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A Unique 'Dutch Approach?' Counterterrorism Measures in the Netherlands

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A Unique 'Dutch Approach?'

Counterterrorism Measures in the Netherlands



Universiteit Leiden

International Relations

Global Order in a Historical Perspective

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Introduction

On the morning of Monday August 31st, 1970, around thirty young Dutch-Moluccans stormed the residence of the Indonesian ambassador in the Netherlands, killing a police officer standing guard. While the ambassador managed to escape, being mistaken for a gardener as he was having breakfast in his pyjamas, around thirty hostages were taken. Dutch policymakers had not forecasted such a dramatic event at all, as the issue of terrorism, or even political violence had remained almost absent in the Netherlands in the years following the Second World War. The unpreparedness of the Dutch authorities was probably best captured by a photo showing the Minister of Foreign Affairs, Joseph Luns falling through a fence, when he and the Prime Minister personally came to inspect the situation, and thereby directly walking into the crosshairs of one of the hijackers (Bootsma, 2000). Thankfully neither him nor any others became casualties that day, as after twelve hours the situation was peacefully resolved, detailing the first terrorist incident affecting the Netherlands and subsequently proving to be the starting point of Dutch counterterrorism.

Although even earlier some small-scale and often impromptu acts of violence, mostly during demonstrations had taken place, for a large part of its modern history the Netherlands were relatively spared the horrors associated with large scale terrorist attacks. Both domestic as international acts of terrorism occurred less frequently when compared to other West-European states (Schmid, 1992; Caruso & Schneider, 2011). Correspondingly, terrorism had not been a major feature in the Dutch political debate for some time. Given this apparent 'success', the concept of 'the Dutch approach' to terrorism, the manner how the Dutch authorities responded to terrorism gained some popularity in academia and specialized literature, although a lively discussion among a number of authors and scholars surrounding the term remains to this day.

However, more recent events, such as 9/11, the 2004 Madrid bombings and the wave of terrorist attacks hitting Europe from 2015 onwards, changed this relatively lack of attention given to terrorism and moved it to one of the most important themes in global and Dutch politics. Several arrests of alleged (domestic) terrorists in the Netherlands and the rise of jihadist terrorism in the world aided in the sentiment that terrorism was a major threat facing Dutch citizens themselves and liberal society in a broader sense. And while terrorism was certainly not a new phenomenon, this increased salience of terrorism has resulted in the

rise of counterterrorism to one of the most important policy fields in both domestic and international political arenas. The US-led global '*War on Terror*' is undoubtedly the most prominent policy reactions referring to this new threat. Terrorism has therefore also become increasingly internationalized, as even supranational organizations such as the EU and the UN have increased their counterterrorism efforts (Feinberg, 2015; Nesi, 2016). Still, individual states themselves remain the prime actors in counterterrorism activities, as actual tangible counterterrorism cooperation between states, although increasing, remains marginal (Saadat, 2020)

This renewed salience of terrorism on the political agenda, and the apparent 'success' Dutch policymakers achieved, draws curiosity to this specific Dutch counterterrorist approach, as this subject has received some, but hardly enough scholarly attention. While this relative 'success' may be the result of sheer luck, authors, such as Schmid (1992) have pointed out societal factors, such as a political culture based on pillarization, tolerance, negotiation and compromise that may have contributed. Additionally, the way in which the Dutch authorities reacted to terrorist attacks, especially to those orchestrated by Moluccan radicals, has been credited for the relative absence of the thereof, especially before 9/11 (Bootsma, 2000; Abels, 2007; De Graaf & De Graaff, 2008). This unique 'Dutch approach', as it is often called, is however shrouded in confusion, as not only multiple authors define the term differently but also due to differences in opinion to which terrorist threats it pertains.

Some detail this concept as how the Dutch authorities reacted to several hostage-takings by Moluccan terrorists in the 1970's. By drawing out negotiations, without giving in much to terrorists' demands, and only using violence as a last resort, as time would work in the authorities' favour, relatively positive results were achieved (Klein, 1989; Bootsma, 2000). Others however, used the term to describe the Dutch counterterrorism approach as a whole, as the Dutch would have implemented a softer and more proportional approach, by implementing broad, pragmatic and flexible policies instead of violent repression (Abels, 2007; De Graaf & De Graaff, 2008). Furthermore, while most have recognized 9/11 as a moment of incremental change for Dutch counterterrorism, some have argued that considering these changes, this so-called Dutch approach no longer applies (Eikelenboom, 2007; Van Sliedregt, 2009; De Graaf, 2010). Others contradict this by pointing towards a number of continuities in the Dutch counterterrorism approach (Abels, 2007; De Graaff; 2007). Additionally, there are those who refute the concept altogether, arguing against the

notion that there was a comprehensive counterterrorism approach in the first place, as well as advocating against the image of this approach being liberal and more proportional (Dahlke, 2010; Zaalberg, 2013).

Even though counterterrorism is a popular subject in western politics, in academic terms, the research remains quite underexposed, particularly when compared to terrorism studies. While 9/11 sparked an uptick in researching the causes and consequences of terrorism, counterterrorism remains understudied and undertheorized, as still significant issues with its study pertain (Van Dongen, 2010; Lewis, 2015; Van Um & PISOIU, 2015). Firstly, to be blunt, there has never been a widespread and accepted definition of terrorism, much given to the political connotations associated with the term. Not only do terrorists hardly brand themselves as terrorists, the long-standing truism that 'one man's terrorist is another man's freedom fighter' remains applicable (Silke, 2018). Additionally, the study of counterterrorism, especially after 2001, has been dominated by political scientists, negating the fact that terrorism is a phenomenon that could be studied from a wide range of disciplines. Moreover, (counter)terrorism research has been repeatedly plagued by biases and political interference. As terrorism is inherently connected with gruesome images and the loss of human life, this has often complicated the role of the academic researcher. As Schmid and Jongman (1988) pointed out, it is not the researcher's role to 'fight' the terrorist fire as a firefighter, but rather the scholar should be a student of combustion. Particularly the role of the state, providing funding for counterterrorism research contributes to this dynamic, as the concept has been mainly defined from a state perspective (Jarvis & Lister, 2014).

Hence, counterterrorism studies are frequently aimed at examining the effectiveness of certain counterterrorism policies or approaches. Due to multiple theoretical problems, this has proven problematic, as terrorism, a complex and fluid societal phenomenon, is hard to capture in positivist cost-benefit-analyses or law-like findings. (Spencer, 2006; Van Um & PISOIU, 2015). Several studies have therefore taken a slightly different approach. Rather than trying to capture hard truths or empirically determine counterterrorism effectiveness, a process-tracing methodology is used, to trace differences in various terrorism experiences and examining different counterterrorism approaches, rather than comparing separate measures, allowing for comparison between cases. Some examples are: Barkey (2007), Ballesteros (2018) and Aoi & Heng (2020). This study will take a similar approach, looking at

the Dutch counterterrorism responses since the 'Moluccan Actions' of the seventies until the counterterrorism measures adopted in the wake of 9/11.

Generally, terrorism has been divided into either left-wing, nationalist-separatist, religious or reactionary motivated. While most studies have focussed only on one of the main forms of terrorism, this study will compare three of the four forms of terrorism within one state. One would have preferred to include right-wing/reactionary terrorism in this study as well, but the Netherlands has not faced any such widespread threat.

Given that religious-motivated terrorism received most of the attention of (counter)terrorism scholars after 9/11, the other forms remained relatively underrepresented and understudied, leaving the study of counterterrorism deficient. Thus, by not only comparing the counterterrorism approaches of the Netherlands across a multitude of decades, but also in relation to three of the four main forms of terrorism, this study will trace the evolution of the counterterrorism approaches by the Netherlands. This by drawing a comparison between the approaches towards the different forms of terrorism threats, as well as profiling the Dutch experience in the wider academic study of (counter)terrorism. Furthermore, this study will contribute towards the debate to which extent the Dutch counterterrorism approach was indeed as liberal and 'soft,' or other aspects specifically attributed to this unique 'Dutch approach' to terrorism. Furthermore, examined is to which extent this 'unique approach', predominately based in the reactions to Moluccan terrorism is applicable to the other forms of terrorism faced. Therefore, the research question of this study can be framed as: *'Do the Dutch governmental reactions to waves of domestic terrorism detail a continuous, liberal and soft counterterrorism approach?'*

Method

In order to analyse, capture and differentiate the Dutch counterterrorism approaches, and to answer the research question of this paper, three chapters of this paper are dedicated towards a historic process-tracing, as outlined by authors such as Mahoney (2015) and Beach & Pedersen (2019), relating to the three main terrorist threats the Netherlands has faced. Specifically, this study will compare and categorize the Dutch counterterrorism approaches with existing conceptualizations of a state's counterterrorism approaches, in order to trace the evolution across time and relating to different forms of terrorism, as well as detail a characterization. These different conceptualizations of a state's counterterrorism approaches are:

- **Criminal Justice Model:** this model, firstly conceptualised by Crelinsten (1989) approaches terrorism as any other form of crime, denying its political dimensions and relying on the police and the criminal justice system as the primary counterterrorism actors. It uses predominantly coercive measures and a large bureaucracy, with a high number of interacting state institutions and rules, aimed at preserving democratic values and protecting human rights.
- **War Model:** this approach, also originated by Crelinsten (1989), relies on the usage of maximum force to defeat the terrorist threat, making therefore the military the primary actor, as terrorism is framed as an act of war threatening the very existence of the state. Unlike the criminal justice model, the war model is primarily aimed at groups instead of individuals and leaves much less room for democratic values, as it frames success in terms of victory (or defeat), when the perpetrators of terrorism are eliminated. It is therefore no surprise that this approach primarily uses coercive measures, although defensive and proactive counterterrorism measures are also prominently featured.
- **Intelligence Model:** conceptualised by Bhoumik (2004) this model is primarily based on the usage of intelligence by the state's intelligence services. Under this model, terrorism is not deemed just as criminal activity nor the object of a life-or-death struggle for the survival of the state, but rather as a specific threat. To keep the state safe, the goal is not to criminally prosecute the suspected terrorist, rather to acquire as much information as needed to thwart any kind of attack from materializing, via

the usage of proactive measures by the intelligence services. Therefore, this model is almost exclusively proactive in nature, but with a portion remaining for coercive action.

