Policy changes in the face of uncertainty: the case of returning foreign fighters in the Netherlands.

Abstract

The recent attacks in Europe have propelled the matter of returning foreign fighters to the top of the security agenda in almost every Western-European country. To reduce the threat of returnees, countries are easily tempted to adopt harder preventative security policies. This is no different in the Netherlands, but the country has had no incidents so far involving returnees. Yet, it changed its security policies from 'soft' to 'strong' preventative sanctions within the first three years of the phenomenon. Consequently, this thesis is interested in the policy process that determined these security policies and can thus explain the Dutch government's behavior on the matter of returned foreign fighters.

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Introduction

Not long ago Dick Schoof, National Coordinator for Security and Counterterrorism, commented: "The Foreign Fighters Phenomenon is one of the most urgent contemporary security issues we are facing – we in the Netherlands and we in the EU." This phenomenon can be further disaggregated into those that want to travel abroad and those who have returned after fighting in the Syrian Civil War. The EU-wide estimate of foreign fighters that went to Syria lies between 3900 and 4200 of which approximately thirty percent has returned (Boutin, et al, 2016).

Since most Dutch security professionals consider the latter group to present the greatest contemporary security risk for society, it should come as no surprise that conceiving an effective strategy to handle these returnees has become top priority on the security agenda. The topic has triggered hot debates, but the idea of what constitutes as an effective approach appears to change over time. The Netherlands initially adopted a 'soft' preventative approach, policies that foster communication and cooperation, but this method has made way for a much harder stand that allows for the possibility to revoke one's citizenships and convict someone for staying in certain areas. This noticeable change occurred in just three years, which leaves the question how such a change in policy that some would argue moving towards illiberal practices has come about?

As such, this thesis is interested in explaining the Dutch government's behavior by investigating the processes that determine security policies. Accordingly, it asks the question: why has the Dutch government changed its security policies on returned Syrian foreign fighters between 2012-2014? This study has chosen for this timeframe because the most significant policy changes occurred in this period. The paper will start with an outline of relevant theories, after which it will introduce two arguments. These will form the basis of the next chapters that each examines a different theory on policy-making and the changes in

security policies in the Netherlands. Finally, it will present an analysis and discussion of the results.

Literature review

In recent years, a lot has been written about the foreign fighter phenomenon. However, no returnee has committed any attack in the Netherlands, so why have the security policies changed so considerably. This section will start with a discussion of the concept of security as this is inextricably linked with policies on foreign fighters, concluding that the idea of what constitutes as security has changed as well as the role of the government. Following this notion, it will briefly argue that these theories need to be linked with theories that explain policy processes to adequately answer the research question.

The concept of security is incredibly complex and defies simple definition. However, it is precisely this imprecision that allows the concept to be used to justify a variety of measures in support of different objectives (Zedner, 2003). Lately, a shift of these objectives has been noticeable. The classical liberalist idea of negative rights, which warrant against intrusive state behavior into the private affairs of citizens, has given way to a more positive rights perception of security (Lazarus, 2007; Fredman, 2007). By contrast, these rights actively invite state action into the lives of citizens to minimize the risks to individuals, to remove constraints on choice, and to ensure the means for persons to develop their full potential (Fredman, 2007: 307 & 323). This perception is mirrored in Article 143 of UN '2005 World Summit Outcome' document, which states that positive security entails being 'free from fear and want' and 'poverty and despair' (Lazarus, 2007).

This notion of positive security bestows additional responsibilities upon the state. It can no longer limit itself to just protecting citizen's bodily survival. Instead, it must make positive provisions to protect against a multitude risk factors that can threaten a person's

existence (Fredman, 2007: 308). Among these is the fear of violence itself. The UN even included this concept into its Sustainable Development Goals (SDG). In the case of counter-terrorism, this results in a lot of uncertainty as responsible agents have the daunting task to not only address known threats but to eliminate the fear surrounding less concrete ones as well.

According to Beck, this focus on risk and fear in contemporary western society is the result of modernity, which has created risk societies: 'a phase where innovation creates risks that increasingly allude the control and protective institutions of industrial society' (Beck 1994: 27). This uncertainty has fostered a culture of risk assessment where the emphasis lies on possibilities that might happen, instead of those that are happening (Mythen, 2004: 12-14). Today, citizens expect that recognized problems are countered to ensure total safety and security, which has resulted in excessive concerns with safety and a strong inclination for control and prediction (Hudson, 2003; Mythen, 2004: 14).

The notion of pre-crime, or actuarial justice, fits into this frame and is therefore increasingly adopted and justified. The idea is that danger can be anticipated so that possible risks and fears can be addressed on forehand regardless whether it is an actual threat at that point (Zedner, 2007). As Feeley and Simon (1992) state, 'the language of probability and risk increasingly replaces earlier discourses of clinical diagnoses and retributive judgment.' The state plays a key role in this desire for risk prevention as it is granted more liberty to meddle into the affairs of its citizens, to monitor both possible and known risks. This development is aided by enhanced technological capacity, like probabilistic calculations and statistical distribution, that target offenders as an aggregate. As such, individualized responses are being substituted for classification systems of surveillance and control (Gordon, 1991; Garland, 2001).

This pre-crime system is most clear and advanced in the field of counter-terrorism. Furedi (2008) claims that the adoption of this system is because policy-makers consider societies as vulnerable. Since 9/11 the predominant approach to threats to security is led by this notion of vulnerability rather than resilience (Ibid, 649). As a result, the culture of probabilistic risk assessment is supplemented with possibilistic assessments. These are mostly based on speculation, the question 'what if' instead of 'what is likely,' and further increases the feeling of insecurity and fear, leading to policy responses that aim to eliminate an even bigger array of possible risks (Furedi, 2008).

The previous paragraphs indicate that a consensus among scholars exists that security, especially counter-terrorism, is currently dominated by an actuarial, risk-based, approach that actively invites state intervention to minimize possible risks and fears as well as actual threats, resulting in more preventive policies. This conclusion serves as a good departure point to answer the research question. As Sabatier (2007) contends, one must know the intention to explain the policy process. The purpose of the current security policies is accounted for, however, not yet the processes that translate these new expectations into policies.

