating from observing obligations (deontology) on the one hand and serving goals (consequentialism) on the other. Training of virtues in the practice of counterterrorism can imply keeping an open attitude, challenging assumptions, rethinking disputes and establishing a synthesis or new middle position in a conflict between two or more opposing principles and their underlying values.

By applying virtue ethics the practical wisdom of the professionals can be explored and used to clarify and empower the internal goods of the practice of counterterrorism. Engaging in moral case deliberation as one form of potentially relevant training for practical wisdom can contribute to the practical development of virtues as suggested by the explorative findings of the thesis. Given the lack of institutional infrastructure to facilitate such training in the field of counterterrorism, there is room to create and maintain an environment conducive to ethics support. This can be achieved by means of prolonging initiatives of ethics support on the work floor or by encouraging management to incorporate the handling of ethical issues in their development and training.

Added value of moral case deliberation within counterterrorism

Fourth, the preliminary findings of this explorative pilot study indicate that the introduction of moral case deliberation within the practice of counterterrorism generates added value. The overwhelming response to the moral case deliberations was one of appreciation for the individual sessions attended, as well as of the method of moral case deliberation itself. For just over half of all respondents, the moral case deliberation changed the way they looked at ethical issues. According to the respondents, many important insights have been gained. These range from recognition of the ethical dimension of the work and personal inspiration to an expansion of the room to maneuver in ethical and professional navigation. In the end, participants felt both personal and professional support when dealing with ethical issues. The whole range of insights raised can be considered as a consequence of implementing the pilot of testing moral case deliberation as a tool of ethics support. Although some of the insights tend to be related more to organizational issues, like culture or room for maneuver, all insights seem to be more or less related to the internal goods of the practice of counterterrorism. At the same time insights like inspiration, personal support and professional quality are linked to the promotion of external goods as well.

Comparative reflection on findings about moral case deliberations

Fifth, a comparative reflection on the preliminary findings of this explorative research with earlier findings in the field of health care suggests some common patterns. In the field of health care it has been concluded that participating in

moral case deliberations mostly contributes to changes on the personal and inter-professional level (Haan et al., 2018) and affects different aspects of professional collaboration like more open communication, better mutual understanding, and seeing situations from different perspectives (De Snoo-Trimp et al., 2017). Furthermore, it has been established that ethics support can contribute to an increase of insights into moral issues, and an improved cooperation among multidisciplinary team members (Hem et al., 2015). The preliminary insights identified after the explorative of moral case deliberation within the practice of counterterrorism suggest some similarities. Striking examples are the suggested personal benefits, the increasing professional room to maneuver, the contribution to organizational culture, professionalism, and capacities to deal ethical inquiries. These apparent similarities might be a further indication that moral case deliberation as form of ethics support can be of personal and professional benefit not only to practices in the health sector but also to the practice of counterterrorism. However, further research is needed to substantiate this preliminary indication.

Role of professionalism

Sixth, within many moral case deliberations throughout this research, it was stated that ethics deliberations should be, in the eyes of many counterterrorism practitioners, part of their professionalism. Such an understanding of professionals embraces the fostering of internal goods as goods of excellence. Framing and researching the practice of counterterrorism can become a foundational stepping stone to advance the craftsmanship of counterterrorism practitioners. The contribution of Sennett as developed by the concept of craftsmanship can be applicable here and in future research as well (Sennett, 2009). This would imply connecting the perspective of professionals based on their practical wisdom with an exploration of ethical values of their professional practices.

Among all suggestions, there was one very prominent recommendation pleading to repeat moral case deliberation sessions on a regular, multidisciplinary basis. Many suggestions included a call for institutionalizing moral case deliberation and ethics support in general. Since this was the first involvement in a moral case deliberation for most of the participants, the analytical observations remain of an

explorative nature.

Organizational culture and training

Seventh, the findings of this research indicate that a secure culture to address ethical issues is important. Organizational cultures reflect a set of basic assumptions that are expressed through values (Lawton et al., 2013) and result in the reality of a professional practice. The governing organizational culture can suggest an ethical climate that implies a secure culture as mentioned above that could be conducive to an open dealing with ethical issues. As organizational cultures can be raised and nurtured by regular training, it can be considered as useful to broaden the toolbox of ethics support beyond moral case deliberation. In other societal fields training of all layers of an organization has been identified and implemented as tool of ethics support (Van Baarle, 2018). This research has shown that ethics training in the field of counterterrorism is rather underdeveloped. Developing a training curriculum could contribute to the strengthening of ethical capacities of counterterrorism professionals, or to put it differently to their ethical virtues. Such an approach can feed into the quality of dealing with ethical issues. Establishing and maintaining a strong qualification in virtues can be considered as powerful point of departure for virtuous decision-making in general and intuitive judgment - that would fit quite well to the dynamic practice of counterterrorism – in particular (Provis, 2010).

Extending research within counterterrorism

Eighth, the exploration of research findings in other domains such as health care and defence so far suggest that there is a rich tradition of applied ethics and ethics support in other societal sectors that can inform and inspire the practice of counterterrorism. At the very beginning of this research the idea was to include other counterterrorism professionals like intelligence officers, policemen, policy makers into the research and to do so in an international comparative approach. This idea, however, did not turn out to be feasible at that stage. Since then, the interest of addressing the ethics of counterterrorism has been grown as can be concluded from the growth of literature in that field. Although the recently added literature is not really addressing ethical issues of counterterrorism professionals,

this growth of interest can contribute to the building of future research projects in this field.

