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## SUMMARY

# **Terrorists in Prison** **Evaluation of the Dutch terrorism wing**

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## Summary

In September 2006, the Dutch authorities opened a special detention facility for terrorism related offenders<sup>1</sup> in the penitentiary institution in Vught. This terrorism wing was designed to prevent terrorist detainees from recruiting or radicalizing ‘regular’ prisoners. Immediately after its opening, a public debate began regarding the appropriateness and effectiveness of this intervention. In response, the Minister of Justice pledged to the House of Representatives that he would have the terrorism wing evaluated after three years.

The present report is the outcome of this evaluation research. The study contains an evaluation of both the “policy theory” (Part I) and the implementation process (Part II). Part I outlines and evaluates the theory behind the policy. It aims to answer the question whether or not the terrorism wing is in theory suitable to achieve its goals. Subsequently, Part II outlines and evaluates how the policy is implemented in practice. An impact assessment is beyond the scope of this study due to methodological complications, including lack of a control group and difficulties with measuring radicalization and its spreading.

For the purpose of this research, multiple sources of information have been consulted. Primarily, because policy documentation on the terrorist wing is scarce, this report leans heavily on in-depth interviews with policy-makers, experts, representatives of the implementing agencies, and the prisoners detained in the terrorist wing. Further, extensive literature and documentation studies provide the basis for our evaluation of the policy theory. To complement the existing knowledge, additional data have been collected via experiments and questionnaires to gain insight into the potential consequences of the terrorism wing.

## Background

An important finding of this study is that the decision-making process occurred under intense political and time pressure. After the arrests of members of the ‘Hofstad Group’ and indications that some of these inmates had tried to radicalize other prisoners, radicalization in prisons immediately gained political priority. The policy makers felt urged to quickly develop a politically acceptable detention strategy for this population. They aimed to create an intervention that could cover all possible risks and facilitate maximum control and security. However, due to the perceived pressure, the policy makers felt they had little time for thorough investigation of the available policy-alternatives.

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<sup>1</sup> In the context of this report, we use the term ‘terrorist’ or ‘terrorist background’ to refer to people who are suspected or convicted of a terrorist crime. This raises legitimate questions and objections, not in the least because a suspect of terrorism is not yet convicted, and should therefore not be labeled a terrorist. However, for reasons of clarity we adopt the terminology as used in the policy documentation regarding the terrorism wing.

In principle, there was no unanimity among stakeholders regarding the most appropriate strategy to prevent the spread of radicalization within prisons. The implementing agency, the Dutch National Agency of Correctional Institutions (DJI), called for a differentiated approach and dispersal of terrorists over different prisons. Similarly, the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ), which was requested by the Ministry of Justice to advise on the detention of terrorists, argued against the terrorism wing. However, both the General Intelligence and Security Service (AIVD) and the National Coordinator for Counterterrorism (NCTb) called for the establishment of special prison units. Based on advice of the NCTb, the Minister of Justice pursued a strategy of concentrated detention of terrorist offenders.

The operationalization of the terrorism wing was strongly influenced by the implementing agencies. DJI, in particular the penitentiary in Vught, had a strong voice in finalizing the intended regime and security measures. According to the stakeholders, this informal delegation of responsibility was caused by the lack of experience with both the new detention model and the target population. In the decision making process, the policy makers were largely dependent on existing knowledge and expertise of the executive branch. Consequently, the implementing actors were granted policy space to finalize the different elements of the terrorism wing in order to make it as safe and controllable as possible.

### **The terrorism wing in theory**

What does the terrorism wing look like ‘on paper’? It can be concluded that the policy theory mirrors a short term vision and that the political and societal pressure is reflected in the intensity of the designed measures. The key objective is to counter an acute threat of radicalization and recruitment in prison. To this end, the policy aims to concentrate terrorist offenders in separate prison units to prevent direct communication between them and other categories of prisoners.

However, grouping terrorist prisoners together raises new problems. To address these, the policy theory includes two secondary objectives. First, it aims to prevent the detainees from coordinating or engaging in terrorist activity (secondary objective 1). For this purpose the terrorism wing is embedded within an ‘extended’ security level (one level below the ‘extra’ security level). Second, it aims to prevent further radicalization among the terrorist detainees (secondary objective 2). To that end, inmates in the terrorism wing operate under an individual regime, according to which the prison governor decides whether an inmate is permitted to take part in individual or common activities.

In general terms, the policy theory contains a few characteristics that are worth mentioning. First, it is characterized by standardized procedures. Objective selective criteria have been formulated that leave no room for differentiation on the basis of individual circumstances. Detainees are selected for the terrorism wing when they are (a) suspected of a terrorist crime, (b) convicted of a terrorist crime, or when they (c) display radicalizing or recruiting behavior before or during imprisonment. Regarding inmates who meet criteria (a) or (b), the necessity of their stay in the terrorism wing is not

subjected to periodic assessment. In principle, detainees who are assigned to the terrorism wing remain there until the end of their sentence. To prevent them from returning to society completely unprepared, it is the intention to relocate detainees to more lenient regimes before they are released to society.