Different ideas exist on what processes explain government behavior. The Rational Choice Model contends that policies are the consequences of value-maximizing choices of unitary actors, while International Political Sociology (IPS) argues that policies are constructed through competitions between security professionals (Bigo, 2008). When dealing with terrorism, Tosini (2010) claims that Rational Choice Theory provides an explanation for the increased role of governments in counter-terrorism. Since terrorist are considered to make conscious decisions, the only logical reaction is to implement policies that adopt more severe and harder to punishment to deter these possible actions. This type of reasoning has

similarities with methods used in criminology, which also applies rational reasoning to stop certain actions before they even happen by using preventive measures (Clark, 1997).

On the other hand, Bigo (2006) claims that bureaucratic competitions between security professionals are responsible for security policies. He argues that the more hardened and 'positive' approach is the result of an ongoing discussion between actors whether security should only be pursued in certain defined areas ('anciens') or on a multidimensional level ('moderns'). The latter are winning because of their ability to frame a transnational threat that requires pre-emptive measures that strive towards total information awareness and unlimited security to prevent crime and terror (Bigo, 2006).

The difference with the previous theories is that these juxtaposed paradigms incorporate possible processes that determine the nature and extent of security policies. Thus, in the case of the policy changes of the Dutch government, it is not sufficient to just indicate a change in the conceptualization of what constitutes as security. These should be linked with theories on policy processes to explain policy outcomes. The following section will further elaborate on the paradigms that this study if going to apply to scrutinize the Dutch government's behavior.

Theoretical Framework

- Rational Choice Theory

Rational Choice Theory (RCT) is a dominant theory that can explain events. It upholds the notion that all action is fundamentally rational and that people make a cost-benefit analysis before they decide to act (Scott, 2000) Therefore, social phenomena are the outcome of rational individual actions. The concept of a rational action is the conception that it is understandable (Boudon, 2003). When behavior is explained in this manner than there are no

more black boxes because it excludes irrational actions. Accordingly, it is a framework that can provide successful explanations to a wide range of complex social occurrences.

In RCT, individuals are motivated by the goals that express their preferences (Scott, 2000: 129). These actors are not isolated decision-makers, rather they operate within specific constraints. The environment is limited by boundaries, imperatives and prohibitions, and available information (Hoffman, 1962). Within this frame, an individual chooses the best possible action that gives him the greatest satisfaction (Scott, 2000). The Rational Policy Model (RPM) is built upon this logic to explain government behavior. It regards outcomes as actions of unitary actors, in this case, governments, who have particular goals and preferences. When a strategic problem is identified, the government explores different policy options, performs cost-benefit analyses, and chooses the most value-maximizing option (Bendor and Hammond, 1992; Allison, 1971).

Hence, this model argues that the changes in security policies are the consequence of rational choices of the government. Regarding returned foreign fighters, the primary goal of the government is to ensure national security. If the threat increases so have the governments potential, often in the form of tougher preventive policies that serve as a deterrent, else society will run a deadly risk (Tosini, 2010; Clark, 1997). Given the recent attacks involving foreign fighters and the uncertainty of the threat, even though nothing has happened in Dutch territory, the government will be more inclined towards adopting harder preventative measures to ensure their highest objective. Accordingly, the RPM explores whether the changes in policies can be ascribed to a reasonable response to the development of the threat.

- International Political Sociology

Alternatively, both the Copenhagen school and IPS argue that social agents politically and socially construct processes of securitization that determine the conceptualization of security.

The intent of securitization is to present an object as being existentially threatened, which legitimizes extraordinary policies to ensure its survival (Waever, 1995:54; Buzan, et al., 1998). Accordingly, the definition of security is not as important as the question of who can securitize what, and under what condition (Waever, 1997).

On this point, however, the two schools differ in opinion. The Copenhagen school contends that political speech acts are responsible for securitization. Thus, to understand security outcomes, an observer must deconstruct the notion of security by looking at the political language that shaped it (Buzan, et al., 1998). IPS, developed by Bigo, however, postulates that this process goes beyond merely political speech acts. They also have to do with bureaucratic practices, technology, and the management of numbers instead of persons (Bigo, 2008). Bigo and Tsoukala (2008) argue that the results of a securitization process cannot be assessed by just examining the will of an actor, not even a dominant one. These actors never know the outcome of their actions because the process is shaped by the interaction of many different actors within a competition on whose definition of security is more important. Hence, to deconstruct security, Bigo asks the following key questions: 'who is performing an (in)securitization move or countermove, under what conditions, towards whom, and with what consequences?' (Bigo and Tsoukala 2008, 5).

For Bigo, there is a growing field of professionals of the management of (in)security who compete to impose their perception of security. He argues, 'These professions do not share the same logics of experience or practice and do not converge neatly into a single function under the rubric of security. Rather, they are both heterogeneous and in competition with each other' (Bigo, 2008: 8). For a long time, this interaction has been neglected, due to a rigid distinction between the internal (police) and external (military) sphere and exclusion of other fields (institutions like NGO's). The recent breakdown of these boundaries has allowed a more coherent field of analysis to emerge – the field of the management of unease – that is

better can understand the implications of the links between actors that determine what security is (Bigo, 2008: 12).

According to IPS, this competition is responsible for the dominant discourse that shapes security policies. As such, a researcher should deconstruct the role of relevant actors by examining their different interests, which is defined by the routines of a security professional, and authority, indicated by the acceptance of a population that a security professional can determine what constitutes a threat (Bigo, 2008: 8; 2008:127). In the Netherlands, there are a multitude of actors and organizations that occupy themselves with matters of security. In the case of security policies on returned foreign fighters, the IPS model serves as an ideal way to scrutinize their interaction and to establish whether the policy changes were caused by bureaucratic competitions among these security actors.

Operationalization

Based on the two theoretical frames this research adopts it postulates two competing hypotheses that can explain the changes in policies of the Dutch government:

- The objective of the Dutch government to ensure national security has caused the hardening of preventative security policies on returned foreign fighters.
- The competition between the interests of actors with authority has caused the hardening of preventative security policies on returned foreign fighters.