Institutions and policies

Ninth, this research can inform institutions and policies within three domains: the National Coordinator for Counterterrorism and Security, other counterterrorism practices like intelligence services, and the domain of ethics. Within the first domain quite a number of practitioners and managers from the Office of the Dutch National Coordinator for Counterterrorism and Security became involved in a dialogue about ethical issues as part of this research. Such a strong interest reflects professional interest in the issue of dealing with ethical dilemmas. In addition, it indicates quite some willingness to become personally involved in a dialogue about ethical dilemmas at work. This level of participation can be interpreted as a sign of an open professional culture which can help to put the ethics of counterterrorism on the institutional radar. In a liquid age of constantly changing security lines, new threats have to be faced and new measures creating new ethical dilemmas might have to be added to the counterterrorism toolbox. Especially the experiences of counterterrorism practitioners in their dealing with ethical issues on the structural and political level can inform the development of future counterterrorism policies as well.

Within a second domain the interest in and acknowledgement of the importance of the ethics of counterterrorism can generate more support from more actors in counterterrorism, like intelligence services. Ethics in counterterrorism can aid professionals in their daily work and thereby support the quality of their work. Adhering to as ethically sound as possible counterterrorism practices can also help maintain public and political support for counterterrorism policies. This can be especially helpful once we are facing changing and even completely new threats with new ethical issues attached.

Within a third domain ethics policies in the field of counterterrorism can benefit from this research and all potential future research initiatives in this field. Since ethics policies in the field of counterterrorism are not as developed as it could be, the earlier mentioned mistakes made in public service ethics and integrity policies can still be avoided. Developing and implanting ethics policies within the

practice of counterterrorism could contribute to the institution-building as well. All in all such a development could nurture the conditions under which a promotion of the internal goods in the practice of counterterrorism could flourish.

Limitations and opportunities

Tenth, as already mentioned it remains important to underline that the National Coordinator for Counterterrorism and Security does not represent the entire practice of counterterrorism. Therefore, the scope of this analysis needs to be put into perspective, and must be understood as explorative in nature. At the same time it is important to realize that, as of yet, there is no other comparable and publicly available research on the added value of ethics support within the practice of counterterrorism. This has to be taken into account when measuring the potential values of this research. Since it was possible to include a research population of counterterrorism practitioners from the multidisciplinary workforce of the National Coordinator for Counterterrorism and Security, it seems that the limitations regarding the accessibility of the practice of counterterrorism reflect valuable and so far unprecedented opportunities at the same time.

8.4 Conclusions

The pilot program of applying moral case deliberation to the practice of counterterrorism in the Netherlands was met with considerable appreciation by the participating professionals. Their engagement in moral case deliberation resulted in various insights indicating that the nurturing of internal goods can be considered as added value of this tool of ethics support. An analysis of the practice of counterterrorism shows that the typology of ethical issues presented in the theoretical part reflects important elements of the situation of the professionals. They experience ethical issues at the personal and professional level but they are also confronted with ethical issues that are located at the political or structural level of the typology of ethical issues and are much more difficult to address an individual.

Based on the reflections of this chapter's findings, the question arises whether the different levels and categories of ethical issues offer tailor-made options to be dealt with. On the personal, professional and political level there seems to be room for compromise between opposing principles and underlying values of key ethical approaches. A promising avenue to reach compromise can be the use of practical wisdom, which can strengthen the internal goods in themselves, as well in their connection to the external goods.

The training of virtues can be another fruitful path towards compromise within the practice of counterterrorism. It could also foster an organization culture which includes an ethical climate conducive to an open dialogue about ethical issues. Although an institutionalization of training in virtues is by no means guaranteeing a sound ethics of counterterrorism, the stunning absence of institutionalized ethics support within the practice of counterterrorism is of no asset either.

Future research on the ethics of counterterrorism and the role of ethics support within the practice of counterterrorism can test the preliminary findings of this first research of its kind in this field. It can also provide input to a reflection on future counterterrorism policies in the light of shifting threats. Last but not least, it could inspire and stimulate the establishment of ethics and integrity policies in the field of counterterrorism in the long run.

IV. Concluding part

9. Conclusion, research limitations and future research

In the concluding part of this thesis, the answer to the main research question will be provided: What is the current relevance of the ethics of counterterrorism and what is the added value of ethics support within the practice of counterterrorism? Before getting there, the research sub-questions will be answered and put into the perspective of the main research question of this thesis. Last but not least, suggestions on future research and future policies and practices regarding ethics (support) in counterterrorism will be presented.

9.1 Conclusions

Ethics of counterterrorism

Counterterrorism always involves an ethical dimension. The inherent ethical character of counterterrorism is a reason to suggest that it would be more accurate to write about the 'ethics of counterterrorism' in future discussions on this issue instead of 'ethics and counterterrorism'. The 'ethics of counterterrorism' reflects the inherent ethical character of counterterrorism instead of suggesting that counterterrorism and ethics are two separate entities. Acts within the practice of counterterrorism have potential ethical implications. Counterterrorism practitioners in turn do experience the inherent ethical character of their work by facing ethical dilemmas in their daily practice. In spite of an overall underrepresentation in the literature on terrorism and counterterrorism when starting this research, interest in the ethics of counterterrorism has grown throughout the years in which this research was conducted. At the same time the growing research interest does not include a growing interest in the dilemmas of counterterrorism professionals.

Room for compromise in ethics deliberation within counterterrorism

In this research, three key philosophical approaches to ethics are reviewed in order to answer research sub-question one: What is the relevance of key ethical approaches for dealing with ethical dilemmas in counterterrorism? The underlying rationale is to explore the benefits of three key ethical approaches to counterterrorism practitioners: the consequentialist, the deontological, and the virtue-ethical approach. This rough review reveals that none of them alone can

offer a sound approach to the practice of counterterrorism in a liquid world risk society. As is common in philosophy, an extreme case or example is used to clarify the ethical dimension at stake. The rather grave, yet realistic, case of a hijacked commercial airliner is taken as a point of departure to identify the strengths and weaknesses of these approaches, as perceived from the perspective of the practice of counterterrorism. It is concluded that none of these approaches can be prioritized in terms of their relevance to the practice of counterterrorism: there is no single ethics approach towards ethical issues within counterterrorism which can solve all ethical issues. Nevertheless, it remains undisputed that all approaches offer rich angles, theoretical inspiration and concrete guidance to handle ethical dilemmas in counterterrorism. Therefore a meta-position is suggested, that recommends a possibility to reconcile opposing principles and underlying values of key philosophical approaches by following the philosophical concept of compromise.