Second, the policy theory is characterized by a strong focus on manageability. Extensive security measures have been implemented aimed at managing and restricting (the behavior of) the detainees involved. As such, the individual interest of the prisoners has been explicitly subordinated to the government's interest of developing a secure and transparent detention policy.

### **Evaluation of the policy theory**

A central question in this study is whether the terrorism wing is, in theory, capable of achieving its goals. To examine this, we tested the policy theory against different sources of information, namely 1) international documentation regarding detention of terrorists; 2) available empirical knowledge, and 3) international experiences.

We conclude that the terrorism wing is suitable to prevent *direct* influence between terrorists and other categories of prisoners and that by doing so, recruitment and radicalization within prisons can be minimized. However, the policy is incapable of tackling *indirect* influence processes (such as martyrdom) that might contribute to the spread of radicalization. Moreover, undesired side-effects can occur that might in the long run undermine the achievement of the two secondary objectives of the terrorism wing.

A general finding is that the problems with (regular) detention of terrorists that were perceived by the Dutch policy makers were similar to those recognized in other countries. The threats of spreading radical ideologies, terrorist activity and intensification of radicalization are also observed abroad. However, the concentrated detention of terrorist prisoners is not unequivocally supported and meets with strong objections in international literature. In particular, it is assumed that the terrorism wing can trigger two types of undesirable side effects that can have important consequences for public safety.

The first type of potential side effects is the risk of further radicalization among the detainees during their incarceration in the terrorism wing. It has been argued that detainees could perceive special terrorism wings as discriminating and repressive state policy. Consequently they are able to externalize the responsibility for their situation to others and translate their confinement to a political or ideological conflict, which could contribute to radicalization. By grouping prisoners together who go through similar processes of radicalization, these risks possibly increase even further.

The second type of potential side-effects is the perceived possibility that the terrorism wing contributes to further radicalization among sympathizers outside prison. Outsiders who identify with (the ideological struggle of) the terrorist prisoners may perceive them as heroes or martyrs and rebel against their confinement. Historical examples show that

such effects in fact occurred. Both Ireland and Germany have had negative experiences with separate detention facilities for nationalist and extreme-left prisoners respectively. In both countries it is assumed that concentrating extremist offenders in separate units triggered further radicalization among both the prisoners and their supporters.

The policy makers aimed to minimize radicalization among the incarcerated terrorists by implementing an extended security level and individual regime on the terrorism wing. However, they have not implemented measures to prevent radicalization among sympathizers outside prison. The interviewed decision makers argue that the Dutch terrorism wing is less likely to trigger violent responses in society than its historic German and Irish counterparts were, because of profound institutional and social differences between the different countries. Moreover, the policy makers claim that in developing the terrorism wing societal consequences had no priority and were made subordinate to preventing the acute threat of radicalization in prisons.

A second finding is that the policy makers believed it would be very difficult to offer rehabilitation in a context of high security measures. Despite the emphasis in existing literature on the need for comprehensive rehabilitation and de-radicalization programs for extremist offenders, this did not have any priority in the policy development. However, our study shows that the inmates are likely to experience stigmatization and adaption problems due to their stay in the terrorism wing. This could hinder successful and peaceful re-integration into society and create new potential risks of radicalization and recidivism. As such, when no effort is made to re-integrate the inmates into society, the policy is likely to generate new security threats to society and, in the long run, undermine its own secondary objectives.

Based on the evaluation of the policy theory it can be expected in advance that the implementing actors will be confronted with a number of practical dilemmas. For instance, a tension can be expected between the need for standardization and protocols on the one hand, and the need for differentiation on individual circumstances on the other. Further, a dilemma can be expected between the need to simultaneously implement high levels of security measures and rehabilitation efforts.

### **The terrorism wing in practice**

What does the terrorist look like in practice, and is the policy implemented according to the original design? Moreover, does the policy trigger the proposed mechanisms to achieve its goals? The main conclusion is that discrepancies are apparent between the intended policy and its actual implementation, and that this can be explained by a number of dilemmas that emerge in practice and that could have been foreseen beforehand.

A first discrepancy occurs between the intended and actual implementation of the selection procedure. In practice, the selection procedure is not followed automatically with the result that not all detainees who meet the selection criteria are actually assigned to the terrorism wing. In some cases, the selection officers decided to refrain from assigning offenders to the terrorism wing. In other cases, they reversed their own

decisions by relocating prisoners from the terrorism wing to other prison units. For instance Mohammed B., Theo van Gogh's murderer, does not stay in the terrorism wing. Mohammed B. is considered an extreme security risk and is placed in the maximum security unit (EBI) of the same prison. For inmates like Mohammed B., who meet the selection criteria but are not detained in the terrorism wing, direct contact between them and other categories of detainees is not prevented. As a result, the policy does not function as intended.