- **Expanded Criminal Justice Model:** like the aforementioned model, this approach, conceptualised by Pedahzur and Ranstorp (2001) details a model in which terrorism is deemed an extraordinary threat, and thus is different from 'normal' crimes, but not as an act of war or insurgency. Therefore, while the criminal justice system is still the preferred method to deal with terrorists, democratic and liberal boundaries can be stretched to some extent in the name of security. To face the special threat of terrorism, special legislation and broadened administrative regulations, as well as specific anti-terrorist units in the security agencies are often introduced. This approach entails employing means not generally accepted as sound principles of criminal law enforcement in a democratic and liberal society, but still differ from a purely military approach. Proactive measures are thus often increased in scope and strength. Given the acknowledgement that terrorism is a different natured threat, long-term, defensive and persuasive measures are also more prominently featured.

The cases selected in this study are the following, comprising not only of three waves of successive terrorist threats, but simultaneously also three of the four different forms of terrorism.

- *Moluccan terrorism of the 1970's*
- *Left-wing terrorism between 1970-1993*
- *Islamic jihadism 2001-2010*

Relating the threat of Islamic jihadism, this paper will only examine the period between 9/11 and 2010, as the widespread perception that this terrorist threat had altered significantly, aided by the outbreak of the Syrian Civil War and the emergence of IS and several associated attacks in western Europe, resulting in new a more internationalised form of counterterrorism (Cronin, 2015).

For the purpose of this research, counterterrorism continuities are defined as the adherence of policies and measures to a specific counterterrorism model. To capture this,

the following points of reference are applied, given their importance in the models of counterterrorism approaches, their distinctiveness in the so-called Dutch approach, as well as they relate to key debates that surround the implementation of counterterrorism measures (Schmitt, 2003; Masferrer & Walker, 2013):

Nature of counterterrorism measures: this relates to which and how measures were implemented in the fight against terrorism. Therefore, this chapter will outline new policy initiatives as implemented by the Dutch government. Additionally, this section relates to the component of the Dutch approach that emphasises the Dutch reaction to terrorism as pursuing broader counterterrorism policies aimed at reducing grievances. Specifically, this chapter will distinguish between the following five forms of counterterrorism measures, as outlined by Crelinsten (2009):

- *Coercive:* measures relying on the state's monopoly on violence, often enacted by the police or the military and aimed at prohibiting terrorists from carrying out an (other) attack, by criminal prosecution or in terms of the military, eliminations via direct force.
- *Proactive:* measures aimed at the prevention of terrorist plots coming to fruition in the first place via the usage of acquired intelligence, often carried out by intelligence and secret services.
- *Persuasive:* this form of counterterrorism aims to prevent attacks by a proactive effort attempting to change perceptions of terrorists themselves, their supporters or their sympathisers, through counter-narratives and a focus on deradicalization.
- *Defensive:* this type of measures can be divided into two parts. A proactive part focused on decreasing the potential harm of a terrorist attack, by making potential targets, such as critical infrastructure, crowded spaces or important individuals less attractive or more difficult to attack. Or by denying terrorist the basic necessities to carry out an attack, for instance through tight weapon laws, customs and immigration control and financial regulations. A second reactionary part consists of measures that increase societal ability to cope with the fall-out of an attack, for instance by adequate emergency preparedness, effective first responders, a robust public health system and clear and direct lines of (crisis) command.

- *Long-term*: these measures are aimed at the prevention of grievances that can ultimately foster and develop into motivators for terroristic behaviour. Given that these reasons can be hugely varied, this form can encompass a wide range of measures, such as capacity-building in weak states, providing education and economic opportunities, fair resource distribution, civil rights promotion and the promotion of human rights practices.

Usage of state force: this relates to the usage of state force against (suspected) terrorists, as almost all counterterrorism approaches rely on some form of coercive measures. Given that the usage of state coercion can be applied to multiple levels, this chapter will focus on the usage of force (or the lack of thereof) by authorities when confronted with an acute terrorist attack, as well as more long-term coercion in the form of (judicial) punishments.

Compliance with democratic norms: this last aspect relates to what extent implemented counterterrorism measures are at odds with democratic and liberal norms. Given that the discussion on what is and what is not acceptable in a liberal democracy in terms of counterterrorism policies is complex and better served for political philosophers, it is not discussed in depth here. However, this chapter will detail the most evident breaches of democratic principles, as they violate domestic as well as international law or have been deemed so by either scholars or the acting authorities themselves, detailing to what extent the Dutch approach was in fact liberal.

By the accumulation of the findings of these consequently linked criteria, the Dutch counterterrorism approaches can be characterised in relation to the adherence to any of the outlined models of counterterrorism, and trace evolutions over time and in relation to the different cases. However, as it is not expected that the Dutch approach will perfectly adhere to one model, the selected criteria are designed to account for mixed responses.

Due to feasibility issues, this paper will not analyse every single measure implemented to fight terrorism but will detail the most important governmental responses and practices to terroristic events and threats in order to trace and characterise the evolution of the Dutch counterterrorism approaches. Given the obvious observation that often a gap exists between the strategy and policies announced by authorities and resulting practices on the ground, this study will examine both. Therefore, this paper is structured as

following; firstly, a brief historical background of the three selected terrorist threats will be given. Then three chapters follow, each examining the counterterrorism approaches of the Netherlands along the picked criteria, and a discussion tracing their differences and possible explanations. Lastly, in the conclusion, the findings are discussed, detailing not only the enacted counterterrorism approaches and the evolutions thereof, but also differences in the approaches towards each specific type of terrorism the Dutch faced over the years.

Historical Background

In order to give a more detailed analysis of the Dutch counterterrorism approaches pertaining to different terrorist groups over time, this section will detail a very brief overview of the histories of the selected forms of terrorism. Although several attacks were performed by groups outside these selected cases, these three are however the most prominent waves of terrorism and to which most (domestic) counterterrorism measures were enacted (De Graaf, 2010).

Moluccan terrorism: This ethno-separatist form of terrorism emerged out of a second generation of Dutch-Moluccans, children of former soldiers originating from the Moluccan archipelago of the former colony of Dutch East Indies, who had fought for the Dutch side during the Indonesian War of Independence and who had been living in 'temporary' camps in the Netherlands since the early 1950's (Amersfoort, 2004). They enacted a number of attacks to force the Dutch government to support an independent Republic of South Molucca (RMS). The first attack occurred in 1970, a hostage taking that failed to capture the Indonesian ambassador in his home. Later, in 1975, 1977 and 1978 several large-scale hostage-takings were enacted, taking large numbers of hostages, including over a hundred children in a primary school.

Left-wing terrorism: Between 1970 and 1993, this form of terrorism manifested itself in the Netherlands. Although a plethora of groups carried out political violence, only two groups have generally been described as terroristic. Firstly, the *Rode Jeugd* (Red Youths) emerged from the radical left protest scene of in the late sixties, and as a split from the Communist Party. Particularly its branch in Eindhoven became increasingly radicalised and started to pursue an urban guerrilla, operating as a vanguard organization in order to fight capitalism while also having a 'legal' side in order to radicalise other leftist action groups.

Predominately carrying out (fire)bomb attacks, on 'capitalist' targets, such as the facilities of Philips or the Bank of America, between 1970 and 1973. It disbanded in 1974, although after the death of a closely aligned RAF leader, a last bomb was placed in 1976 (De Graaf, 2009).

The second left-wing terrorist group active in the Netherlands, Revolutionary Anti-Racist Action (RaRa) manifested itself in 1985 by bombing a number of supermarkets, of which the mother company SHV had close ties with the apartheid regime in South Africa,

forcing the company to halt their operations in and with South-Africa (Muller, 1994). After, 1988, a relative quietness surrounded RaRa, but in the period between 1990 and 1993 new attacks were carried out. These bombings, on barracks of the Marrechaussee, and several offices of some Dutch Ministries were carried out against at the Dutch refugee policy, deemed imperialist and racist, causing doubts as to whether they were carried out by the same group of individuals (Eikelenboom, 2007).