Relevance of 'compromise' within the 'practice' of counterterrorism

When addressing research sub-question two, what can the concept of 'compromise' contribute to the handling of ethical dilemmas in 'counterterrorism as practice'?, it turns out that building on one of the classical and, nowadays somehow neglected, sources of knowledge offers guidance and inspiration. It becomes clear that applying and exploiting practical wisdom (*phronesis*) in the field of counterterrorism can provide some room for ethical guidance for counterterrorism professionals. The overall assessment is that serious consideration of the concept of compromise can have useful benefits to the practice of counterterrorism as it can help to clarify assumptions, overcome contradictions and explore common ways forward. Since there are no documented empirical experiences with the approach of compromise in the field of counterterrorism, this thesis looks to explore the relevance of compromise in counterterrorism.

Typology of ethical issues

An analysis based on literature provides an answer to research sub-question three: How can the ethical issues faced by counterterrorism professionals be categorised? The proposed typology can be subdivided into four different levels:

the structural, political, professional and the personal levels. At the structural level, the origin of ethical issues in the morality of counterterrorism in a world risk society, as well as fundamental structural inconsistencies, can be distinguished. At the political level of the proposed typology, the status of the state of emergency, the politicization of counterterrorism, the legitimacy of interventions, and the tension between secrecy and transparency are identifiable features. At the professional level, professional values encounter opposing organizational interests. Last but not least, at the personal level conflicting professional values and challenges of their private authenticity can lead to current ethical issues.

Practical dealing with ethical issues in counterterrorism in the Netherlands

An explorative empirical inquiry into the handling of ethical issues by counterterrorism practitioners in the Netherlands is directed at research sub-question four: How are counterterrorism professionals in the Netherlands dealing with ethical dilemmas? It turns out that through this inquiry, four different ways can be distinguished in which professionals sought ethical support: colleagues, management, a mentor and a self-dialogue. It becomes also clear that, in general, counterterrorism practitioners of the Dutch National Coordinator for Counterterrorism and Security are - at least at the time when the research took place - not specifically trained to handle ethical dilemmas. Furthermore, at that time, they had no specifically designated institutional arrangements providing training opportunities within the practice of counterterrorism to address ethical issues at their disposal. Those counterterrorism professionals are not alone, as research from the field of public administration shows that ethics policies are often too focused on compliance rather than the promotion of ethics support. Within the Netherlands there are quite a number of initiatives to institutionalize ethics support from a value-oriented perspective within the police and defence forces. One of the tools of ethics support providing added value to other sectors - moral case deliberation - has been considered as potentially useful to the practice of counterterrorism.

Relevance of moral case deliberation to counterterrorism

Before turning to the pilot program of moral case deliberation, research sub-question five is answered: What is the relevance of the method of moral case deliberation to the practice of counterterrorism? According to international evaluation research in various health care contexts, the method of moral case deliberation has proven to strengthen professionals' moral competence and their dealing with ethical challenges. In an inventory of methods to support ethical decision making in the field of counterterrorism, moral case deliberation has also been suggested as a potential fruitful method. A further exploration of the philosophical roots of moral case deliberation also indicates that moral case deliberation can be relevant for the practice of counterterrorism, given four common features of moral case deliberation: first, the focus on concrete cases situated in specific contexts, second, the inquiry into underlying and often not actively considered assumptions and values, third, the exploration of options to act while considering the ethical costs of the different options, and, fourth, the focus on an open dialogue instead of discussion. The latter can flourish especially during off-peak moments.

Added value of moral case deliberation

Moral case deliberations have not been applied to the practice of counterterrorism before. Therefore this pilot study is considered as an explorative effort to gain some initial insights by addressing research sub-question six: What is the added value of applying the method of moral case deliberation among counterterrorism professionals in the Netherlands to the practice of counterterrorism? During an explorative implementation of moral case deliberation in one area of counterterrorism practice, the Office of the Dutch National Coordinator for Counterterrorism and Security, many counterterrorism practitioners, including management, participated in several moral case deliberation sessions.

Participants' responses to the moral case deliberations can be characterized by an appreciation for both the moral case deliberation session as such as well as moral case deliberation as a method itself. A small majority of the participants of the moral case deliberation report that they have changed the way they look at ethical issues due the moral case deliberation sessions. Furthermore, it seems

that many important insights have been gained, ranging from recognition of the ethical dimension of counterterrorism work and personal inspiration, up to raising awareness for more alternative ways in dealing with these ethical dilemmas. These preliminary observations lead to the conclusion that there is considerable added value of the moral case deliberations for counterterrorism professionals.

The foundation provided by this research is putting ethics on the radar of professionals and could form a point of departure for future research to clarify whether ethics support in general, and moral case deliberation as a tool of ethics support in particular, can support the ethical capacities within the practice of counterterrorism in the long run. Further research would be needed to substantiate this claim given the limitations of this research. The explorative character of this thesis seems to justify a further implementation of moral case deliberation as a tool of ethics support within the practice of counterterrorism. Continued research would also mirror the statements of participants of this explorative thesis as many suggestions put forward by counterterrorism professionals included the call for having more moral case deliberations in the future or even to institutionalize moral case deliberation.