The dependent variables in both hypotheses are the hardening of preventative measures. Gough (2013) defines preventative measures as policies aimed at preventing harm before it occurs. This concept in this research has three different dimensions. A soft one, indicated by sanctions that focus on reintegration; a middle, indicated by policies like freezing funds, increasing resources for detection and prosecution, creating special task forces, and increasing the level of monitoring; and a hard one, indicated by sanctions like

instant imprisonment, impairing one's movement, and revoking's one's citizenship. The aim is to examine how changes within this frame were influenced by the independent variables 'the competition between the interests of actors with authority' and 'the objective of the Dutch government to ensure national security.' The former is measured by the mandate of the relevant security actors, while the latter is measured through the risk assessment of the Dutch government on the level of threat returning foreign fighters pose.

Method of data generation and analysis

To investigate this hypothesis, two sources of data collection will be combined: semi-structured interviews and primary documents. The latter will mainly consist out of policy reports from security services The AIVD and National Coordinator Terrorism and Safety (NCTV), judicial services (OM), think tanks (ICCT), and parliamentary transcripts (MP debates on security matters, and interviews with relevant actors) which revolve around issues concerning foreign fighters. These are available online or in national archives. Considering that the phenomenon of Western foreign fighters is relatively new, the amount of information will be manageable.

Additionally, oral data will be a source that can add valuable insights to written data. A semi-structured form will be used because it facilitates room to have an open conversation, while the topic guide ensures structure. I use interviews with actors who have dealt or deal with matters surrounding (returned) foreign fighters, like academics and agents within relevant organizations.

Finally, this research uses a qualitative historical macro-sociological method because it allows for a more fluid way to reproduce, analyze, and assess the reasons underlying the change in Dutch policies on foreign fighters (Berg, 1989). This method looks at the 'bigger picture' of society which includes changes in policies over a period by examining the

historical events that occurred within the timeframe, which is necessary to understand the different trends, processes, and relationships in the context of the social and political situation.

Scope and Limitations

This research is solely focused on the Dutch government and organizations. Therefore, it will be hard to apply the findings to other countries as every country has their own unique ways of behavior, and of making policy. Additionally, this research aims to unravel the intrinsic features within the Dutch government that explain policy changes, but given the timeframe and access to information, it would be near impossible to provide a full and thorough picture of every aspect.

Chapter 2: The rational side of policy change

This chapter explores the argument that security policies of the government regarding returned foreign fighters followed the logic of the Rational Policy Model (RPM). At first glance, the policies indicate the existence of a single goal, namely national security, while the changes in approaches over time suggest the existence of multiple possible options. This section examines the Dutch government's behavior regarding returnees during the period 2012-2014 in the form of adopted measures by the cabinet. To make the part more legible, the period will be disaggregated into three 'separate' crisis stages because each was characterized by new developments that informed the dominant security approach at the time.

As is often the case, however, no straightforward transcripts exist of which policy options were discussed. Nevertheless, based on the objective of the government, this chapter argues that the same policy options were applicable in every stage of this short period. The development of the threat, however, caused the choices for policies to change as new events demanded a different approach from the government if they wanted to ensure its objective of national security. Therefore, the chapter will outline the different policy options in the first section, and then demonstrate how new developments surrounding returnees changed the risk-assessment and the subsequent rational choice for policies.

The first years

The security strategy characterized the response of the Dutch government on returning foreign fighters at the time. After several jihadists attacks had occurred around Europe earlier in the twenty-first century, the dangers of terrorism appeared to be under control around 2009. Without a clear threat, the Dutch government decided to scale back- and alter its contra-terrorism strategy for the period 2011-2015. Instead of targeting entire communities, the new strategy would adopt a broad approach that incorporated different methods on known

risks of violent radicalization, while upholding an effectiveness, legitimate, and proportionate standard for implemented policies (De Waele et al., 2017; Wittendorp et al., 2017). Thus, the objective was not only to ensure national security but to achieve it proportionately as well.

This period, however, experienced shifting political priorities and resource allocation, which generated sharp fluctuations in the degree of attention dedicated to combating terrorism (Ibid). In the case of returnees, the Dutch government initially concluded that the matter required no notable adjustments of the security system– the cabinet even reduced the budget of security agencies with a third – for three reasons (Noordegraaf, 2016). First and foremost, only a small number had traveled to the Syrian conflict (Geerds, interview, May 15, 2017). Second, since intelligence was scarce and the influence of radical jihadist organizations unclear, the government assumed that the sole intention of these fighters was to fight against Assad (member NCTV, interview, May 6, 2017). There was no evidence of incidents that proved otherwise. Finally, the counter-terrorism structures in place had been successful for some years (De Waele et al., 2017). There was no reason to doubt whether these could handle the matter.

The selection of a soft preventative approach followed the logic of this assessment and the goal of the security strategy. When the first wave of approximately thirty foreign fighters returned to the Netherlands between 2012-2013, the government had several options.

It could do nothing. Foreign fighters were no new thing, so a couple more wouldn't make a difference. The real danger stemmed from over-reacting, government interference that could frustrate and alienate them. Since these returnees were not regarded as liabilities, the government should allow them to settle back on their own and deal with them through regular channels (member NCTV, interview, May 6, 2017). But this argument would have underestimated the situation because no matter how minimal the threat appeared, the government had to consider that returnees most likely participated in a very dangerous and

complicated war. They could have been traumatized and learned skills that could jeopardize public safety (Ibid). Besides, doing nothing could give the wrong signal to other potential travelers contemplating whether to go.

Implementing hard-preventative policies would have been another possibility. After all, these returnees most likely assisted unknown factions in a foreign war. Therefore, the government should have adopted measures that would enable them to nullify the risks of returnees while discouraging others from traveling abroad.

