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

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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).