Islamic jihadist terrorism: While 9/11 saw an increase in the attention given to terrorism in the Netherlands, it would take until 2004 when the first attack of this form of terrorism occurred on Dutch soil. Theo van Gogh, a columnist and filmmaker who just released a movie deemed blasphemous by many Muslims, was brutally murdered by Mohammed B. in Amsterdam, resulting in a huge societal backlash, as well as several mosques and Islamic public schools being attacked with firebombs, which in turn led to reprisals on a number of churches (Trouw, 2004).

Together with attacks in Madrid and London in 2004 and 2005, this caused huge societal fears and panic and a corresponding high level of political attention to (counter)terrorism (De Graaf, & De Graaff, 2008). However, while fears for a terrorist attack had been on a relatively high level over the course of the new millennium, and the in 2005 established National Coordinator of Counterterrorism and Security (NCTV) had interpreted the risk level of an attack as substantial for most of this period, actual Jihadist terrorist attacks have not occurred since on Dutch soil (Wittendorp et al., 2020). However, several arrests of both international and home-grown (suspected) terrorists, of which the so-called *Hofstad* group was the most prominent, had taken place, and therefore some attacks had been averted according to the authorities.

Chapter 1

Nature of counterterrorism measures

This chapter will examine the different forms of counterterrorism measures undertaken by the Dutch authorities, as outlined in the method section. By varying the implementation of these different types of counterterrorism measures, a state can pursue various counterterrorism approaches. While it can do nothing at all, and thus implement no counterterrorism measures, it can also attempt to conciliate the terrorists, by implementing mostly persuasive or long-term measures. It can pursue either a war or a criminal justice approach, by relying much on coercive methods or it can pursue a more intelligence approach, by relying on proactive measures. Given that announcing legislation and actual implementation are two very different concepts, this chapter will look at both adopted counterterrorism legislation as well as measures that effectively constructed the Dutch counterterrorism approach.

Moluccan terrorism of the 1970's

As the hostage-taking at the Indonesian embassy demonstrated the unpreparedness of the Dutch authorities, an informal interdepartmental terrorism policy group, under leadership of the Minister of Justice, was set up. (De Graaf, 2010). This group, comprised of the BVD (Internal Security Agency), attorney-generals and directors-general police of the ministries of Justice and Internal Affairs constructed the first written counterterrorism policy of the Netherlands, presented in February 1973 as the '*Terreurbrief*'.

This first written counterterrorism strategy, announced no new legislation against terrorism, as was deemed that terrorism could be combatted within existing legislation (Eikelenboom, 2007). However, two new sniper and close-combat units were formed, focussed on hostage-situations, named the Special Assistance Units (*Bijzondere Bijstandseenheden, BBE*). Furthermore, the chain of command in future crises was established, in which the Minister of Justice, chairing a national crisis centre held the highest decision-making powers, although local attorney-generals, mayors and police constables were given important roles as well. Violent intervention by the BBE-teams was only permitted after an explicit order by the Minister of Justice (Terreurbrief, 1973).

As investigative actors such as the police, public prosecution and the intelligence

services were not able to acquire much intelligence that allowed for preventative measures, it is no surprise that most counterterrorism measures aimed at Moluccan terrorism were coercive as well as reactive in nature, as criminal prosecution was the main mechanism for dealing with Moluccan terrorism. (Bootsma, 2000; Eikelenboom, 2007). Given this weak intelligence position, sometimes, local authorities would implement coercive preventative measures, as entire Moluccan camps were searched. As these searches were typically accompanied with a lot of state coercion, these will be more discussed in depth in the following chapter.

Even though such actions were sparse, an awareness slowly emerged, that even though an independent RMS was unfeasible, more had to be done to alleviate the Moluccan community's grievances (Van Amersfoort, 2004). While it would take some time before this sentiment became popular among the governing elites, after the attacks in Wijster and Amsterdam in 1975, the Dutch government decided to establish the *Inspiraakorgaan Welzijn Molukkers* (IWM) and a consultation commission, aimed at ensuring that actions in the name of the RMS would no longer be in conflict with the Dutch legal system (Janse, 2005). At first, these initiatives could not count on much support by the Moluccan community early-on. However, especially after the attacks of 1977, the realization that further violence would only lead to more negative consequences, both for the internal cohesion of the Moluccan community as well as its relations with Dutch society, and that gains could be made in negotiation with the government became more widespread (Van Amersfoort, 2004). This was aided by the fact that the government facilitated travels to the Moluccan archipelago, to persuade the Dutch-Moluccans that no longer a viable RMS movement existed on the islands themselves, demonstrating the aimlessness of terrorism. Therefore increasingly, the Moluccan community focused more on socio-economic problems, such as emancipation, multicultural identity, education and discrimination, rather than the purely political goal of an independent RMS (Rasser, 2005).

This reorientation of the Moluccan community that their future was located in the Netherlands, allowed for a more comprehensive integration policy, firstly detailed in a 1978 white paper (Van Amersfoort, 2004; Demant & De Graaf, 2010). Herein, the government presented substantial plans to improve the socio-economic status and integration of the Moluccan community, by adopting a wide range of policies related to housing, education and employment (*De Problematiek*, 1978). Furthermore, an agreement was signed in 1986,

providing all first-generation Moluccans with a medal of honour and an annual payment. Additionally, a Moluccan historical museum would be set up and a project started to create a thousand government jobs for Moluccans, detailing some of the long-term and preventative measures that the Dutch authorities had implemented to reduce grievances and diminish the threat of Moluccan terrorism (Van Amersfoort, 2004; Rasser, 2005).

Left-wing terrorism 1970-1993

The measures through which both groups of left-wing terrorism were combatted differed significantly from how Moluccan terrorism was fought. Both the *Rode Jeugd* and RaRa were primary targeted by proactive measures. Through the salience of the Cold War, the BVD had diverted a significant portion of its resources towards the monitoring of various left-wing groups and organizations (Hijzen, 2016). While much of this work has been and still is shrouded in secrecy, the overall strategy was to gather as much intelligence as possible, increasing the network over time, in order to construct the best possible image of an organization and its members. Only when concrete plans of an attack could be unravelled, coercive actions were undertaken and arrests made. (Hoekstra, 2004; Hijzen, 2016). Infiltration by secret agents was the most common way through which this intelligence was gathered, together with constant eavesdropping on suspects (Hoekstra, 2004). As going underground was deemed too difficult by the *Rode Jeugd* or RaRa, this process of monitoring subjects was generally quite easy (Eikenlenboom, 2007; De Graaf & Malkki, 2010). Additionally, this work had a strong preventative character as well, as the BVD let it emphatically be known that they were following certain individuals, to prevent them of becoming operational, a strategy that became known as the '*verstoringpolitiek*' (disruptionpolicy) (Engelen, 2007).

Due to this constant monitoring of potential terrorists, the intelligence services were relatively reserved in triggering coercive responses, as this risked exposing their intelligence position. Especially the *Rode Jeugd* was combatted in this proactive way, as almost all their cells would be infiltrated over time, but only resulting in five or so sentences (De Graaf & Malkki, 2010), as in contrast to Moluccan terrorism no suspects could be caught red-handed, and therefore linking someone to an attack was difficult. While less infiltrated than the *Rode Jeugd*, RaRa saw a similar pattern, as especially during its second phase, little intelligence leads could be established (Eikelenboom, 2007).

While the Dutch approach to this form of terrorism was therefore mainly based on proactive intelligence measures, also defensive counterterrorism measures were implemented more broadly than before. Given the preferred method of attacks in this case, i.e., bombings and their relatively predictable targets, police and Marrechaussee forces were tasked with security and surveillance of potential targets. While this implementation was mostly proactive, it could be reactive as well, as RaRa often tipped local authorities of upcoming attacks (Muller, 1994).

Jihadist terrorism after 9/11

The sudden shock of the events of 9/11 had a profound influence on the Dutch counterterrorism approach. Whereas in the years prior, the threat of terrorism was almost non-existent, after 2001, several official offices and organizations acknowledged the threat of terrorism and outlined their share in combatting it, resulting in a huge proliferation of the number of counterterrorism actors and associated coordination and competence issues (Ables, 2007).

While the previous waves of terrorism had primary singled-out symbolic and material targets, using human lives only as a mean, this new wave of terrorism, was perceived differently. Being religiously motivated, this form not only reserved significantly less room for political bargaining, it also tended to pursue mass casualty attacks aimed at human lives, as this form of terror had evolved from being a mean to an end, to becoming an end itself, requiring a more extensive counterterrorism reaction (Neumann, 2009). Therefore, the Dutch authorities, for the first time used the term terrorism widely. As previously, policymakers remained hesitant to use this term, in order to downplay societal fears, instead preferring to label terrorist attacks as 'politically violent activism' (Abels, 2007). Thus, only days after 9/11 the '*Actieplan terrorismebestrijding en veiligheid*' was initiated, consisting of over forty points through which the government sought to improve its counterterrorism policy. Such initiatives were among others; reinforcing border controls, increasing the security of infrastructure, governmental and industry security organisations, and the expansion of intelligence and security services, (*Tweede Kamer*, 2001).