An attractive alternative for risk-averse policy makers but dulled by the assessment of the problem and the new contra-terrorism strategy. First, the entire process would require a substantial increase of resources for a threat that was deemed limited. Second, these sanctions have the tendency to treat all returnees as potential terrorists, which would impact their day-to-day lives in a severely negative fashion. Given the level threat-assessment, it is questionable whether this approach would have been adequate and proportional, and not unnecessarily facilitate a counter-reaction that increased the danger of returnees (Harcourt, 2005; McCulloch and Pickering, 2009). Finally, some of these measures do not correspond well with the principles of the rule of law. Returnees remained Dutch citizens and without conclusive evidence or probable cause, and getting these was extremely hard, the pre-emptive measure could easily be marked as excessive or even illegitimate (Bakker, et al., 2014).

The option of the middle preventative approach would represent a more nuanced version of the previous paragraph. It would argue that returnees needed to be addressed in a more comprehensive manner, but only when it is established that they present a viable threat. Accordingly, the available resources should be expanded to allow agencies to intervene in an earlier stage, but contrary to the hard-preventative option, it would use an individual tailored approach to ensure that not every returnee is automatically treated as a possible terrorist. This method would reduce the risks of returnees while staying firmly within the legal boundaries

(NCTV, 2013; Noorloos, 2015). Nevertheless, even though this approach was milder than its counterpart, it faced the same counterarguments: the policies still seemed quite severe, disproportional, and costly for a threat that was deemed limited for national security.

Finally, there was the option of the soft preventative approach. Returnees spend time in a war-zone, therefore they need to be screened upon return, but when nothing alarming is uncovered, it would be better to help them to settle back into society through the proper agencies than to impose harder sanctions. Only when conclusive evidence was found should a returnee face prosecution (Tijmstra, 2013). The benefit of this method was that it actively engaged returnees, but in a less confrontational and risky manner than the other two options. Moreover, the Netherlands had a lot of experience with reintegration and the structures already in place (De Waele et al., 2017). Granted, an ill-intended returnee could slip through unnoticed, but given the general circumstances, the benefits outweigh the negatives.

Consequently, despite the risk, the 'soft' option was the rational choice based on the assessment and general situation at the time. First, this method provided a middle course between doing nothing and the harder sanctions, making it the most proportionate, effective and legitimate option. Second, given the budget cuts, it was a lot cheaper than harder preventative measures that require extensive resources for constant monitoring (Bakker et al., 2013).

Uncertainty increases

In 2013, a new situation surrounding returnees developed in terms of required attention and resources. It started when an unprecedented number, dozens, of Dutch citizens traveled abroad to join the fighting in Syria. Around the same time, the Dutch government became aware that most of them joined radical jihadist organizations who were assuming a more prominent role in the Syrian conflict. This was a troublesome development because the

ambitions of these organizations did not stop with just fighting and defeating Assad. They also expressed the desire to establish a hardline Islamist state and uttered threatening anti-western rhetoric.

Subsequently, the Dutch government became more concerned that foreign fighters would radicalize and utilize their experience, knowledge, and contacts for terrorist activities upon return. It is what Thomas Hegghammer (2013) identifies as the 'veteran effect,' certain experiences that make returnees more lethal operatives. The increase of pro-jihadists movements and propaganda in the Netherlands that could facilitate ill-intended returnees only exacerbated the worries (NCTV, 2013). Bakker et al. (2013) posit that the concerns were not at all irrational, past experiences have shown that the war of a jihadi fighter does not limit itself to the area of conflict. Accordingly, these new developments rendered returnees a viable and uncertain threat to national security that couldn't be ignored.

In terms of risk assessment, the government began to consider more comprehensive preventative policies. The Minister of Justice Ivo Opstelten (2013) states, 'the risk of returned foreign fighters had to be minimalized.' Therefore, merely continuing the soft preventative option was likely deemed insufficient as risks began to outweigh the benefits. Although still nothing had happened and the option retained most of its earlier discussed advantages, the established influence of radical jihadist organizations increased the fear that a returnee with malicious intent would slip through the net (van Buuren, interview, May 22, 2017). Especially since gathering evidence continued to prove a problem, which impaired an effective evaluation, possibly resulting in devastating consequences (NCTV, 2013). Also, a 'soft' approach to persons that joined radical organizations could encourage others to travel abroad.

Instead, the increased risk and fear for national security justified the adoption of a more proactive approach; policies that would enable the government more room to engage

the 'danger' in an earlier stage and to discourage others from traveling abroad. The hard-preventative approach could have provided a feasible option in this respect. The research was conducted on the possibilities to implement these policies but encountered trouble finding a legal justification. Besides nothing had happened yet involving returnees, and although there were strong indications of an increased threat, the most discourse was still speculative. Consequently, the same reservations with the approach, as described in the previous section, remained, though less strong at this point (Opstelten, 2013; NCTV, 2013).

Alternatively, the middle preventative approach offered the rational solution. It retained the individual approach that distinguished among foreign fighters, to avoid treating them under the same denominator. But these measures would reduce the risks of returnees by increasing the resources and attention of relevant agencies, allowing them to deal with possible dangerous returnees at an earlier stage. The new developments and the additional level of fear alleviated most of the earlier concerns about this method as the government was convinced that more extensive security policies were necessary to ensure national security (Geerds, interview, May 15, 2017).

Hence, the middle preventative approach had some comparative advantages. First and foremost, it actively engaged the new reality of the problem without crossing the line; everything was still within the legal boundaries (NCTV, 2013). Thus, it represented the middle course between the other two options. Second, it would have a more deterring effect for others that wanted to travel. Third, the measures were more cost effective than the hard-preventative measures. The adaptation of the middle preventative security approach, however, did not mean that the concept of reintegration was completely discarded, it was still part of the method but was not the primary intention anymore.

High alert

The middle preventative approach, however, was not maintained for very long as events from mid-2014 on brought the matter of returnees to a whole new level. In 2014 four major occurrences can be distinguished. (1) The attack on the Jewish museum in Belgium by a returnee on May 24. The importance of this event cannot be overstated as it was the first concrete case in which a radicalized returnee attacked a target in Europe. (2) Around the same time, IS announced the formation of a hardline Islamist state after it conquered large swaths of lands earlier that year in both Syria and Iraq. This proclamation meant that a terrorist state existed that provided a free heaven for terrorists who wanted to wage war against infidels all over the world, including western society. (3) In reaction, an international coalition, including the Netherlands, was formed in September '14 that actively engaged the organization. IS vowed to strike back against the countries participating in this alliance. (4) Relative large numbers of citizens kept on traveling to Syria, most of them consciously wanting to join IS and its violent ideology.