The answer to the main research question

Relevance of ethics of counterterrorism

This thesis explores the current relevance of the ethics of counterterrorism and the prospects for ethics support within a specific part of the counterterrorism community in the Netherlands. The main research question of this thesis is: "What is the current relevance of the ethics of counterterrorism and what is the added value of ethics support within the practice of counterterrorism?" As far as the first part of the main research question is concerned it becomes clear that ethical issues are part and parcel of the practice of counterterrorism and that there is a substantial realization that the ethics of counterterrorism deserves more attention. Counterterrorism practitioners have to handle ethical challenges such as ethical dilemmas on a daily basis in the context of the world risk society that stresses the importance of prevention and pre-emption in the light of potential threats. The weight of the ethical dilemma differs from case to case. Not all ethical dilemmas that counterterrorism professionals are facing are as

huge, complex and dramatic as the case of shooting down a potentially hijacked airplane. Most ethical dilemmas, rather, are part of daily professional activities like the exchange of information with national and international partners. Nevertheless, even routine bureaucratic activities have ethical dimension and can have far reaching consequences; checking a single box in a spreadsheet within the framework of an international exchange of information agreement can make an important difference to the terrorist suspects involved. It can be the difference between being on an alert list for border guards of country A or being on a drone operator's hit list in country B. The ethical issues that counterterrorism professionals are facing are continuously changing, mirroring shifting threats and threat environments within liquid times. Those cases can become very personal, as for example in cases where professionals are confronted with the dilemma that they are aware of secret information on concrete threats that could affect the lives of their family members.

Ethics support within the practice of counterterrorism

As far as the second part of the main research question is concerned, it seems that moral case deliberation as a tool of ethics support has shown considerable added value within the practice of counterterrorism examined in this explorative research. When put in the position to make use of moral case deliberations, counterterrorism practitioners in the Netherlands who participated in this study indicate that they have benefited from this kind of ethics support in terms of both personal and professional empowerment. Using this tool of ethics support raises important insights and can strengthen the internal goods of their professional practice. However, relevant training in ethics deliberation can be at risk due the lack of institutionalization of training, training facilities and training facilitators. This can weaken the internal goods of the practice of counterterrorism in the long run.

Compromise and internal goods

This explorative research suggests that a focus on virtue ethics based on practical wisdom (*phronesis*) offers rich potential to reach out for compromise within the dynamic counterterrorism practice and to foster internal goods. It would be characteristic of the internal goods of the counterterrorism practice

"that their achievement is a good for the whole community" (Macintyre, 1981: 190-191). Whether this will happen or not depends to some extent also on political decisions that resonate at the structural and political level of the typology of ethical issues in the practice of counterterrorism and eventually boil down to the professional and personal level. As far as the concrete opportunities for compromise are concerned, ethics support in counterterrorism addresses ethical issues that are on the radar within the practice of counterterrorism and can strengthen the navigation capacities of counterterrorism professionals.

9.2 Reflection on research limitations

Throughout this thesis, potential limitations of this research and the applied methodology have been mentioned and strategies to mitigate these limitations have been unfolded. This section will provide a reflection on the limitations and the outcome of the mitigation strategies.

The first potential limitation is about the proximity between researcher, participants, respondents and the concrete counterterrorism activities. The researcher, interviewer and facilitator of the moral case deliberation was, at the time of the research, a colleague to many practitioners involved, and obviously a subordinate to some team leaders and the management team as whole. This could hamper the scientific independence of the researcher. The matter of fact is that it would not have been possible for an outsider without experience and especially security clearance to conduct this research.

One way to mitigate this potential limitation was to lay down research principles and ethics in a research protocol. The establishment of a feedback group involving both research supervisors and a member of the management team was particularly useful in that regard. Another important safeguard was that all material collected remains property of the researcher in his capacity as a researcher of Leiden University. It remains difficult to assess the extent to which the issue of proximity limited this research. The researcher, on his part, avoided reaching out actively to long-term colleagues or to colleagues who could be expected to introduce certain feedback. As in his capacity as an analyst, he did his best in his capacity as researcher to stay independent and critical.

Another potential limitation is, second, the issue of representativeness of the group of respondents. Could this research succeed to involve a relevant and representative population, since it is held in an organization dealing with more than counterterrorism? In both parts of the empirical part of this research, the interviews and the sessions of the moral case deliberations, it was possible to involve predominantly counterterrorism practitioners. This implies that a basic representativeness could be guaranteed. Furthermore, this research includes a balanced mix in terms of age, gender, and work experience. Whether the practitioners involved are representative in all regards is difficult to establish. It is quite likely that those being open to a dialogue or personal development are more likely to participate in an interview or moral case deliberation.

Last but not least, a major potential limitation is the issue of analytical validity of the findings to the wider practices of counterterrorism. Obviously, the National Coordinator for Counterterrorism and Security does not equal the practice of counterterrorism as such. This implies that the explorative character of the findings should be taken fully into account. At the same time, the potential contributions of this explorative research should not be shied away from, since no comparable research on the added value of ethics support within the practice of counterterrorism has been published so far at all.

Establishing moral case deliberations at the National Coordinator for Counterterrorism and Security and having it appreciated by practitioners is, in spite of all limitations, a potential stepping stone for the wider practice of counterterrorism within the Netherlands and abroad. The scientific contribution of the research within the National Coordinator for Counterterrorism and Security however, remains explorative, since no comparable research has been carried out so far. Future national and international research can focus in more detail on the actual contribution of ethics support to the practice of counterterrorism, as will be described in the next section.

9.3 Future research

Testing preliminary findings of this research

This research inspires different avenues for further research. It would be interesting to further explore the added value of implementing moral case deliberation within the practice of counterterrorism. Moral case deliberation has also led to a lively debate about the internal goods within the practice of counterterrorism addressed in this thesis. Future research could clarify whether the indications for empowerment of the practitioner, broadening of the professional repertoire and, eventually, the fostering of ethical capacities through moral case deliberation can be confirmed. In addition, it would be insightful to explore the impact of continued implementation of moral case deliberation within the practice of counterterrorism on the organizational culture, organizational learning, decision-making and policy-making.

