

# The Dutch approach to extremist offenders

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This policy brief focuses on the Dutch approach to dealing with extremist offenders. It addresses the general evolution of the terrorism threat landscape and the corresponding Dutch national counter-terrorism response. More specifically, it addresses the legal approach to the population of terrorist offenders, the development and evolution of the prison regime, and the policies that are in place to rehabilitate and reintegrate this population. It provides an overview of the two Dutch Terrorist Wings (*terroristen afdeling* (TA)), de Schie and Vught, which utilise the concentration model when housing extremist offenders and the benefit of such a model versus one that disperses extremist offenders amongst the general prison population. With a shift in the way that Dutch agencies view the TAs and their ability to manage and monitor the offenders, TAs are now given their due credit as key players in the realm of rehabilitation and reintegration. Policymakers have acknowledged that what happens during and after incarceration is just as important as the steps taken before a terrorism-related incident occurs. Finally, this Brief provides an assessment as to where we stand in the Netherlands today, given the terrorism threat landscape, and the policy choices that have been made from the perspectives of prosecution, rehabilitation, and reintegration.

## Introduction

In the wake of the 9/11 attacks in the United States, a comprehensive plan to counter terrorism in the Netherlands was announced by the then-Dutch government, containing an array of measures ranging from (inter)national policy as well as legislative measures to criminalise terrorism. To abide by the EU Framework Decision on counter-terrorism, the Netherlands adopted its first law on terrorism, the Dutch Terrorism Act (*Wet Terroristische Misdrijven*). The Act introduced an extensive package of measures, including the criminalisation of conspiring to commit terrorism, recruiting for "armed conflict"—jihad—and participating in or cooperating with terrorist training.<sup>1</sup>

On 2 November 2004, the Netherlands experienced its first homegrown jihadist terrorist attack when Mohammed B murdered Dutch filmmaker Theo van Gogh in Amsterdam. Mohammed B was connected to a larger group of radical Islamic youths called the *Hofstadgroup*—four of whom were arrested and released the year before on the suspicion of planning an attack.<sup>2</sup> The arrests related to the *Hofstadgroup* and the attack on Van Gogh spurred the development of counter-terrorism policies in the Netherlands in a number of ways. It led to the setup of a fusion centre to coordinate counter-terrorism policies in the country in 2005, the National Coordinator for Counter-Terrorism and Security (NCTV)<sup>3</sup>, and it led to the setup of a prison regime specifically for extremist offenders. Fifteen years after the *Hofstadgroup*, the terrorism threat has evolved in many different directions in the Netherlands and the Dutch counter-terrorism policies, both on the national and local level, have evolved to respond to the on-going threat.

In this paper, the Dutch approach to dealing with extremist offenders takes centre stage. To contextualise this approach, this Policy Brief will provide a general overview of evolution of the terrorism threat landscape, the corresponding Dutch national counter-terrorism response—and specifically, the legal approach to the population of terrorist offenders, the development and evolution of the prison regime, and the policies that are in place to rehabilitate and reintegrate this population. Finally, this Brief will provide an assessment as to where we stand in the Netherlands today, given the terrorism threat landscape, and the policy choices that have been made from the perspectives of prosecution, rehabilitation, and reintegration.

## 2004-2019: Diversification, fragmentation and polarisation

The NCTV defines terrorism as “Committing ideologically motivated violence directed against human life; or causing disruptive societal damage, with the aim of

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<sup>1</sup> M. A. H. Van der Woude, “Dutch counterterrorism: An exceptional body of legislation or just an inevitable product of the culture of control?”, *International studies*, No. 27, (2012), p.87.

<sup>2</sup> Bart Schuurman, Quirine Eijkman, & Edwin Bakker, “A History of the Hofstadgroup”, *Perspectives on Terrorism*, Vol. 8, No. 4, (2014), <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/362>.

<sup>3</sup> Renske van der Veer, Walle Bos, & Liesbeth van der Heide, *Fusion Centers in Six European Countries: Emergence, Roles and Challenges*, ICCT Report, <https://icct.nl/wp-content/uploads/2019/02/ICCT-VanderVeer-Bos-VanderHeide-Fusion-Centres-in-Six-European-Countries.pdf>.