When the attacks in Madrid of March 2004 again affirmed the threat of jihadist terrorism, this time on European soil itself, the Netherlands reacted by adopting special terrorism legislation. This Act of 24 June 2004 on Terrorist Crimes, added to the Dutch

criminal code, specified terroristic crimes, defined terrorist intent and increased punishments for such motivated crimes. It also criminalised participation in a terrorist organization as well as the conspiracy to commit terroristic crimes, setting out the first instance in which preparatory acts of terrorism were made illegal (*Wet Terroristische Misdrijven*, 2004). Furthermore, again the investigative capacities and powers of the police and the AIVD (renamed from the BVD in 2002) were expanded, as well allowing evidence directly obtained through AIVD investigations to be admitted in court. This last point due to the fact that in December 2002 a number of suspected terrorists were acquitted on the basis that much of the evidence gathered by the AIVD was deemed to be unlawfully obtained, resulting in much criticism (Eikelenboom, 2007).

After the 7/7 Bombings in London and the murder of Theo Van Gogh, both orchestrated by home-grown terrorists, the government unveiled new plans to counter radicalization. As now the domestic risk of radicalisation had been clearly demonstrated, more long-term and proactive measures, aimed at actively integrating Muslim communities, became an integral part of the counterterrorist strategy. Hence multiple new programmes developed in dialogue with minority and Islamic organizations, focussed on countering radicalization by strengthening social ties and civil society were adopted. Additionally, more attention was given to identity issues and discrimination, and even Iman training schemes were enacted, to aid clerics in becoming better informed of life in the west (De Graaff, 2007; De Graaf & De Graaff, 2008).

Furthermore in 2006 parliament adopted new legislation that again broadened the special investigative powers of police and investigative services. While previously explicit permission from a judge was needed to carry out telephone taps, wiretapping, etc., from this point onwards, the services were allowed to use these methods if 'soft information' or 'rumours that are difficult to verify' about an imminent attack were presented, thus making even an anonymous tip sufficient (Vrijssen, 2006).

The result of these policy changes was a new, and more broad approach to terrorism, not solely aimed at those that are on the verge of using violence but on a much wider group of people who may be at the risk of radicalization, as preventative counterterrorism aspects were now featured in a whole range of governmental agencies, effectively mainstreaming terrorism (De Graaf & De Graaff 2008). Not only were coercive and proactive measures expanded, given the criminalisation of preparatory acts and the expansion of police and

investigative capacities and mandates, but other forms of terrorism measures, that remained relatively absent in the previous approaches were featured much more prominently as well. Through increased security, on both 'hard' (critical infrastructure, government buildings, etc.) and 'soft' (crowded spaces) targets, tightened border controls, more preventative searches, increased aviation security as well as a public alert system, the defensive counterterrorism measures were featured much more prominently (*Tweede Kamer*, 2003; Den Boer, 2007).

Discussion

Due to the reliance on mostly reactive coercive measures through the police and the criminal justice apparatus, and the lack of specific laws criminalising terroristic offences, it can be concluded that in combatting the Moluccan terrorist threat mainly measures adhering to the criminal justice model were enacted, although the emergence of long-term policies aimed at integration and the prevention of grievances indicate an expanded criminal justice model. During the wave of left-wing terrorism, however the intelligence model of counterterrorism was most visible, as through the disruption policy, particularly the *Rode Jeugd* was seemingly effectively combatted. However, a lack of intelligence enabling preventative measures, in particular during the second wave of RaRa, detail again a criminal justice approach, a dynamic also seen during the wave of Moluccan terrorism. Therefore, it seems that the reactively criminal justice approach, was mostly followed not as a consciously chosen strategy but rather out of necessity, given a lack of effective intelligence. While thus from a top-down strategy a few continuities between the two approaches towards the first two terrorist threats can be observed, the emphasis on long-term and persuasive measures targeted at Moluccan terrorism, detail significant differences between both strategies.

Regarding the third selected terrorist wave, significant changes can be observed, as measures detailing a closer alignment with the expanded criminal justice model were enacted, as no longer terrorism was approached as a depoliticised issue reserved for the criminal justice apparatus. Instrumental in this development was the criminalisation of offences carried out with terroristic intent, or the preparation thereof, effectively acknowledging the different (political) nature of terroristic crimes and allowing for a more targeted and preventative counterterrorism approach.

Furthermore, the adaptation of new legislation that increased capacities of the

investigative agencies, and expanded mandates for preventative screening and searches, detail an approach through which preventatively, much more suspects could be apprehended. This signifies a tougher approach to counterterrorism, responding to the perception of a more destructive form of terrorism (Bankoff, 2003; Neumann, 2009). On the other hand however, in contrast to earlier terroristic threats, especially left-wing, the Dutch authorities have implemented 'soft' policies more widely and in greater scope, as persuasive and long-term measures featured much more prominently, demonstrating some continuities of the broader 'Dutch approach.'

Another aspect of this apparent proportionality of the Dutch counterterrorism response is the fact that policymakers, only after the 9/11 began to use the term terrorism frequently, as previously, the term 'politically violent activism' was used to describe both the waves of Moluccan and left-wing attacks (Abels, 2007). This was part of a deliberate strategy, aimed at the prevention of mass societal outcries against terrorism in order not to play into terrorist hands (De Graaf, 2010). Thus, no doomsday scenarios were portrayed or political witch-hunts opened on the organisations, population groups or political movements accused of terrorism (Abels, 2007). Generally, thwarted attacks were kept secret and counterterrorism measures were mainly discussed behind closed doors of a small group of policymakers. Parliamentary and societal discussions remained absent for the most part, as well as moments of collective panic and anxiety, as these threats were never perceived as a homogeneous threat to the national security of the Netherlands (Muller, 1994; De Graaf, & De Graaff, 2008; De Graaf, 2010). While this timid response was certainly made easier to execute due to the fact during this time-period terrorist attacks were relatively less frequently and less violent (Caruso & Schneider, 2011), the effect of this depoliticised and timid responses must not be overestimated.

This as it is generally accepted that the aim of terrorists often moves beyond their asserted political goals, instead choosing to operate in order to spread terror and widespread fear in society, an overreaction of the authorities plays directly into these hands (Altheide, 2006). Therefore, such fearmongering demonstrates terrorist 'success' and thus increases the likelihood of such events repeating, creating a quickly spiralling positive feedback loop (Braithwaite, 2013).

After the events of 9/11, it is very likely that this dynamic emerged to a certain extent. Due to the mass presence of the horrific images in global media, in the western

world, the Netherlands included, a mass climate of fear emerged, demanding strong governmental responses all over the world (Den Boer, 2007; Braithwaite, 2013). This resulted in counterterrorism measures, such as the extending of capacities and powers of investigative agencies, to be quickly adopted across many states (De Graaf & De Graaff, 2008). Such tougher measures, not deemed necessary before, were now quickly moved through the Dutch parliament, as even the Finance Minister Gerrit Zalm declared their necessity as he declared that *'we are at war with terrorists'* (Algemeen Dagblad, 2004). Especially after the murder of Van Gogh, such fear-mongering rhetoric became more widespread in Dutch politics, creating a us-versus-them binary, between the 'terrible' values of terrorist and the good of the authorities and the state (Buijs, 2009; De Koning, 2020), a dynamic that was not present during the previous two waves of terrorism (Eikelenboom, 2007).

Some factors may explain this. Firstly, the Dutch government, not wanting to be outflanked by right wing populist parties tried to win back public support through a demonstration of determination and strength, through the output of tough policies and rhetoric (Den Boer, 2007; Demant & De Graaf, 2010). Additionally, the wave of jihadist terrorist attacks, especially the murder of Van Gogh, was interpreted as a failure of Dutch integration policy and the consensual multiculturalist approach (Den Boer, 2007; De Graaf & De Graaff, 2008). Therefore, terrorism was not interpreted as a new-born problem, but rather it was incorporated into an existing highly polarizing political issue.

Therefore, while several tougher measures were adopted, the Dutch counterterrorism approach became focussed on long-term counterterrorism measures aimed at the prevention of radicalization. Due to the apparent failure of Dutch multiculturalism, partially demonstrated by the homegrown jihadist terrorist threat, a tougher integration policy was pursued, with increased focus on prevention of radicalization (Buijs, 2009). This was also aided by the fact that the BVD, already in the nineties warned of radicalisation in Dutch Muslim communities. Given that the BVD/AIVD remained the agency with the most experience and expertise in the field of (counter)terrorism, it is no surprise that after 9/11 it commanded a leading role, detailing the need for long-term preventative measures (Abels, 2007). This emergence of a tougher integration approach, the fact that counterterrorism measures were herein integrated and thus terrorism was combatted from the get-go by long-term and persuasive measures, detail the government's focus on a more

broad and 'softer' counterterrorism approach. Additionally, while not present from the start, this connection between integration and counterterrorism, and thus the implementation of persuasive and long-term measures can be observed during the Moluccan terrorism threat as well. However, in contrast to the Islamic terrorist threat, in this context, the integration debate had emerged partially because of the executed attacks, rather than existing beforehand (Van Amersfoort, 2004).