Continuing and extending research on ethics support

This thesis has indicated that both discussion and research into the ethics of counterterrorism is currently rather lacking in the academic world. Also, little attention is given to ethics support within counterterrorism and security studies. This thesis seems to indicate that there are no major obstacles to addressing this deficiency. Given the feasibility of having moral case deliberations within parts of the practice of counterterrorism in the Netherlands it would be recommendable to continue the application of moral case deliberation and monitor the effects closely through scientific studies. In addition, future research could also seek to broaden the field of implementation of moral case deliberation within the broad practice of counterterrorism of the Netherlands. It would be interesting to know whether or not more training of counterterrorism practitioners would result in more ethical counterterrorism practices in the long run.

Secrecy seems to be no excuse for the gap. Serious gaming, deliberation on cold cases, or even dealing with real cases under protected circumstances, as is established practice in other sectors, offer many practical options to engage in both theoretical and empirical research. Future research is an opportunity for many disciplines. It could include intelligence officers, policemen, policy makers and could therefore cover the entire field from terrorism and intelligence studies to the field of applied ethics and ethics support.

Initiating international comparative research into ethics support

Another recommendation is to research whether the findings would be similar if those moral case deliberations would be applied in parts of the practice of counterterrorism outside the Netherlands. Looking at the comparable dilemmas all those professionals are facing on the one hand, and the added value of using moral case deliberation in this research on the other hand, it seems plausible that other parts of the practice of counterterrorism in the Netherlands could benefit from the implementation of moral case deliberation as well. As far as the international dimension is concerned, experiences from the clinical sector in the Nordic countries reflect similar appreciations of moral case deliberation across the countries. This finding suggests that potential benefits of running moral case deliberations are not necessarily limited to national or cultural contexts. Further research into whether practices of counterterrorism outside the Netherlands can benefit from the implementation of ethics support in general and moral case deliberation in particular could clarify this question.

Explaining ethics gap

Exploring possibilities to bridge the gap of ethics support in counterterrorism
In spite of the abundance of literature on terrorism and the public and political attention on terrorism, the academic attention devoted to the ethics of counterterrorism and discussion in the public debate is rather limited when I started the research in 2014. Throughout the following years, however, interest into the ethics of counterterrorism has been growing in the field of ethics, international relations and counterterrorism studies. In spite of the growing academic awareness there is only limited access for researchers to conduct empirical research within the practice of counterterrorism. Given the gravity of choices to be made in the practice of counterterrorism and their potential impact on society and democracy, the question arises, what causes the gap with other sectors if we look at the lack of institutionalization of ethics and ethics support within counterterrorism. In spite of the empirical insights, it remains difficult to identify the apparent obstacles to creating an ethics support infrastructure within the practice of counterterrorism. In the light of the proven benefits of ethics support in other societal fields, like defence, police and health care, it would be interesting to perform further research into why so little attention has been

devoted to the ethics of counterterrorism in science and society, and how the gap of ethics support in counterterrorism can be bridged.

Fundamental research

There are fundamental research issues to be addressed by applied ethics and philosophy as well. The search for compromise between opposing principles, values or interests as reflected by key philosophical approaches to ethics is one of these fundamental research topics. Another could be further exploration of the opportunities for the virtue ethics of compromise, both in ethical theory and in applied ethics and ethics support. Such fundamental research could look into cross-disciplinary experiences with compromise and strengthen the insight available on a fundamental theoretical level. The application of ethics support across disciplines and practices could benefit from such fundamental insights.

9.4 Recommendations for policies and practices

Learning from public service ethics

The rich tradition of applied ethics and ethics support in other societal sectors can inform and inspire the practice of counterterrorism (Lawton et al., 2013). The special focus on the tool of moral case deliberation within this thesis does not exclude other potentially useful approaches to ethics support. Precisely because ethics support in counterterrorism is not as developed as it could be, the lessons learned in public service ethics and integrity policies as described in Chapter 6 can still be considered when striving towards institutionalizing ethics support in counterterrorism or when developing training programmes for the practices of counterterrorism.

Developing ethics support for acute crises situations

A more practical concern regarding the feasibility of ethics support within the practice of counterterrorism is the issue of time constraints. Counterterrorism seems often permeated by a lack of time to reflect and in permanent need for quick and decisive action that does not allow for time consuming deliberation. However, the reality is often more complex. Of course, there can be many situations in which time consuming deliberation over an ethical dilemma at stake would not be possible. This is also true for other sectors where moral case deliberation is applied, such as the health sector. Nevertheless, practical ethics is widely applied in hospitals since, besides acute emergencies, there remains enough time for rest, reflection and potential deliberation. Those moments are present within the practice of counterterrorism as well. In addition, the bureaucratic handling of crises offers many stages in which formal meetings of high ranking committees and subcommittees take place. Putting ethical considerations on the agenda of these formalized processes might be more a matter of practical awareness and capacity to facilitate an ethical dialogue than a matter of perceived time constraints. Therefore it is recommended to explore the possibilities of ethics support for crises situations, for example by developing tailor-made moral guidelines or decision trees that could also feed into the loop of organizational learning.

Extending ethics support in counterterrorism to politics

In this thesis, I explore what the relevance of ethics support to the practice of counterterrorism can be. Within the diverse sessions of moral case deliberation, ethical dilemmas of counterterrorism professionals are the center of attention and concrete ethical dilemmas of individual professionals form the core theme of the dialogue that takes place. On a more abstract level, I suggest a typology of ethical issues in the practice of counterterrorism that goes far beyond the concrete individual cases. This typology includes ethical issues emanating from an individual on both the personal and professional level. However, the types of ethical dilemmas on the political and structural level imply an ethical load placed on the shoulders of counterterrorism professionals from the outside. It is important to highlight the difference between the personal and professional levels on the one hand, and the structural and political level on the other. Although ethical issues arising on all levels can be addressed by ethics support, it seems that those rooted in the political and structural level require treatment outside the practice of counterterrorism as far as the prevention of ethical issues is concerned. Ethical dilemmas on the political level may deserve political attention. The structural and political levels suggest that many conditions are of a structural nature and can first and foremost be addressed by political intervention. Given the importance of the political dimension within the typology of ethical issues, it would be fruitful to consider whether the ethical support provided to the practice of counterterrorism can be extended to the politics and politicians of counterterrorism in the long run.