These developments convinced the Dutch government of the fact that returning foreign fighters posed a real and credible threat to Dutch society. More than a hundred Dutch foreign fighters stayed in Syria, most fighting for an organization (IS) that was adamant on attacking targets in Europe, including in the Netherlands. This risk-assessment was the immediate cause for adopting the Actieprogramma Integrale Aanpak Jihadism (See Appendix A), which supplemented the contra-terrorism strategy 2011-2015, and was specifically designed to deal with foreign fighters in a very comprehensive manner. From mid-2014 on, every returned foreign fighter was considered a high-potential threat to national security (member NCTV, interview, May 6, 2017).

Consequently, the implementation of this hard-preventative approach was the rational choice based on the new risks the above-mentioned developments brought with them.

Maintaining the middle preventative approach was most likely deemed as too big of a risk for national security. Although it provided the means to intervene in earlier stages and increased the vigilance of agencies, the argument probably would have been that these sanctions were insufficient with such a blatant and direct threat. The individual approach had to be substituted for a more general method. Since most returnees spent months in jihadist territory, it was credible and likely that they had been radicalized and received training in handling heavy weaponry. Therefore, the risks of returnees had to be minimalized, and the hard-preventative approach was the best option for this. The costs and legality were of less importance at this stage. The only thing that mattered was safeguarding society against the malicious intent of returnees, and this approach was better suited for this purpose than the other options (member NCTV, interview, May 6, 2017; NCTV, 2014c & 2014b).

To conclude, the changes mentioned above in security policies can be explained following the logic of the RPM. Because the objective of the Dutch government is national security, it is hard to argue that the chosen policies were not the rational choices. However, it remains a very superficial way to examine policy outcomes because the government is considered a unitary actor. Therefore, it does not account for the integrate believe system of actors that in many ways are crucial to explain behavior (Boudon, 2003). In the case of returnees, a lot of different actors with specific beliefs and preferences contribute to the policy process. The Dutch government consists out of many different departments who each have their own vision on the threat that is returnees, but whose input is excluded thorugh this model.

Lastly, with this model, in the Dutch case, it is hard to establish which options were discussed. This section investigates options that it thought were the most likely, based on the government's objective, risk-assessment, and available data. In this respect, however, options can be overlooked.

Chapter 3: Security as a constructed reality

This chapter builds on the findings of the previous chapter. This section analyses whether the changes in security policies were caused by a bureaucratic competition among the professionals of the management of unease, rather than rational choices of a unitary actor. In this section, the interaction of five of the most influential organizations that determine security policies is examined, namely the NCTV, AIVD, and OM, Veiligheidshuis, and the Dutch parliament. Since each municipality can decide its own course, this research will focus solely on The Hague, as this has one of the biggest groups of returnees and leading communities. These choices, however, do not constitute in any way that other actors are not relevant. There is a multitude of other professionals that play a major role, but the scope of this study does not permit an analysis of all these actors.

The section will start with an outline of the interests and authority of the actors that inform their position on returnees. These positions can be distinguished between those that argue from a security perspective and those uphold a more ambivalent view. Next, it will examine how their interaction shaped the security policies. The chapter claims that security policies changed because this interaction, in combination with the development of the threat, changed the dominant discourse on the way we view the danger of returnees.

3.1 **The interest of security professionals**

Security perspective

- AIVD

The new law for security services, passed in 2002, created the AIVD as the successor of the Internal Security Service (BVD). Its objective is to identify possible threats that can harm the interest of the Dutch state and stimulate an appropriate response (Wittendorp et al., 2017). To carry out this crucial task, the AIVD is granted extraordinary and extensive rights to monitor

individuals and organizations that other agencies do not possess (Appendix B, AIVD, 2009: 7). When evidence of a threat is discovered, the service alerts and advice policy makers about appropriate measures. This counsel tends to be mostly in the direction of 'hard' sanctions since the AIVD reasons from a security perspective aimed at avoiding risks (Geerds, interview, May 15, 2017; van Buuren, May 22, personal interview). Moreover, the respect the agency enjoys on security matters makes it one of the principle designers of security policies: when the service identifies a threat, policymakers have little doubt whether to believe its recommendations (Geerds, interview, May 15, 2017).

- NCTV

After the Madrid attack in 2004, initiatives were taken to improve the cooperation between the agencies responsible for radicalization and terrorism. The NCTV was established to coordinate these efforts and act as the public intermediary between the different organizations (government, business, public) in society. Their role is purely consultative because they do not have the mandate to conduct operations on their own. Instead, the organization analyzed the information it receives from different security agencies to determine the National Threat Level (DTN). Based on the DTN assessment it advises politicians and organizations on appropriate security measures. Although multiple perspectives are considered, the agency is often inclined to reason from a security perspective, as they often follow the advice of the AIVD. Nevertheless, because of their extensive knowledge and public image, the NCTV enjoys a lot of respect when it comes to policy advice that involves security matters (member NCTV, interview, May 6, 2017).

<u>Ambivalent perspective</u>

- OM

The public prosecutor's office (OM) together with judges make up the judiciary which resides under the Ministry of Safety and Justice. The OM occupies itself predominantly with criminal law. When somebody commits, or intends to commit, a felony than the OM can intervene and decide whether to prosecute the offender. For this purpose, it is bound by criminal law. The OM is a pillar of Dutch society as it is entrusted to keep people safe by the rule of law. Regarding security policies on radicalization and terrorism, the OM presents an ambivalent tool. On the one hand, it wants to create a safe environment and has the power to justify preventative measures that allow for interventions in early stages and to indict foreign fighters, setting legal precedents, and jurisprudence that would make it easier to deal with others. On the other hand, it should protect the rights of returnees and temper certain discourse, sanctions, and expectations when these are not in line with criminal law (OM.nl; Noordegraaf, 2016). Hence, the actions and perspective of this actor are important for policy decisions.