While it is neither the scope of this chapter nor this paper as a whole to compare the Dutch counterterrorism approaches with those of other states, this chapter however analysed the implemented and enacted countermeasures of the Dutch authorities relating to three different forms of terrorism across different timeframes. While the selected cases displayed three different models of counterterrorism being adhered to, some continuities can be observed. As the intelligence services were tasked to combat all three forms of terrorism, this was not always feasible, due to a lack of usable intelligence, therefore necessitating a more reactive approach after the occurrence of attacks, instead of proactive intervention, thus resulting in different counterterrorism models being adhered to in practice, although the overall strategy set forth was likely different.

Additionally, while an emphasis on long-term measures, aimed at the prevention of radicalization has been outlined as a major part of the Dutch approach (Abels, 2007; De Graaf & De Graaff, 2008), it was only featured as a full-fledged component during the wave of jihadist terrorism, as it would take some years to be featured in the response to Moluccan terrorism, and remained absent in the approach countering left-wing terrorism, demonstrating its connections with and roots in integration policies of marginalised communities. However, the events of 9/11 and the murder of Van Gogh did set out a critical juncture in the Dutch counterterrorism approach. Not only due to expanded measures and mandates, terrorism and preparatory acts thereof, was for the first time criminalised, following the expanded model of counterterrorism. Furthermore, during the previous two waves of terrorism, the issue of political violence was kept as quiet as possible, in order not to attract societal attention, by using the term politically violent activism, and the issue not being featured prominently. Hereafter, terrorism became much more mainstreamed, accompanied by various (governmental) narratives detailing the threat and the need for tougher measures. The results of these measures, in terms of implemented state force and adherence to democratic values, will be discussed in the following chapters.

Chapter 2

Usage of state force

Given that the Dutch approach to counterterrorism has been described by some as generally soft (Abels, 2007; De Graaf & De Graaff, 2008), this chapter will trace the usage of state force against the three selected cases of terrorism, not only during the acute instances of terrorist events themselves, but also in the aftermath thereof, as prison sentences themselves are, although universally legitimised and accepted, manifestations of a state using its coercive power on its subjects (Crelinsten, 2009). However, the amount and nature of the usage of state force, as set out in the counterterrorism models in the method section, determine to a significant extent the nature and rationale behind different counterterrorism approaches. While the criminal justice approach stresses the need of minimal and very discriminate usages of force, the war model is its direct opposite. The expanded criminal justice and the intelligence models sit in between these two, as authorities on paper following these models give a preference to minimise the usage of (indiscriminate) coercion as much as possible, although this due to the need of apparent security this can be stretched significantly, particularly in the indiscriminate infringements of citizens privacy (Pedahzur & Ranstorp, 2001; Bhoumik, 2004).

Moluccan terrorism of the 1970's

As mentioned in the introduction, this was the first instance when Dutch society was faced with the issue of terrorism, and therefore caught the authorities totally off-guard, as no formal counterterrorism strategy or policies existed, and therefore lack of clarity existed about who was primarily responsible for counterterrorism measures. During the first incident in 1970, the lack of preparedness of the Dutch authorities was painfully evident. Eventually after the direct leadership of the Minister of Justice and the Prime Minister during negotiations, all hostage takers surrendered peacefully. Additionally, they received relatively lenient sentences of only a year for public violence and unlawful deprivation of liberty, as it could not be proven who fatally shot the guarding police-officer, for which seven years was sought by the prosecution (Eikelenboom, 2007).

The *Terreurbrief* of 1973 announced the formation of BBE-units, who equipped with heavy weapons and received extensive training, would provide a military option in the case

of hostage-situations. However, during the following Moluccan action in 1975, they remained on the sidelines, as even though the captors had killed three innocents, after twelve days of negotiation the hostage-takers surrendered without a fight, although little of their demands were met (Bootsma, 2000). However, their sentences were much harsher, each getting seven or fourteen years, even though again it could not be proven who had killed the hostages (Eikelenboom, 2007).

The Moluccan attacks of 1977 and 1978 were ended much differently however, when after three weeks (!) in 1977 or in 1978 after only a day, negotiations became stuck, and the decision was made to end the crises by force. Thus, for the first time, the BBE-units were ordered to act, and with overwhelming sniper and machinegunfire, aided by armoured cars and overflying jets, they stormed both premises, resulting in a number of casualties, of whom almost all were hijackers (Bootsma, 2000; Rassler, 2005). Again, harsh sentences were handed down, ranging from six to fifteen years in prison. While such sentences may seem relatively light in today's context, these were for the time outright harsh, as judges at the time usually were much milder and lengthy jail sentences were rare (Eikelenboom, 2007). Given the usage of such overwhelming force, some have interpreted this as an overreaction on part of the authorities.

However, the reading of the authorities, that violence was only executed as a last resort holds a lot of merit. Certainly, during the hostage-takings of 1977, after three weeks of negotiations, little to no room for a peaceful end was to be expected, as the leader of the Moluccans seized any contact, and the hostage-takers became more and more irritable and aggressive, as well as due to the terrible hygienic situation concerns were rising about the hostage's health (Bootsma, 2000). Given the fact that during previous actions hostages had been executed in cold blood, given the high number of hostages and the fact that the captors were in possession of automatic firearms, able to kill multiple individuals in a matter of seconds, the order was given to use overwhelming force, although the explicit order was given to spare surrendering captors (Bootsma, 2000; Eikelenboom, 2007). This has been corroborated by a number of courts in the Netherlands, when claims that the captors had been killed, brought by some their relatives, were denied (Zwolsman, 2021).

When in 1978 the Province Hall of Assen was taken together with over seventy hostages, again all negotiations were either turned down or led to nothing. As the captors already had executed one hostage, shot one passing photojournalist, described themselves

as *suicidecommando's* and proclaimed a quickly emerging ultimatum after which all hostages were to be killed, a situation of which little peaceful resolutions could be expected emerged (Bootsma, 2000). Thus, again the order was given to forcefully end the stalemate. It seems that the authorities were just in time, as the captors were about to kill two more hostages. Following the ensuing firefight, all captors eventually surrendered, while one of the hostages, who had been next in line to be executed, was hit by a Moluccan bullet and succumbed to his injuries several weeks later (Bootsma, 2000; Eikelenboom, 2007). Sentences for both groups of surviving terrorists ranged from six to fifteen years.

However, while in these cases the authorities very likely used violence only as a last result, more preventative and indiscriminate coercive measures were enacted during other operations. Already in 1970, a sizeable police and Marrechaussee force of around a thousand, accompanied by armoured cars and machineguns, entered the Moluccan camp IJsseloord, in order to arrest two suspects and search for weapons, which by the social-democratic newspaper *Het Vrije Volk* (1970) was compared to the *razzia's* of the Second World War in terms of size and show of arms. Additionally, Moluccan camps in Assen and Bovensmilde were preventatively searched for weapons in 1977, when the police and Marrechaussee, accompanied by armoured cars entered the camps with an overwhelming show of force, resulting in some but futile resistance (Janse, 2005; Eikelenboom, 2007). Although to what extent top-level governmental officials were involved in these actions is still unclear and discussed to this day, it looks like that responsibility generally rested on local (police) authorities (Bootsma, 2000; Janse, 2005; Eikelenboom, 2007).

Left-wing terrorism 1970-1993

As left-wing terrorism had caused significant societal panic and disruption in other western European states and had been faced with strong and forceful state reactions (De Graaf, 2010), one could suspect that with the images of the Moluccan actions kept in mind, the Netherlands would pursue a similar approach.

However, while the investigative agencies, such as the police and the BVD had much trouble in gathering useful intelligence during the wave of Moluccan terrorism, left-wing terroristic groups, particularly the *Rode Jeugd*, were monitored much more effectively (De Graaf & Malkki, 2010). This not only due to BVD's main focus on the investigations of Dutch communists, in the light of the lingering Cold War, but also due to the relatively open nature

of the cell structures of these organizations, in contrast to the closed and ethnically separated Moluccan camps, resulting in these organisations being easily infiltrated and monitored (Hijzen, 2016). Therefore, while during the wave of Moluccan actions the authorities were forced to act reactively, and given the number of hostages involved sometimes with overwhelming force, during this wave of terrorism, the authorities were able to act more proactively.

As the first chapter has detailed, the disruption and monitoring by the BVD, made the usage of more coercive measures generally obsolete. Additionally, given the strong intelligence position given the constant monitoring of (suspected) terrorists, when arrests needed to be made, extensive planning could be done, reducing the need of violence. Much of this was aided by the fact that, unlike for instance their German or Italian counterparts, Dutch left-wing terrorist kept a public life and did not go 'underground' (De Graaf & Malkki, 2010).