Informing counterterrorism policies

A final suggestion would be to use the practical wisdom of counterterrorism practitioners when designing new measures, to ensure in the long run a cool reflection when new measures are presented in the heat of the moment after an attack. Some general observations emanating from ethics deliberations, reflections and dialogues on counterterrorism could feed into the circle of policy development, implementation and evaluation. The practical wisdom (*phronesis*) of the counterterrorism professionals could be of added value to design ethically sound counterterrorism policies that can count on public and political support. "One should never forget that the essence of the struggle against terrorism is to

uphold respect for human rights; hence, only protection and not violation of human rights is the appropriate method of fighting terrorism" (Hossain, 2013: xvii).

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Research protocol

1. Feedback group

a. For the sake of this Ph.D. research a feedback group will be established in which a member of the management team of the National Coordinator for Counterterrorism and Security, one of the scientific supervisors and the researcher are represented.

b. The task of the feedback group is to monitor the progress of the research and to provide advice regarding the draft-texts prior to publication.

2. Confidentiality and anonymity of the research

a. The content of all interviews will be treated confidential. This implies that the content will remain between the interviewer and interviewee. The interviews will be held as semi-structured interviews. The interviews will not be recorded.

b. The content of the dilemma sessions will be treated as confidential. This implies that the content of a dilemma session will remain between the facilitator and the participants of a dilemma session. The sessions will not be recorded.

c. The questionnaire will be filled out anonymously and will contain only very limited details regarding the respondent like whether the respondent works in the field of counterterrorism and for how long. The data will not be researched with the goal to identify the respondent.

d. All data remains the property of the Ph.D. researcher of Leiden University and will be stored in a secure manner.

e. Inspection of interview reports or questionnaire is only possible if justified doubts about the authenticity of the data occur. Inspection in such a case is only possible via the supervisory committee of this research and might require written consent regarding the confidentiality of the personal data.

3. Safeguards on political responsibility

a. The Ph.D. thesis and publications based on empirical material of this thesis have to take the political responsibilities emanating from the work of involved government employees into account.

b. The focus group provides will advise where necessary.

4. Safeguards in scientific independence

a. In addition to safeguards on confidentiality, anonymity, and political responsibility, the scientific independence of this research has to be observed.

b. The feedback group monitors the scientific independence.

c. In case of conflicting positions about the content of a draft-publication the focus group will aim at a consensus.

5. Complaints, conflicts, conscientious objections

In case of complaints, conflicts and conscientious objections involving employees, the researcher of members of the feedback group can consult the confidential adviser of the National Coordinator for Counterterrorism and Security and/or the Ministry of Justice and Security.

Nederlandse samenvatting

Probleemstelling en onderzoeksvraag

In de hedendaagse terrorismebestrijding spelen voor de betrokken professionals veel urgente ethische dilemma's. De terroristische aanslagen van 11 september 2001 hebben wat dat betreft een grote impact gehad op de praktijk van terrorismebestrijding. Zo is bijvoorbeeld het neerhalen van een vermeend gekaapt vliegtuig, met de dood van tal van onschuldige reiziger als gevolg, aan de gereedschapskist van professionals toegevoegd. Uiteraard zijn de meeste ethische dilemma's die terrorismebestrijders ervaren niet dermate extreem en meer een kwestie van routine werkzaamheden. Dat laat onverlet dat dit scenario als realistisch kan worden beschouwd. Dit blijkt onder andere uit het feit dat in Nederland procedures bestaan om een door terroristen gekaapt vliegtuig preventief neer te schieten. Daarnaast is het een symbolische reflectie van de huidige praktijk van terrorismebestrijding na 9/11. Onze tijd brengt veranderende veiligheidslinies met zich mee die een aanhoudend aanbod van dreigingen weerspiegelen ('vloeibare tijden'). In antwoord hierop is er sprake van een permanente roep naar proactieve maatregelen, een situatie die met de term 'wereldrisicosamenleving' is aangeduid. Deze situatie zorgt voor een onuitputtelijke bron van vaak volstrekt nieuwe ethische dilemma's waar professionals op het gebied van terrorismebestrijding mee worden geconfronteerd. Sommige van deze dilemma's vormen ook een uitdaging voor de democratische rechtsorde.

In dit proefschrift wordt ethiek als een belangrijke richtinggevende bron gezien die als aanvulling op het recht kan worden beschouwd. De meeste dilemma's van terrorismebestrijders waren in het begin van dit onderzoek amper vertegenwoordigd in de vakliteratuur van contraterrorisme- en veiligheidsstudies of van toegepaste ethiek en ethiekondersteuning. Daarnaast was er in de praktijk van terrorismebestrijding zelf sprake van een gebrek aan gedocumenteerde ervaringen over hoe professionals met ethische uitdagingen omgaan en over de implementatie van ethiekondersteuning. Dit proefschrift beoogt deze leemte te vullen door de volgende onderzoeksvraag te stellen en te onderzoeken: Wat is de huidige relevantie van de ethiek van terrorismebestrijding en wat is de

meerwaarde van ethiekondersteuning in de praktijk van terrorismebestrijding? Dit proefschrift levert een bijdrage aan het debat over de ethiek van terrorismebestrijding en verkent de meerwaarde van toegepaste ethiek en ethiekondersteuning in een professionele praktijk. Daarnaast kunnen de bevindingen van dit proefschrift terrorismebestrijders in hun omgang met ethische dilemma's ondersteunen.