According to the implementing actors, the reason they occasionally deviate from the intended selection procedure is that they believe it sometimes triggers unintended outcomes. For instance, the objective selection criteria automatically imply that all terrorism-related offenders are considered a risk of recruiting fellow inmates. According to the implementers this is not always deserved, which implies that assigning prisoners to the terrorism wing does not always contribute to preventing the spread of radicalization. Moreover, detainees in the terrorism wing are automatically subjected to extended security measures and a strict regime. This might not always be necessary, but it does lead to considerable restrictions for the detainees.

Because the selection procedure does not include a thorough risk assessment of each individual inmate, the undesired processes described above cannot be procedurally avoided. In addition, the existing procedures do not facilitate the possibility to remove detainees from the terrorism wing or relocate them to different units when desired, for instance when they are visibly de-radicalizing. The implementing actors find themselves in a quandary: if they follow the prescribed procedures, undesirable effects can occur that cannot be procedurally reversed. However, if they deviate from the prescribed procedures, the policy is not executed as intended.

A second discrepancy becomes apparent between the intended and realized security level at the terrorism wing. In 2009, the terrorism wing in the penitentiary in Vught moved to the unit that houses the maximum security section (EBI). As a result, the terrorism wing *de facto* became part of the EBI, implying that the security level increased from the proposed 'extended' to 'maximum'. In practice, the regime in the terrorism wing has become identical to the EBI-regime. However, regarding the EBI additional safeguards have been implemented, like a thorough risk assessment and limits on the duration of the stay. These safeguards are not implemented regarding the terrorism wing, which could feed the impression that the government applies double standards to terrorism related offenders. This in turn could contribute to feelings of injustice and further radicalization.

The move of the terrorism wing to the EBI-department caused a considerable improvement of the living conditions in the terrorism wing. The previous location was old and lacked proper ventilation and climate control. The building of the EBI is new and equipped with modern security techniques. This allows the prisoners greater mobility and causes a decrease in the number of body-checks they have experience on a daily basis.

A third discrepancy is visible in the implementation of gradual 'out-phasing' of prisoners from the terrorism wing, which aims to relocate detainees at the end of their sentence to

more open regimes before they are released to society. In practice, none of the detainees has been 'out-phased' according to plan. One prisoner was relocated to a more open regime, but this occurred only a few weeks before he was deported to his country of origin. Most of the prisoners were instantly released by court order, which meant that they were released directly from the terrorism wing into society.

As expected, implementing rehabilitation programs turns out to be particularly difficult due to the high security level and strict regime. In retrospect, both policy makers and implementers are unsatisfied that rehabilitation is not an objective of the terrorism wing. At the executive level, the implementing agencies and prison staff have made attempts to integrate elements into the regime, including possibilities of higher level education, that are aimed at preparing prisoners for their return to society. However, within the existing regime the possibilities to implement such initiatives are limited, and changes are executed with difficulty.

### **Dilemmas**

The discrepancies between the intended and realized policy reveal that the dilemmas that could have been foreseen in advance indeed lead to difficulties in practice.

First, the expected tension between standardization and differentiation of policy measures clearly manifests itself. The implementers argue that the standardized procedures do not necessarily contribute to achieving the policy objectives and lead to undesired side-effects. According to the interviewees it is essential to base selection for the terrorism wing on careful assessments of each individual, so that inmates are only assigned to the terrorism wing when they indeed pose a risk of recruitment and spreading of radicalization. The implementers argue that in order to achieve the set goals, it is imperative to pursue differentiation and customized procedures.

Second, the expected tension between the high security level and the need for rehabilitation also becomes visible. According to the implementing actors it is necessary to implement rehabilitation programs in order to prevent further radicalization and recidivism. However, within the current regime the possibilities for rehabilitation are limited, which also implies that the opportunity to influence the prisoners' behavior or mindset is largely neglected. Over time this could have considerable consequences for security concerns in society and could even pose a risk that the terrorism wing in the long term undermines its own secondary objectives.

### **Final word**

All in all our findings show that in the process of decision making, the policy makers were under – real or perceived – intense political and time pressure to draft detention policy for terrorism related offenders. A number of critical decisions had to be made concerning the detention strategy and its goals and instruments. It can be argued that the political and time pressure under which the decision makers perceived themselves increased the intensity of the measures that were taken. As a result of the socio-political

context they aimed for maximum security and control, which is reflected by an extensive package of restricting measures imposed on the offenders.

The terrorism wing has the potential to make a considerable contribution to preventing radicalization and recruitment in prisons. At the same time however, the policy raises new dilemmas and a potential risk exists that in the long run, this intervention generates new safety concerns. Nevertheless, it has to be said that at the executive level the implementing actors attempt to prevent potential negative side-effects as much as possible.

The terrorism wing has been in practice for more than three years. Based on increasing understanding of and practical experience with the detention of terrorism related offenders, both policy makers and practitioners express an urgent need to find a better balance between standardized procedures and the possibility for differentiation on individual basis, and between ensuring short-term as well as longer-term security concerns. This need is initially expressed in the desire for more policy space for case-by-case considerations, and in addition in the aspiration to create more opportunities for rehabilitation and de-radicalization of the prisoners involved. Doing so will most likely contribute to countering radicalization both within and outside prison.