Therefore, on an operational level the usage of state coercion was relatively limited, and given the absence of laws criminalizing terroristic acts, sentences, while higher than more apolitical criminal acts, were also relatively mild. Only a handful were ever convicted, as evidence obtained by the BVD often could not be featured in trials, making it very difficult to extract convictions. Therefore, the ones who were made to serve time, often did so for a maximum of only two or three years, based on illegal possession of weapons or explosives (Eikelenboom, 2007; De Graaf & Malkki, 2010). The inability of the authorities to extract convictions is most visible in the case of RaRa. While after the first wave, eight arrests were made, seven of those were released due to a lack of evidence, and the suspect that was convicted, had its sentence reduced on appeal to such an extent that he was set free almost immediately, as his house search deemed unlawful, detailing an apparent conflict between the police and the BVD as the former had acted prematurely, (Eikelenboom, 2007). Such failures to extract convictions, resulted from the often-difficult relationships between police, public prosecution office and the BVD, and their different approaches regarding evidence, monitoring and prosecution (Crelinsten, 2009; Hijzen, 2016).

Additionally, given the almost total lack of investigative leads after the second wave of RaRa attacks, no suspects were ever found, detailing a situation whereby the authorities could not implement state coercion, even if they set out to do so.

Jihadist terrorism after 9/11

As detailed in the previous chapter, faced with a 'new' and more destructive form of terrorism, the Dutch government implemented wide-ranging policy changes, altering the way terrorism was fought in the Netherlands, while still pursuing an approach based on the criminal prosecution of (suspected) terrorists. As the 'War on terror', under the leadership of the United States, saw a huge increase of implemented state force across the world (Crelinsten, 2009), given the close relations between the US and the Netherlands, one could suspect that the Dutch followed a similar approach.

Although arrests have been made of (suspected) terrorists, this has not resulted in frequently occurring standoffs with the authorities, whereby the usage of overwhelming force was deemed necessary, as was the case during the Moluccan actions. The exemptions being, the arrests of Mohammed B., who after a brief firefight with the local police, moments after the murder of Van Gogh, was arrested after he had been shot, and a standoff during a botched arrest of two members the so-called *Hofstadgroup*, of which Mohammed B. was the leader. During the initial attempt to forcefully enter the house where both subjects were living, a hand grenade was thrown, injuring four police officers. A massive standoff followed, which lasted over twelve hours, when the BBE, after failed negotiations for a peaceful surrender, intervened. While one suspect surrendered, the other was shot in his shoulder by a sniper, as he was believed to be reaching for more grenades in his pockets (Eikelenboom, 2007).

The largest increase in the usage of the state's monopoly on coercion can be observed in the increased sentences given to those convicted of crimes performed with terroristic intent, following the adoption of antiterrorist criminal codes. For the murder of Van Gogh, and the attempted murder of bystanders and police-officers, Mohammed B. received a life sentence. Five more members would receive sentences for up to five years for the membership of a terrorist organization, although of a greater number this could not be proven, resulting in sentences for up to two years on the basis of illegal weapon possession. Jason W., accused of throwing the grenade that injured four police offers received fifteen years, as he was also sentenced for attempted homicide (Schuurman et al, 2015).

While the *Hofstadgroup* was considered the main homegrown jihadist terrorist group in the Netherlands, several unrelated suspects were convicted of planning terrorist attacks

or the participation in a terrorist organization (Den Boer, 2007). Generally, such preparatory actions were punished by sentences of multiple years, but not higher than nine, often along with illegal weapon possession, although in several cases, the presented evidence of such preparatory acts was deemed insufficient, resulting in acquittals (Eikelenboom, 2007; De Graaf, 2010).

Therefore, while one may have expected a response akin to the war-like narratives stated by government officials after the occurrence of terroristic attacks, the Dutch reliance of state coercion, although implemented more broadly and harsher in the form of prison sentences, increased only so much.

Discussion

As the Dutch counterterrorism response has been described as soft and proportional, relating to its usage of coercive measures, aspects of the war model are unlikely to be present. While the usage of overwhelming force by BBE-units as a reaction to some Moluccan actions and the (botched) arrest of two *Hofstad* group members may seem to indicate such an approach, from the emphasis on negotiation for peaceful solutions, without conceding much to terrorist demands that were present in every such instance (Eikelenboom, 2007), indicate however that eliminating terrorists prematurely and with devastating force was not a main component of the Dutch counterterrorism approaches. Rather, elements of the other counterterrorism models were present to varying degrees in the selected waves of terrorism.

What stands out is the fact that implemented usage of violence seems to correlate to some extent with the strength of the intelligence position of the authorities. While during the wave of left-wing terrorism attacks, the authorities had a very strong intelligence position, of the *Rode Jeugd*, and to a lesser extent during the first wave of RaRa, leading to a seemingly relatively effective preventative policy of disruption (Hijzen, 2016). Also however, after the occurrence of attacks, the police could easily identify subjects, and extensively plan and prepare arrests and house searches, therefore minimizing the need to use violence, a trend also identifiable during the threat of jihadist terrorism (Eikelenboom, 2007). However, given the weak intelligence position during and after the second wave of RaRa, this had the same effect, as in this situation, given the absence of leads or clues, no targets could be identified, thus leaving no room for the use of the state's coercive powers. Given that only a

few left-wing terrorist members were ever arrested or convicted, and the emphasis on 'disruptive' measures, as only little usage of state coercion was deemed necessary, predominately carried out by the intelligence services detail the intelligence model as the best fit for this specific counterterrorism approach.

During the wave of Moluccan attacks, the intelligence agencies had a relative weak intelligence position as well. However, due to the isolated and ethnically separated camps the Moluccan community was housed in, constructing a very specific and centred space to where the threat of Moluccan terrorism could be retraced to, sometimes (local) authorities, executed searches in these camps with overwhelming displays of force. Hence, while especially the response to Moluccan terrorism was seen as 'soft,' particularly due to the 'Dutch Approach' of negotiation during hostage-crises (Klein, 1989; Bootsma, 2000), these preventative and indiscriminate searches, although often underexposed, detailed a tougher and more forceful approach. Such instances indicate of the war model of counterterrorism, given the relative infrequent occurrences, execution by relatively low-ranking state officials, the emphasis on criminal prosecution and the aforementioned negotiation tactics, constitute a mixed but mostly a criminal justice approach by the Dutch authorities.

Criminal punishment and sentencing of terrorism also displayed a mixed record, as especially during the latter two waves of terrorism, the inability to extract sentences remained an issue, not only demonstrating the independence of the Dutch judiciary, but also highlighting the often rough collaboration between police, public prosecution offices and the intelligence service, demonstrating the different counterterrorist approaches of police (immediate prosecution) and the BVD (continuous monitoring) (Crelinsten, 2009). Often, only the lesser charges of illegal possession of arms could be proven, resulting in sentences lower than five years. The adoption of special counterterrorism criminal codes after the murder of Van Gogh, not only detailed a shift to the expanded criminal justice approach, by criminalising preparatory acts as well as prescribing harsher sentences for acts committed with terrorist intent, and thus outlining a tougher counterterrorism response.

However, the failure of the authorities to extract criminal convictions, and the rather mild sentences in those limited cases when they did, constituting a 'failure' of the Dutch counterterrorism approaches, may have aided in the reduction of the terrorist threat. Not only did it not alienate grievances against the state, by outlandish sentences and harsh repression, it allowed for those convicted easier reintegration into society (Faria & Arce,

2012). But more so, it negated the state as a direct antagonist against whom support could be rallied, as one of the key members of the *Rode Jeugd*, Luciën van Hoesel, described in 1985:

“If you situated my case in Germany, I would have been dead, received a life sentence, or I would still have been a fugitive. It is actually too crazy, once you realize this. In the Netherlands, you get so much leeway that the motivation to act falls apart. [...] The liberal climate in the Netherlands put a stop to terrorism, whereas in Germany, reactionary forces artificially sustained terrorism for ten years.” (Quoted in De Graaf & Malkki, 2010, 624).

While during the Moluccan actions, mainly the Justice Minister, aided by the Prime Minister, was responsible for the followed strategy of negotiations and the usage of force (Muller, 1994; Bootsma, 2000), generally, local authorities, were responsible for the usage of state coercion in counterterrorism operations (Bootsma, 2000; Eikelenboom, 2007). And thus while pre-9/11, the notion that counterterrorism measures should not infringe on liberal democratic values, and therefore only allowing state violence as a last resort was prevalent, in some instances, seen in the forceful raids of Moluccan camps, local authorities followed more coercive strategies. Due to the fragmentation of police forces in the Netherlands, local police chiefs regained a high level of operational autonomy, allowing them to act quickly in crisis negotiations (De Graaf & De Graaff, 2008). Given the highly unpredictable nature of terrorism and associated violence, and the fact that counterterrorism was not a part of daily policework, this as demonstrated, clearly resulted in some instances of indiscriminate and disproportionate usages of state force. Furthermore, specialised BBE-units, better trained and acquainted with terrorism, were often not contacted during initial moments of (suspected) terrorist attacks, due to the decentralised security structure and intergovernmental rivalries (De Graaf & De Graaff, 2008).