undermining and destabilizing society, frightening the population or of influencing political decision-making.”<sup>4</sup> The NCTV defines extremism as “the active pursuit of drastically disruptive changes to society that could jeopardise the democratic rule of law, possibly using undemocratic methods that could seriously impact the smooth functioning of our democratic legal order. Undemocratic methods such as these can be violent or non-violent, and the most extreme of the violent undemocratic methods is terrorism”.<sup>5</sup> In 2018, the Netherlands experienced two terrorist attacks (both jihadist), as well as two successfully-disrupted jihadist terrorist plots. This places the country in the top three of countries (together with France and the UK) that experienced both the highest rate of attacks as well as the highest rate of successfully foiled terrorist plots in Europol’s annual terrorism threat assessment of the European Union (EU).<sup>6</sup> In December 2019, the terrorism threat level in the Netherlands was—on a 1 to 5 scale—lowered from four (‘substantial’) to three (‘conceivable’). The NCTV—in its latest quarterly threat assessment—wrote “Jihadist attacks are still being carried out sporadically in the West, but the situation is different from the 2015-2017 period, when dozens of attacks were occurring in Europe every year.”<sup>7</sup>

From 2004, the year of the attack on Van Gogh, to 2019, the terrorism threat landscape in the Netherlands can be characterised as diversified, fragmented, and polarised. The terrorism threat landscape has diversified in the sense that where the Hofstadgroup consisted of individuals who shared a similar background and who were more or less motivated by the same ideology, from 2005 to 2011 the Netherlands was faced with a number of lone wolf attacks where the offender profile became much more diffuse and where, though the attacks had an enormous societal impact, they were not classified as terrorist attacks by the General Prosecution. An example is the attack on the Royal Family on the annual Queen’s Day in Apeldoorn in 2009, when a lone perpetrator drove his car into the public and killed seven people. With the onset of the conflict in Syria and Iraq in 2011, Jihadism was back in full force and many individuals left to fight Assad and/or join terrorist groups including the al-Nusra Front and—after the group had been formally established and especially, after the declaration of the Caliphate on 28 June 2014—the Islamic State. However, between 2011 and 2018, the profile of the group of foreign terrorist fighters and returnees showed clear patterns and indicated further diversification, i.e. individuals that were mainly motivated by ideology, or later on from 2015-2017, individuals who had a criminal background or who had a background of psychological problems or were diagnosed with psychiatric illnesses.<sup>8</sup>

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<sup>4</sup> *Definitions used in the Dutch Terrorism Threat Assessment* [translated by author] (National Coordinator for Security and Counter-Terrorism (NCTV), retrieved 8 November 2019), <https://www.nctv.nl/onderwerpen/dtn/definities-gebruikt-in-het-dtn>.

<sup>5</sup> *National Security Strategy 2019* (National Coordinator for Security and Counter-Terrorism (NCTV), September 19, 2019), p. 22, <https://english.nctv.nl/documents/publications/2019/09/19/national-security-strategy>.

<sup>6</sup> *Terrorism Situation and Trend Report 2019 (TE-SAT)* (Europol), 12, accessed October 15, 2019, <https://www.europol.europa.eu/activities-services/main-reports/terrorism-situation-and-trend-report-2019-te-sat>.

<sup>7</sup> *Summary Terrorist Threat Assessment Netherlands 51* (National Coordinator for Security and Counter-Terrorism (NCTV), June 2019), p. 2, <https://english.nctv.nl/latest/news/2019/12/19/threat-level-lowered-to-3-attack-in-the-netherlands-conceivable>.

<sup>8</sup> Liesbeth van der Heide & Bart Schuurman, “Reintegrating terrorists in the Netherlands: evaluating the Dutch approach”, *Journal for Deradicalization* No. 17, (2018), pp. 196-239.

Partially related to this diversification—and in line with larger developments in the global jihadist movement—the terrorism threat landscape in the Netherlands has also fragmented in the sense that, where the Hofstadgroup was a relatively clear network with leadership figures, today's terrorist networks are hybrid<sup>9</sup>, membership is fluid, and there are a range of individuals connected to the larger network where some are clearly directed, others are enabled by groups or networks, and a third group is merely inspired. Finally, the terrorism threat landscape is polarised in the sense that where between 2004 and 2016 all individuals arrested and or/sentenced for terrorism in the Netherlands were motivated by Islamic extremism. In 2016, a group of five individuals were arrested for a right-wing extremist attack; there have been more arrests for right-wing extremism since.

## Type of extremism or ideology

Europol separates terrorist affiliations into six categories:<sup>10</sup> jihadist terrorism, left-wing terrorism, anarchist terrorism, right-wing terrorism, ethno-nationalist, separatist terrorism, single-issue terrorism, and unspecified terrorism. The Dutch Coordinator for Counter-Terrorism and Security (NCTV) shifted from a traditional understanding of Right- and Left-Wing extremism to what they label as *identitarian* and anti-government extremism.<sup>11</sup> In the Netherlands, a number of extremist groups are active that are listed as such by Europol,<sup>12</sup> including the right-wing extremist movements *Pegida* (Patriotic Europeans against the Islamisation of the Occident<sup>13</sup>), *Voorpost* (Forepost), *Rechts in verzet* (Right Wing Resistance), and *Erkenbrand*.<sup>14</sup>