- Veiligheidshuis

The different municipalities in the Netherlands have an important role when it comes to returning foreign fighters. At this level, various actors ranging from local police to childcare services meet in multidisciplinary deliberations to choose the best possible course for dealing with returnees residing in their community; the municipality is responsible for safety and security on the local level. Of course, they are informed by and work closely together with national actors, but in the end, each can determine its own procedure. This process is not solely interested in guaranteeing security; it also incorporates humanitarian needs and strives for reintegration. The municipalities are the first line of defense and have lots of knowledge

on what is going on within their jurisdiction. Therefore they are consulted on both possible

threats and efficient approaches (Geerds, interview, May 15, 2017; Wittendorp et al., 2017).

- Parliament

The interest and authority of this actor are relatively forthright because it is directly chosen

by the citizen of the Netherlands to voice and manage their interests. One of its primary

interest is the safekeeping of its citizens, but also to uphold the fundamental rights of every

individual. Its involvement with security policies exists on different levels. Parliament

approves and makes laws that influence the mandate and operations of security actors, and it

can also affect the behavior of agencies through public speech acts. Moreover, there are

internal committee's that scrutinize the conduct of security agencies and give their

perspective and opinion on matters. Its interest is diverse because of the different political

parties that reside there.

3.2 Interaction between the professionals

- soft approach

Both the contra-terrorism strategy and risk assessment of returnees were crucial factors in

deciding the initial security. But the former was not the product of a unitary actor. The

NCTV, in cooperation with other actors like the AIVD, OM, and Police, was responsible for

writing the document. Each of these professionals added their perspective to what constitutes

as terrorism and what the best approach was to counter it, resulting in the aforementioned

broad approach.

It is important to understand, however, that the contra-terrorism strategy was

conceived in a relatively stable time, the DTN had remained on limited since 2009. So, in

2011, most actors were convinced that terrorism represented only a small threat, some

security professionals even thought that terrorism in Europe was completely under control.

The budget cuts of most security actors, the AIVD lost a third of its budget, also did not contribute to the vigilance of these actors. A high-ranking member of the NCTV (2017) admits that a general tendency existed to trifle most threats. Noordegraaf et al. (2016) argue that without a visible threat, the collaboration at this time between the different partners was not optimal.

The matter of foreign fighters was no different. The AIVD and NCTV initially trivialized their potential danger. The fear of terrorism was not as prominently present as at the beginning of the century. Also, there was a general lack of information, so nothing indicated that Dutch society was in any danger (van Buuren, interview, May 22, 2017). In their reports, both security services displayed concerns about citizens that traveled abroad, but these were mostly focused on areas like Somalia and Yemen. Syria is mentioned as a new development, but both agencies do not appear overly concerned. They assumed that the sole intention of these foreign fighters was to fight against Assad (member NCTV, May 6, personal interview).

For the OM, there were some high-profile cases concerning terrorism in the beginning of the century (Samir A, Hofstadgroep), but it shared the perception that the threat of terrorism was slowly fading away (Noorloos, 2015). Parliament remained on the sideline as well; the issue of terrorism and integration did not play an important role in the 2012 elections (NCTV, 2012). Thus, without any interference or signal of the principal security actors, the other organizations had no imperative to react in any other way.

Since returnees were not regarded as a considerable threat that demanded the attention of national actors, the task of dealing with the first wave of returnees fell mostly to the municipalities, who have security at heart but, when possible, favor a more rehabilitative approach. They were still used to acting by Actieplan polarisation en radicalising 2007-2011, that focused on integration and social cohesion. Additionally, the municipalities also

experienced a lot of budget cuts and loss of expertise, which encouraged them to fall back to what they were familiar with (Noordegraaf, et al., 2016; Geerds, interview, May 15, 2017). Thus, without any strong warning of the security services, the municipalities assumed that the returnees posed a limited threat and therefore chose to focus on helping them to reintegrate back into society (Tijmstra, 2013).

- *middle approach*

The issue of returning foreign fighters picks up traction in 2013 after dozens of Dutch citizens travel to Syria and join jihadist organizations. The AIVD had a leading role when it came to the increased threat image of returnees. The agency considered them to present a grave threat to Dutch society and was the first to alert organizations to the probable possibility that foreign fighters could have been radicalized and learned to handle heavy weaponry. The NCTV followed this notion in their reports, raised the DTN level to be substantial, and propagated the idea that foreign fighters posed a significant threat to Dutch society (NCTV, 2013; member NCTV, interview, May 6, 2017). Both agencies called for more comprehensive policies that could reduce the risk of returnees.

Even though the security services changed their position, there were still incidents that displayed an asymmetry between discourse and actions. Take, for example, the propaganda and public manifestations in the Netherlands that sympathized with hardline groups active in Syria. Those were active as early as 2012 but only addressed in 2014 because agencies thought that they were mostly harmless (Ibid). Also, nothing had happened anywhere in Europe involving returnees, therefore, most rhetoric was still mostly based on speculation. Bakker, et al. (2014) contend that a lot of the outcry up to that point was aimed at putting the issue on the map and secure funds.

In addition, the problem of foreign fighters was beginning to receive public and political attention. There were more debates in parliament on the matter, with some parties, convinced of the threat of the phenomenon, asking and urging the cabinet to implement hard sanctions – Klaas Dijkhoff introduced a motion to invoke citizenship – against foreign fighters (Kamerstukken II, Nr. 876, 2013-2014; nr.224, 2013-2014; nr. 241, 2014-2015). The politicization of the matter made the issue only more challenging because people demanded stronger action and most politicians did not want to be accused of being 'soft' on foreign fighters (Bakker, et al., 2013).

From a legal perspective, however, foreign fighters were a complicated case. First, there was the question whether fighting against Assad, which most of them claimed to do, was even illegal. Second, gathering evidence proved incredibly hard, thus, could the OM indict and convict people with only circumstantial evidence (Noorloos, 2015)? The current criminal law permits to intervene in early stages, but there are limits. The extent of the measures that some parties wanted to implement was considered by the OM disproportional as it could jeopardize the principles of the Dutch democratic society. The OM, at this point, had a moderating role as it advised against strong preventative measures and argued that criminal law should only be used as a last resort, resulting the middle approach (member NCTV, interview, May 6, 2017; van Buuren, interview, May 22, 2017).