Therefore, it can be concluded that generally, the Dutch approach to violence has been pretty consistent, as it was only enacted as a last resort. However, differences existed over time and relating to the different forms of counterterrorism as to which agency was the main actor enacting coercion. Furthermore, the shift to the expanded criminal justice model during the threat of jihadist terrorism, outline a significant revision of (terrorist) judicial sentencing, as not only crimes with terrorist intent were punished more severely, but also

preparatory acts being made illegal, specifying a more widespread and tougher usage of state violence in the form of prison sentences. The next chapter, in order to more compressively capture and characterise the Dutch counterterrorism approaches, examines an aspect that is intrinsically linked with the usage of state force, and which has become more controversial over the years, namely the adherence to democratic norms.

Chapter 3

Adherence to democratic norms

While the previous chapters have examined counterterrorist measures and usages of force by the Dutch authorities, this last chapter will relate to what has become one of the most controversial aspects of (recent) counterterrorism, as it traces the adherence to democratic norms within the Dutch counterterrorist approaches. Although critics argue that in order to defend democracy from terrorism, undemocratic measures are warranted and legitimised, generally such measures are not only seen as morally indefensible, but also as counterproductive, as they can generate a backlash of aggravated grievances (Crelinsten, 2009; Faria & Arce, 2012; Jarvis & Lister, 2014).

Moluccan terrorism of the 1970's

Generally, of a liberal democracy like the Netherlands it could be expected that adherence to democratic norms is high. The first counterterrorism policy, the *Terreurbrief* of 1973, iterated the strong feelings within Dutch society that the counterterrorism policy may not '*affect the open character of our society.*' This can be observed in the fact that no new drastic measures were implemented, or a state of emergency triggered, which would have given the authorities far-reaching powers in the wake of terrorist attacks. Furthermore, extensive reporting and debates in the Dutch parliament took place after the occurrence of each attack (Muller, 1994). Additionally, the previous chapter had already detailed the usage of violence only as a last resort during multiple terrorist attacks, as through intense and long-lasting negotiations peaceful solutions were sought.

However, during some instances, the authorities acted less normatively. Particularly when (vague) notices were received, together with the absence of a strong intelligence position, some (local) policymakers have been known to take some precautionary measures that are hard to align with democratic values. For instance, after the incident in 1970, the Minister of Internal Affairs ordered during the visit of the Indonesian president, to halt and search every Moluccan traveling by car and deny them access to The Hague, as well as to forbid any demonstrations. Involved ministers admitted themselves to have acted 'outside and against the law, 'but that they were necessitated by the situation' (*Tweede Kamer*, 1970).

Furthermore, the indiscriminate searches of entire Moluccan camps, such as in Assen and Bovensmilde displayed not only a great amount of force, but also clearly detailed the overstepping of their powers by the local police (Klerks, 1989; Janse, 2005). This could also be seen in 1977 near Sevenum, as all Moluccans on neighbouring train stations were preventively searched, of which the local magistrate even admitted that the legal basis for these actions, considering all Moluccans as suspects would be rather extensive and dubious, but necessary (quoted in Eikelenboom, 138). Such actions followed the general sentiment in Dutch society, even though seeing the Moluccans as loyal (Protestant) allies, or as colonial burdens that owed the Netherlands something, they were however never fully accepted into Dutch society, resulting in discrimination, isolation and benign neglect (Van Amersfoort, 2004; Demant & De Graaf, 2010).

Generally, on the national level, particularly in terms of crisis negotiations and the broad and incorporating counterterrorism approach, and the lack of adoption of special measures, liberal and democratic norms were followed, while practises on the local level, when faced with (vague) direct threats, such limits were incidentally overstepped by local authorities.

Left-wing terrorism 1970-1993

As the previous chapters have demonstrated, most operations against left-wing terrorist groups, were of a proactive nature, enacted by the BVD. Operational secrecy and the subsequent absence of accessible archival material makes it difficult to determine to what extent these actions aligned with democratic norms. However, given the *Rode Jeugd's* countermeasures against infiltrations by the BVD, some images can be created on how the agency acted and how sometimes it did clearly violate democratic norms. For instance, rather than letting BVD-agents infiltrate and pose as convincing sympathizers, the BVD would try to recruit low-level acquaintances of the left-wing scene. In order to track down these identities without raising to much suspicion, often their bikes would be stolen by the BVD, in order to provoke a declaration by the local police. A practice that often resulted in the wrong bike being stolen (Hoekstra, 2004).

But less innocent breaches of the law also occurred, such when in 1973 the *Rode Jeugd* managed to embarrass the BVD, by returning them a box of tissues (to cry out in) instead of a pistol to be used as evidence. The plan was for the BVD to deliver the gun to the

Rode Jeugd via an informer, and to have it returned to the service when the local RJ-leader's fingerprints were collected on the weapon, detailing a situation where the BVD would plant evidence in order to arrest a suspect, clearly violating democratic norms (Eikelenboom, 2007). Additionally, sometimes it was even determined by the courts themselves that counterterrorism actions were enacted illegally, as for instance the house search of René Roemersma, the only RaRa-member who was ever convicted, was deemed unlawful by a higher court, resulting in a much lesser sentence. (Eikelenboom, 2007).

This image of the BVD which in the name of security frequently overstepped the boundaries of democratic principles is shared by the more general literature on the service (Hoekstra, 2004; Hijzen, 2016) although the majority of the actions performed against the *Rode Jeugd* and RaRa were based on monitoring of individuals (De Graaf, 2010). While, wiretaps were sometimes used, the BVD would need to be granted permission by the Minister of Justice, thus the majority of intelligence work consisted of eavesdropping by secret agents or informants. Such targeted and infrequent invasion of privacy of probable suspects, is however not often associated with breaches of democratic principles (Herman, 2004).

Jihadist terrorism after 9/11

While the *Terreurbrief* of 1973 emphasised the notion that counterterrorism measures should not infringe on the open and democratic nature of Dutch society, in the years following 9/11, several measures that are associated with a decrease in civil liberties in the name of security were adopted. Not only were thresholds for preventative searches by agencies such as the police, border customs and the intelligence services lowered, also the AIVD received a much broader mandate in terms of following, monitoring and investigating presumed suspects, as the legal requirement changed from 'indication' instead of 'reasonable suspicion.' Additionally, arrestees could be detained much longer and temporally information could be withheld from them after suspected terrorist activities (Den Boer, 2007). Even more, the ability of using evidence gathered by the BVD/AIVD in criminal courts was expanded significantly, even though given its secretive nature made such evidence difficult to independently verify (De Graaf, & De Graaff, 2008).

While some of these measures, such as the general identification requirement and enlarged search mandates had been discussed in the decades prior, they were never

deemed necessary tools for counterterrorism operations (Ables, 2007). As these measures in the wake of jihadist terrorist attacks quickly rushed through parliament, critics have voiced their concerns, regarding its proportionality and infringements of civil liberties. (Van Gunsteren, 2004; De Roos, 2006; Buro Jansen & Janssen, 2006; Ballin, 2006).

Perhaps the most striking example of the infringements of such measures on democratic principles, is the so-called stop and search measures, that allowed the police to preventative frisk anyone displaying 'indications' of preparing a terrorist attack, rather than reasonable suspicion of criminal offences, in specific permanent security areas, such as the Houses of Parliament, airports, train stations, the Media Park in Hilversum and the nuclear reactor in Borssele, or anywhere else if ordered by the public prosecutor officer. This has resulted in an increasing problem of ethnic profiling, and police harassment of mostly young Muslim men and other ethnic minorities, even though such measures are likely not effective (Van der Leun, & Van der Woude, 2011).

Such effects are a part of the wider association of terrorism with Islam, not only by the public but also by various governmental institutions, that has led to the Muslim community, being faced with various forms of discrimination, stigmatization, as it had become a 'securitized community', aided by the government's own terrorist narratives (De Koning, 2020; Welten, & Abbas, 2021). Furthermore, given the increased size of the security and intelligence services, it is very likely that small infractions in the name of security, as detailed in the previous section, have increased, although given the secretive nature of such activities, this is difficult to verify.

Discussion

While the Netherlands has always entertained the image of a tolerant and liberal nation, however, as many states alike, its counterterrorism role is less so. While pre-9/11 the sentiment prevailed that counterterrorism measures could not negatively affect the open nature of Dutch society, as iterated in the nation's first counterterrorism policy, the *Terreurbrief* of 1973, practices on the ground painted a different picture.

During the wave of Moluccan terrorism illiberal counterterrorism actions occurred more on an incidental basis, but due to weak intelligence positions and the autonomy of local police forces, harsh and discriminatory preventative actions were enacted. Resulting in either entire Moluccan camps were searched with huge displays of force or Moluccans on

various occasions being preventively frisked after (vague) notices of an imminent attack. It is likely that the lack of accountability after these actions was aided by the discrimination, isolation and marginalization the Moluccan community was faced with (Muller, 1994; Van Amersfoort, 2004), countering the soft and liberal connotations of the Dutch counterterrorist approach. Although this image is often upheld by the emphasis on long-term and persuasive countermeasures that emerged over time, this indicates a predominately expanded criminal justice model approach.