Onderzoeksopzet en context

De voornaamste focus van het empirische gedeelte van dit proefschrift is, zoals beschreven in hoofdstuk 2, de praktijk van terrorismebestrijding in Nederland. De Nationaal Coördinator Terrorismebestrijding en Veiligheid was bereid de doorgaans gesloten deuren van terrorismebestrijding te openen voor interviews met professionals over ethische dilemma's en voor het houden en evalueren van moreel beraad met hen. In een moreel beraad begeven zich professionals onder leiding van een gekwalificeerde gespreksleider in een dialoog over een concreet ethisch dilemma van een van de deelnemers. In een dergelijke besloten situatie worden waarden opgehelderd en alternatieve handelingsperspectieven ten aanzien het specifieke ethische dilemma geïdentificeerd. In de medische sector wordt moreel beraad al langer toegepast en in meerdere wetenschappelijke studies ook positief geëvalueerd. De implementatie van ethiekondersteuning binnen de nogal geheime en ontoegankelijke praktijk van terrorismebestrijding is daarentegen tot nu toe niet vermeld in de wetenschappelijke literatuur.

Ethische sleutelbenaderingen en compromis

In hoofdstuk 3 van dit proefschrift wordt onderzocht hoe ethische sleutelbenaderingen als richtsnoer of bron van inspiratie voor het omgaan met ethische dilemma's op het gebied van terrorismebestrijding kunnen dienen. Een verkenning van de baten van de consequentialistische, deontologische en deugd ethische benadering leidt tot de conclusie dat geen van allen een sluitende benadering voor de praktijk van terrorismebestrijding in een vloeibare wereldrisicosamenleving biedt. Dit biedt de mogelijkheid om de potentie van het filosofische concept van compromis en de daaraan verbonden potentiële

verzoening tussen tegengestelde principe en onderliggende waarden van de ethische sleutelbenaderingen te markeren.

Hoofdstuk 4 onderzoekt de mate waarin het concept van 'compromis', zoals ontwikkeld door Benjamin, behulpzaam kan zijn voor de omgang met ethische dilemma's die zich in de praktijk van terrorismebestrijding voordoen. Hierbij wordt het concept van 'praktijk' zoals gedefinieerd door Macintyre aangehouden. De conclusie is dat een serieuze inachtneming van het concept van compromis nuttige voordelen voor de praktijk van terrorismebestrijding kan opleveren. Een majeure richtinggevende en inspirerende bron voor compromis is *phronesis* – of praktische wijsheid. Terrorismebestrijding mist op dit moment echter enige empirische ervaring met het gebruik van de compromis benadering. Dit proefschrift levert een bijdrage aan een eerste verkenning van het nut en de waarde van compromis voor terrorismebestrijding.

Typologie van ethische kwesties bij terrorismebestrijding

Voorafgaand aan een verdieping in de empirische praktijk van terrorismebestrijding wordt in hoofdstuk 5 op basis van literatuuronderzoek een typologie van ethische kwesties opgesteld. Deze typologie bestaat uit vier niveaus: het structurele, het politieke, het professionele en het persoonlijke niveau. Ethische kwesties liggen besloten in de condities van de wereldrisicosamenleving zoals de moraliteit van terrorismebestrijding in het algemeen of fundamentele inconsistenties. Op het politieke niveau spelen het fenomeen van de noodtoestand, de politisering van terrorismebestrijding, de legitimiteit van statelijke interventies en de spanning tussen geheimhouding en transparantie een rol. Professionele waarden kunnen op gespannen voet staan met organisatorische belangen op het professionele niveau. Ten slotte kan op het persoonlijke niveau de integriteit als gevolg van conflicterende waarden onder druk komen te staan. Deze typologie verheldert de ethische kwesties die terrorismebestrijders ervaren. Dit is behulpzaam voor een discussie over de omgang met deze kwesties en over de toegevoegde waarde van ethiekondersteuning.

Omgang met ethische dilemma's

Het ervaren van ethische dilemma's lijkt onlosmakelijk verbonden met het werk van terrorismebestrijders. In dit onderzoek is al gebleken dat zich diverse soorten van ethische kwestie voordoen. In hoofdstuk 6 wordt daarom verkend hoe professionals op het gebied van terrorismebestrijding met concrete ethische dilemma's omgaan. Uit semigestructureerde interviews met professionals van de Nederlandse National Coördinator Terrorismebestrijding en Veiligheid blijkt dat betrokkenen grofweg op vier verschillende manieren met dergelijke dilemma's omgaan: men zoekt de dialoog met collega's, met een mentor, met een leidinggevende of met zichzelf. De verkennende studie laat ziet dat ten tijde van de interviews geen van de respondenten was opgeleid in de omgang met ethische dilemma's. Ook was er geen sprake van specifiek aangewezen institutionele voorzieningen voor het omgaan met ethische dilemma's of voor het systematische leren in het verlengde hiervan. Dit weerspiegelt ervaringen uit het openbaar bestuur waar beleid ten aanzien van ethiek veelal is gericht op het meten van het voldoen aan regels in plaats van het bevorderen van ethiekondersteuning. Desondanks zijn er in Nederland op dit moment diverse initiatieven om ethiekondersteuning te institutionaliseren, echter niet op het gebied van terrorismebestrijding.

Relevantie van moreel beraad voor terrorismebestrijding

Onderzoeksresultaten, die in hoofdstuk 7 worden gepresenteerd, laten zien dat moreel beraad voor de praktijk van terrorismebestrijding waardevol kan zijn en als een relevante methode van ethiekondersteuning kan worden beschouwd. Toepassing van moreel beraad kan ook de leemte ten aanzien van ethiekondersteuning vullen. Het projecteren van het instrument van moreel beraad op de praktijk van terrorismebestrijding zou ook om een andere reden een geschikte keuze zijn. De filosofische wortels van moreel beraad - pragmatische hermeneutiek, praktische wijsheid, Socratisch onderzoek en dialoog - sluiten namelijk goed aan bij de dynamische context van terrorismebestrijding. Deze wordt door onzekerheid en afhankelijkheid van professionals gekenmerkt. Op basis van de empirische evaluatie studies in de gezondheidszorg wordt in dit hoofdstuk gesteld dat moreel beraad de potentie heeft om individuen en teams in hun vermogen om met ethische dilemma's om

te gaan te versterken. Derhalve lijkt een pilot van moreel beraad een relevante en veelbelovende aanpak om binnen de praktijk van terrorismebestrijding nader te verkennen.