Hard approach

The attack on the Jewish Museum on 2014 and rise of the IS Caliphate were disturbing developments that only made the problem of returned foreign fighters more evident. For the security services, it confirmed that their analyses were right all along (NCTV, 2014b). Moreover, the AIVD published their influential report *Transformatie van het Jihadism in Nederland* (2014) that identified a dangerous transformation of the threat of jihadism in the

Netherlands. In 2010, the phenomenon was virtually non-existent. However, the AIVD claimed that it had changed considerably and the Netherlands now had to cope with increased professionalism of jihadist organizations and returning foreign fighters. The NCTV mostly agreed with this perception. However, it did stress that a lot of uncertainty surrounds the matter so there could not be any certainty (NCTV, 2014c).

Nonetheless, the dominant discourse of the security services became that everybody who stayed in Syria was considered a likely jihadist because every one of them knew about the atrocities committed by IS and its violent ideology. Thus, when somebody visited or traveled to that area, it could only be with one intention, to join a terrorist organization. Therefore, it recommended the imprisonment of returnees as a safety precaution (member NCTV, interview, May 6, 2017; NCTV, 2014).

Based on these insights, parliament also hardened its discourse, maybe even more than that of the security agencies. There were motions to criminalize traveling to certain areas, to implement a national jihadi alert, and to reintroduce border patrols (Kamerstukken II, Nr. 30, 2014-2015; nr. 101, 2013-2014; nr. 100 2013-2014). Moreover, there were calls to send every returnee to the maximum-security prison in Vught. This rhetoric had a lot of influence on the adoption of the hard-preventative approach, Actieprogramma Integrale Aanpak Jihadism, as both cabinet members and politicians called for a more comprehensive strategy of the security agencies (member NCTV, interview, May 6, 2017; van Buuren, interview, May 22, 2017).

The perception of the OM also changed considerably in 2014 as they followed the recommendations of the AIVD and NCTV. Its previous reservations on using criminal law mostly faded away, and they started to actively prosecute on a much bigger scale. The OM hired an additional seven officers whose only task was to look into cases of jihadi fighters. The OM still distinguishes between the more severe cases, which should be punished

accordingly, and the lighter ones who benefit more from de-radicalization programs. The intention with returnees, however, in general, was to arrest them (OM, 2014).

To conclude, the IPS account of security policies appears to be better suited to explain the changes in the Dutch government's behavior regarding returned foreign fighters. It considers the different interests and authority of security professionals, whose 'competition' had a definite impact on the choice and the extent of adopted security policies. The only limitation to the above analysis is that not all actors are considered in this chapter. Therefore, there could be other security professionals (private actors, NGO's, etc.) that influenced the outcome of security policies.

Conclusion

This section gives an answer to the research question: why has the Dutch government changed its security policies on returned Syrian foreign fighters between 2012-2014. It claims that the changes in policies of safety should be ascribed to the 'competition' between security professionals in which the discourse, aided by the development of the threat, of the security services was dominant.

This research applies two different juxtaposed theoretical frames to explain the policy decisions of the Dutch government. As earlier stated, the RPM provides a coherent answer to the changes in policies. When the perspective of a unitary actor is applied, and an observer considers that the primary objective of the Dutch government regarding returning foreign fighters was to ensure national security, then the changes in policies of safety can be explained following the logic of RPM. The development of the threat of returnees over the years demanded harder security approaches. The government had to adapt to the changing conditions to safeguard its goal of national security.

However, as above mentioned, this analysis does not uncover the intricacies between actors that underlies policy outcomes. In this capacity, the IPS model provides a sounder explanation. All the different security professionals had their own interest and authority. However, in matters of safety, it is evident that the AIVD and the NCTV are the most important actor when it comes to shaping the dominant discourse.

The main reason that the Dutch government adopted the initial soft approach was that the security services deemed the threat of returnees virtually non-existent, which allowed the municipalities to conceive its own procedure. However, after 2013, under the influence of the developments surrounding foreign fighters, the security agencies began to control the narrative by portraying foreign fighters as a significant threat to Dutch society. The OM initially tempered this discourse, resulting in the middle preventative approach, but the events that occurred in 2014 ensured the dominant influence of the security discourse of the AIVD and NCTV, exacerbated by the rhetoric in parliament, which led to the hard-preventative policies.

Bibliography

Algemene Inlichtingen- en Veiligheidsdienst (2015). *Jaarverslag 2014*. Den Haag.

Allison, G.T. (1971). *Essence of Decisions: explain the Cuban missile crisis*. New York: Longman.

Bakker, E, Paulussen, C, and Entmann, E. (2013). *Dealing with European Foreign Fighters in Syria: Governance Challenges & Legal Implications*, ICCT, The Hague

Beck, U. (1994). 'The Reinvention of Politics: Towards a Theory of Reflexive Modernization' in U. Beck, A. Giddens and S. Lash (eds) *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order Cambridge*: Polity Press: 1–55

Berg, B.L. (1989). *Qualitative Research Methods for the Social Sciences*. Long Beach.

Bendor, J and

Bigo, D. (2006). 'Internal and External Aspects of Security'. *European Security, 15*(4), 385-404.

Bigo, D. (2008). 'International Political Sociology'. In: *Security Studies, an introduction*, edited by Williams, P.D.

Bigo, Di. (2008). "Globalized (in)security: the Field and the Ban-opticon." In Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11, eds. Didier Bigo and Anastassia Tsoukala. New York: Routledge, 10 – 48.

Bigo, D and A, Tsoukala. (2008). "Understanding (in)security." In Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11, eds. Didier Bigo and Anastassia Tsoukala. New York: Routledge, 1 – 9.

Boudon, R., (2003). 'Beyond Rational Choice Theory'. In: *Annual Review of Sociology*, *29*, 1-21.

Buzan, B., Wæver, O. and Wilde, J. (1998). Security: A New Framework for Analysis. London.