During the wave of left-wing terrorism however, such infringements of democratic principles, although smaller in scope, were likely more systematically enacted by the intelligence services, although much of the specifics remain unknown. However, often, this overstepping of mandates proved ineffective as the judiciary would often dismiss such evidence, with acquittals as a consequence. Given the fact that the BVD was willing to provide the *Rode Jeugd* with a firearm, as a means of incriminating an individual, effectively falsifying evidence, and contributed by the general lack of oversight and accountability of the agency (Hijzen, 2016), leads to the likelihood that breaches of democratic principles could have been more widespread. Therefore, relating to this specific case, the intelligence model is most adhered to, given its operational secrecy and its associated breaches of democratic principles.

After 9/11 and the murder of Van Gogh, this systematic trend continued, although much bigger and heftier in scale, as through new legislation, the intelligence services and the police were enlarged and their powers expanded, especially relating to preventative searches and the monitoring of suspects. Such measures, as well as a general identification requirement and the allowance of evidence gathered by the AIVD to be used in criminal courts, were although discussed in the previous years, never deemed necessary. After the emergence of this perceived new and more destructive form of terrorism, in the name of security these measures were however quickly passed through parliament (Abels, 2007).

Additionally, as terrorism was increasingly connected with (orthodox) Islam, as also iterated in the government's counterterrorism rhetoric and policies, the Muslim community in the Netherlands, already marginalized and the subject of an intense and polarizing integration debate, became much more securitized and seen as a possible threat (De Koning, 2020). In combination of expanded police powers relating to stop-and-frisk, this has resulted in widespread ethnic profiling and police harassment of Muslim minorities (Van der Leun &

Van der Woude, 2011; Welten & Abbas, 2021). Given that these measures were specifically connected with combatting terrorism, and some of the expanded mandates of security agencies were only authorised when a terrorist threat was suspected, this feature of the Dutch counterterrorism approach is most closely aligned with the expanded criminal model, as still criminal prosecution remained the main mechanism for fighting terrorism.

While the previous chapter has outlined the ways through which counterterrorism measures may have contributed to the demise of terroristic threats, illiberal behaviours by the state often have the opposite affect, magnifying grievances linked with terrorist threats (Crelinsten, 2009; Faria, & Arce, 2012). Examples of this dynamic can be seen in each of the selected terrorism threats. For instance, the forceful and brutal behaviours during the house searches of entire Moluccan camps generated considerable anger in the Moluccan community aimed at the Dutch (Bootsma, 2000; Demant & De Graaf, 2010). While technically not a form of counterterrorism, the Eindhoven police had a part in the local branch of the *Rode Jeugd* radicalising. Given that the *Rode Jeugd* each time were faced with harsh and forceful countermeasures, in the form of police harassment, unleashing police dogs and allowing furloughed American soldiers to attack *Rode Jeugd* members, the *Rode Jeugd* decided to respond to every counter action even harder, leading to a process of escalation of violence from both sides (De Graaf, 2009). Or when in the years following 9/11 the (governmental) narratives linking terrorism with Islam, not only securitized the Muslim community, thereby aiding in its marginalization and exclusion, it also directly played into the terrorist narrative itself, by demonstrating the apparent incapability between Western societies and Islam (Bankoff, 2003; Demant & De Graaf, 2010).

Although a comparison with different states is not within the scope of this paper, a few studies have argued that the counterterrorism approaches of the Netherlands were more proportional and more liberal than those of West-Germany, the US or the Great Britain for instance (Abels, 2007; Van Sliedregt, 2009; De Graaf, 2010; Wittendorp et al, 2020). While such observations may hold value, this chapter however has demonstrated that nevertheless, the conclusion that the Dutch counterterrorism approaches can be considered soft or liberal as a whole, is much less convincing. Not only as demonstrated by the previous chapter significant displays of force were enacted, but also that adopted countermeasures in practice regularly violated democratic norms. Furthermore, it seems that after 9/11 and

during the wave of left-wing terrorism, these violations had a systematic component, as they could be hardly presented as one-off incidents enacted by local officials.

Conclusion

This paper has sought to characterise the evolution of the Dutch counterterrorism approaches, both in governmental policies as well as practices on the ground in relation to three different forms of terrorism. While this paper explicitly did not contrast the so-called Dutch approach those of other states, it did however contribute to such comparisons by analytically detailing the Dutch counterterrorism responses. Summarised results, relating to the adherence of the Dutch counterterrorism approaches to the different models of counterterrorism can be found in the table below.

While the Dutch counterterrorism approach has been described as liberal or soft (Abels, 2007; De Graaf & De Graaff, 2008), this study has demonstrated that, while such elements were certainly present, it is hard to characterize the Dutch approach as so, based on the displays of excessive force and (systematic) infringements on democratic principles, that occurred over the years. However, given the differences in followed approaches in relation to the different waves of terrorism, it is difficult to speak of one comprehensive Dutch approach to terrorism, iterating points made by Dahlke (2010). Therefore, it is likely more beneficial not to compare counterterrorism approaches by states over longer periods of time and regarding multiple different forms of terrorism, but rather to study counterterrorism reactions to more specific and smaller cases of terrorism, not only allowing more detailed analyses but also better conceptualizations of counterterrorism strategies. Having made that point, also the individual Dutch counterterrorism approaches to the different forms of terrorism, although varying considerably, are difficult to describe as liberal or soft.

Although some continuities arise, the ways through which the Dutch authorities tried to combat the different forms of terrorism differed considerably, likely aided by factors outside direct policymaking considerations themselves. For instance, as an approach mostly adhering to the criminal justice model was mainly followed during the wave of Moluccan terrorism, this was likely the result of the fact that terrorism was a new issue for the Netherlands, and the sentiment existed that counterterrorism measures should not infringe on the open and liberal character of Dutch society (Abels, 2007). Furthermore, when elements of the expanded criminal justice model were more heavily featured, in the case of preventive long-term and persuasive measures, this was often the result of these

counterterrorism measures, focused on the prevention of radicalization being embedded in the broader integration policies regarding Moluccan and Muslim communities.

In the same vein, the intelligence model of counterterrorism approach that was mostly followed during the wave of left-wing terrorism, is likely the result of the fact that the intelligence service already had extensive experience in combatting and monitoring left-wing activists, in the light of the Cold War (Hoekstra, 2004). Given that this form of terrorism, could be combatted seemingly effectively through disruption policies, no change in counterterrorism approach was warranted. However, with the increased threat of (homegrown) jihadist terrorism, the Dutch government decided to act more outspokenly, by adopting special counterterrorist measures, detailing an approach adhering to the expanded model of counterterrorism, as terrorism became criminalised and more widely visible in the government's actions, detailing the biggest shift in the Dutch counterterrorism approach.

Still, several other continuities existed in the Dutch reactions to terrorism. One can point to the relative calmness and pudency terrorism was fought during the first two waves, and of which the period after 9/11 proved a stark contrast. Furthermore, long-term counterterrorism measures were featured and embedded in integration policies, as the link between integration, radicalisation and terrorism became clearer to Dutch policymakers, mainly during the waves of Moluccan and jihadist terrorism. Additionally, this paper demonstrated the value of usable preventative intelligence in all forms of terrorism, as it negated the need to use more reactionary coercion.

This paper did deliberately not make comparisons with different states, terrorism, as an ever evolving and complex phenomenon, is increasingly internationalised, especially after the rise of IS (Cronin, 2015). Therefore, is not only debateable to what extent one can speak of individual counterterrorism approaches, it is also likely that conceptualizations of such approaches will see incremental changes. And while assessing the effectiveness of counterterrorism measures will likely remain difficult, the world can only hope that terrorism will not again be prominently featured on the political stage, much like it did in the Netherlands before 9/11.

	Moluccan	Left-wing	Jihadist
Nature of counterterrorist measures	Mixed: Criminal justice through reactive sentencing and no new measures, but slowly emerging preventative long-term and persuasive measures aimed at integration indicate an expanded criminal justice model.	Mixed. Mainly intelligence model: proactive disruption policies, although lack of usable intelligence during the latter stages indicates a criminal justice model.	Expanded criminal justice model: criminalisation of terrorism, increased mandates of security and intelligence forces and a focus on long-term prevention of radicalization.
Usage of state force	Predominately criminal justice, as high amounts of violence were only enacted a last resort. Incidental indiscriminate violence during preventative searches indicates the war model. Relatively harsh criminal sentencing	Intelligence model: Relatively little use of coercion through <i>verstoringpolitiek</i> . Only limited criminal prosecution.	Expanded Criminal Justice: Preventative interventions and criminal prosecution were made possible by the criminalisation of terrorism. Little need to implement state force on a tactical level.
Adherence to democratic norms	Expanded criminal justice model. Given preventative long-term measures, and the breaches of democratic principles in preventative searches and ethnic profiling.	Intelligence model: Secretive infringements by intelligence service, likely systematically implemented.	Expanded criminal Justice. Number of measures such as expanded mandates for security and intelligence agencies adopted in the name of combatting terrorism. Resulting not only in more systematic invasions of privacy but also ethnic profiling and securitization of Muslim community.

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