Meerwaarde van moreel beraad voor terrorismebestrijding

In hoofdstuk 8 komt in de evaluatie van de eerste pilot toepassing van moreel beraad op het gebied van terrorismebestrijding bij de Nederlandse Nationaal Coördinator Terrorismebestrijding en Veiligheid een hoge mate van waardering naar voren. Dit geldt zowel voor de bezochte sessie als ook voor de methode van moreel beraad zelf. Meer dan de helft van de deelnemers geeft aan dat hun deelname aan een moreel beraad hun blik op ethische kwesties heeft veranderd. Andere inzichten lopen uiteen van een waardering voor het erkennen van de ethische dimensies van hun werk tot het scheppen van alternatieve manieren om met ethische dilemma's om te gaan. Veel elementen uit de eerder gepresenteerde typologie van ethische kwesties worden overigens gereflecteerd door de ervaringen die tijdens de morele beraden naar voren kwamen. Deze voorlopige bevindingen laten zien dat de terrorismebestrijders van dit onderzoek aan hun deelname aan een moreel beraad een aanzienlijke relevantie en meerwaarde toekennen. Dit kan uiteindelijk hun omgang met ethische kwesties in de praktijk van terrorismebestrijding, die ten tijde van het onderzoek gekenmerkt werd door een gebrek aan institutionele voorzieningen voor ethiekondersteuning, versterken.

Antwoord op onderzoeksvraag

In antwoord op de centrale onderzoeksvraag kan binnen de beperkingen van dit verkennende onderzoek worden geconcludeerd dat de relevantie van ethiek voor de huidige staat van terrorismebestrijding substantieel is. Ethiek is onlosmakelijk verbonden met terrorismebestrijding. Dit komt door de inherente aanwezigheid van ethische kwesties in de praktijk van terrorismebestrijding, vooral dankzij het aanhoudende streven naar proactieve en preventieve actie. Het gebruik van moreel beraad als een vorm van ethiekondersteuning laat volgens de respondenten van deze studie aanzienlijke meerwaarde voor de praktijk van terrorismebestrijding binnen de Nationaal Coördinator Terrorismebestrijding en Veiligheid zien.

Vervolgonderzoek

Vervolgonderzoek naar de ethiek van terrorismebestrijding zou de leemte in het onderzoek naar dit vraagstuk kunnen verkleinen en zou ook de potentiële meerwaarde voor de praktijk van terrorismebestrijding binnen andere veiligheidsautoriteiten kunnen verhelderen. Daarnaast zou toekomstig onderzoek naar ethiekondersteuning ook naar het politieke domein kunnen worden uitgebreid en zelfs beleid ten aanzien van terrorismebestrijding kunnen inspireren. Dit alles zou niet alleen de verkennende bijdrage van dit proefschrift aan het vakgebied van contraterrorisme en veiligheidsstudies kunnen verrijken. Ook toekomstige evaluatie studies over de betekenis van ethiekondersteuning zouden hiervan kunnen profiteren.

Curriculum vitae

Michael Kowalski is born in 1969 in Wanne-Eickel in the Federal Republic of Germany. After finishing his *Abitur* at the Gymnasium Wanne he fulfilled his alternative compulsory service duty in the emergency room of the *Evangelisches Krankenhaus Herne*. Then he obtained his *Vordiplom* in Political Science, Social Science and History at the University of Bremen, Germany (1993). During the summer of 1995 he studied as exchange student at the Palestinian Birzeit University at Birzeit/Ramallah. In 1996 he graduated as *doctorandus* in Political Science at the University of Amsterdam, Netherlands (1996) during a research internship at the Netherlands Institute for International Relations *Clingendael*. With a scholarship from the Joan B. Kroc Institute for International Peace Studies he earned his *Master of Arts* in International Peace Studies at the University of Notre Dame du Lac, Indiana, United States of America (1997).

Michael Kowalski was employed by the City of Amsterdam before he joined as Senior Analyst the Domestic Security Service of the Netherlands (BVD) that was transformed in 2002 into the General Intelligence and Security Service (AIVD). In 2005 he switched as Strategic Analyst to the National Coordinator for Counterterrorism (NCTb) that was transformed in 2013 into the National Coordinator for Counterterrorism and Security (NCTV). Michael is co-founder and (until 2017 steering committee) member of the European Expert Network on Terrorism Issues that has been established in 2007. In addition, he was chairman of the Netherlands Intelligence Studies Association (NISA) from 2013 to 2018. Michael is currently member of the Expert Pool of the European Radicalisation Awareness Network (RAN) and the Global Safety Evaluation Network (GSE) of the Harvard T.H. Chan School of Public Health.

Since 2014 Michael is linked to the Institute of Security and Global Affairs of Leiden University as part-time guest researcher working on his Ph.D. thesis on the ethical dimensions of counterterrorism. He is certified by the VU Medical Centre Amsterdam as facilitator of Moral Case Deliberations, a central tool in his application of ethics in the field of counterterrorism. Michael completed as well the Advanced Course in Military Ethics at the Netherlands Defence Academy.

Since 2017 Michael is heading the Expertise and Quality Center of the Inspectorate for Justice and Security of the Netherlands, the independent oversight and supervision authority in the field of justice and security. In 2018

he became Servant Leadership Practitioner as certified by the Netherlands Institute for Servant Leadership.