Boutin, B, Chauzal, C, Dorsey, J, Jegerings, M, Paulussen, C, Pohl, J, Reed, A, and S, Zavagli. (2016). *The Foreign Fighters Phenomenon in the European Union: Profiles, Threats & Policies*, ICCT Research Paper, The Hague

Clarke, R.R. (1997). *Situational Crime Prevention: Successful Case Studies*. Second Edition. New York: Harrow and Heston.

De Waele, M, Moors, H, and A, Garssen. (2017). 'Lokale Aanpak van gewelddadig radicalisering'. *Aanpak Gewelddadige Radicalisering*, 1, 1-23

Feeley, M.M. and Simon, J. (1992). 'New Penology: Notes on the Emerging Strategy of Corrections and Its Implications'. *Criminology*, *30*(4), 449-474.

Fredman, S. (2007), "The Positive Right to Security", in eds. Benjamin J. Goold and Liona Lazarus, *Security and Human Rights*, Portland: Hart Publishing.

Furedi, F., 2008. "Fear and Security: A Vulnerability-Led Policy Response", *Social Policy and Administration*, 42(6), 645-661.

Garland, D. (2001). *The culture of control: Crime and social order in contemporary society*. Oxford: Oxford University Press.

Gough, Ian (2013) Understanding prevention policy: a theoretical approach. Prevention papers, nef, London, UK

Harcourt, B.E., (2005), *Against Predictions: Sentencing, Policing, and Punishing in an Actuarial Age*, University of Chicago Press

Hegghammer, T. (2013). 'Should I Stay or Should I Go? Explaining Variation in Western Jihadists' Choice between Domestic and Foreign Fighting'. *American Political Science Review*, *107*(1), pp.1-15.

Mythen, G. (2004). *Ulrich Beck: A Critical Introduction to the Risk Society*. London: Pluto Press.

Noorloos, M., 'De strafrechtelijke aanpak van terrorisme en Syriëgangers vanaf 2014', *Delikt en Delinkwent 2015, nr. 7, p. 568-597*

Nationaal Coördinator Terrorismebestrijding en Veiligheid (22 juni 2012b). DTN29. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (March 3 2013a). DTN 32. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (July 1 2013b). DTN 33. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (November 11 2013c). DTN 34. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (February 24 2014a). DTN 32. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (July 2 2014b). DTN 33. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (12 november 2014c). DTN 37. The Hague. https://www.nctv.nl/onderwerpen_a_z/dtn/index.aspx

Nationaal Coördinator Terrorismebestrijding en Veiligheid (2014c). Handreiking Aanpak van radicalisering en terrorismebestrijding op lokaal niveau. Den Haag.

Noordegraaf, M, Douglas, S, Bos, A, and Klem, W., (2016), *Gericht, gedragen en geborgd interventievermogen? Evaluatie van de nationale contraterrorisme-strategie 2011-2015,* Universiteit Utrecht

Hudson, Barbara. 2003. Justice in the Risk Society, London: Sage Publications.

Jones, C. (2010). Bureaucratic Politics and Organizational Process Models. In: *The International Studies Compendium*, edited by Denmark, R. London: Blackwell

Lazarus, Liona. 2007. "Mapping the Right to Security", in eds. Benjamin J. Goold and Liona Lazarus, Security and Human Rights, Portland: Hart Publishing.

Kamerstukken II 2014-2015, nr. 30; nr. 241

Kamerstukken II 2013-2014, nr. 101; nr. 100; nr. 876, nr. 224

Opstelten, Ivo. 12-11-2014. "Dreigingsbeeld Terrorisme Nederland 37 en Beleidsbevindingen", Nationaal Coordinator voor Terrorismebestrijding en Veiligheid, https://www.nctv.nl/onderwerpen-a-z/dtn.aspx

Openbaar Ministerie, (2015). *Jaarverslag 2014*. Den Haag

Sabatier, P.A. (1988). 'An advocacy coalition framework of policy change and the role of policy-oriented learning therein'. *Policy Sciences*, 21(2), 129-168.

Sabatier, P.A. (2007), *Theories of the Policy Process*, Westview Press

Scott, J. (2000). 'Rational Choice Theory'. *Understanding Contemporary Society, Theories of the Present,* edited by Browning, G., Halcli, A. and Webster, F. Trowbridge, Cromwell Press. Pp. 126-136.

Tijmstra, F., (2013, November 6) Teruggekeerde Jihadi's niet opgepakt maar geholpen http://www.eenvandaag.nl/buitenland/syrie/47733/teruggekeerde_jihadi_s_niet_opgepakt_maar_geholpen

Tosini, D., (2010). 'Calculated, Passionate, Pious Extremism: Beyond a Rational Choice Theory of Suicide Terrorism'. *Asian Journal of Social Science*, 38(3), 394-215

Waever, O. (2015). 'The history and social structure of security studies as a practico-academic field'. In: *Security Expertise: practices, power, responsibility*, edited by Berling, T.V. and Bueger, C.

Wæver, O. (1995) 'Securitization and Desecuritization'. In: On Security, edited Lipschutz, R.D. pp. 46-86.

Wæver, O. (1997), *Concepts of Security*. Copenhagen: Copenhagen University Press.

Wittendorp, S, de Bont, R, de Roy van Zuijdewijn, J, and Bakker, E., (2017), *Beleidsdomein Aanpak Jihadisme: Een vergelijking tussen Nederland, België, Denemarken, Duitsland, Frankrijk, het VK en de VS*

https://www.researchgate.net/publication/316286151_Beleidsdomein_Aanpak_Jihadisme_Een_vergelijking_tussen_Nederland_Belgie_Denemarken_Duitsland_Frankrijk_het_VK_en_de_VS

Zedner, L., (2003), 'The concept of security: an agenda for comparative analysis'. In: *Legal Studies,* 23(1), 153-175

Zedner, L., (2007), 'Seeking Security by Eroding Rights: The Side-stepping of Due Process' in eds. Benjamin J. Goold and Liona Lazarus, Security and Human Rights, Portland: Hart Publishing.