The NCTV has estimated that the Dutch jihadist movement contains around 500 individuals along with thousands more supporters. Of the 300 jihadists that were listed as having travelled to Syria and Iraq, there have only been 60 individuals (or 18%)<sup>15</sup> who have returned.<sup>16</sup> It is possible that one reason for the low return rates is the manner in which terrorism-related offences can—through Article 205 of the Dutch Penal Code—be prosecuted ‘in absentia’. For returning individuals, in a number of cases, the government has relied on the deprivation of citizenship as well as the denial, seizure, or invalidation of passports and other identity documents.<sup>17</sup>

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<sup>9</sup> *Transformatie van het jihadisme in Nederland. Zwermodynamiek en nieuwe slagkracht*, Algemene Inlichtingen en Veiligheidsdienst, June 2014.

<sup>10</sup> *Terrorism Situation and Trend*, p. 13.

<sup>11</sup> *National Security Strategy 2019*, p. 22.

<sup>12</sup> *Terrorism Situation and Trend*, p. 61.

<sup>13</sup> *Pegida* was setup at the end of 2014 in the East German city of Dresden. Critics regard the group as xenophobes. The group is against Islamisation and the arrival of (economic) refugees and believes that Western culture and society are threatened by foreign influences, including from Salafist Muslims who would lead a religious war in Europe.

<sup>14</sup> Most groups within the Dutch right-wing extremist scene present themselves as groups while group membership is fluid and there is overlap in sympathisers and ad hoc partnerships. This applies to groups such as Identitarian Resistance, Right Wing Resistance and the aforementioned *Erkenbrand*. In most cases, the core of the organisations is small and consists of a several dozen people that play an active role.

<sup>15</sup> *Summary Terrorist Threat Assessment*, p. 5.

<sup>16</sup> Amandine Scherrer, ed., “The Return of Foreign Fighters to EU Soil: Ex-Post Evaluation,” European Parliamentary Research Service (EPRS), May 2018, p. 32, [The return of foreign fighters to EU soil - European Parliamentwww.europarl.europa.eu › 2018 › EPRS\\_STU\(2018\)621811\\_EN](http://www.europarl.europa.eu/2018/EPRS_STU(2018)621811_EN)

<sup>17</sup> European Judicial Training Network (EJTN), “Dutch Criminal Code” (2012), p. 105,

## Dutch government response towards extremist offenders

The government tackles extremism under the Dutch penal code with the help of local government, the public prosecution service and the police force. The responsibility for security measures also lies primarily with the local government. In addition to this local responsibility, the central government has the responsibility to ensure the safety of persons, objects, and services that have a special purpose in the democratic society. This responsibility is assigned to the NCTV. The NCTV considers the jihadist movement to be the greatest threat in the Netherlands. According to the National Strategy document, the Netherlands will focus on “preventing the movement’s growth, disrupting threats and preventing attacks”. At the same time, the NCTV will also monitor other extremist groups, especially far-right. The NCTV writes, “Terrorist attacks by jihadists can trigger an increase in far-right extremism, which in turn can provoke far-left and Islamic radicalisation”.<sup>18</sup> Specifically on right-wing extremism, the NCTV states, “In comparison to neighboring countries, the threat of violence on the part of right-wing extremists is less acute in the Netherlands. Unstable potential lone actors are more likely to act out during periods of social turmoil and publicly visible violence.”<sup>19</sup> The Netherlands has adopted a so-called comprehensive approach that includes preventive, repressive, and curative measures. This approach requires “early identification and intervention”. The comprehensive aspect to this approach also entails close coordination between individuals and organisations that can provide insights through consultation structures.

## The legal approach to extremist offenders

Dutch terrorism law—first enacted in 2004<sup>20</sup>—incorporates both criminal justice measures and administrative measures. Administrative measures include the deprivation of citizenship as well as the seizure of passports or other identity cards. Article 83 of Dutch criminal law determines what acts can be regarded as a terrorist act. It states that terrorist offenses are acts that “seriously frighten the population or part of the population of a country, or illegally force a government or international organization to do something, or not, or to seriously disrupt or destroy the fundamental political, economic and social structures of a country or an international organization”.<sup>21</sup>

Through an amendment of Article 205 of the Dutch Penal Code, the Terrorist Crimes Act, the Netherlands now has the ability to punish separately “recruitment for armed struggle and conspiracy with the intent of committing a serious terrorist offence”. If any criminal acts, such as hijacking, assault, manslaughter, or others, are committed with terrorist intentions, the maximum sentence will be increased. Additionally,

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[http://www.ejtn.eu/PageFiles/6533/2014%20seminars/Omsenie/WetboekvanStrafrecht\\_EN\\_G\\_PV.pdf](http://www.ejtn.eu/PageFiles/6533/2014%20seminars/Omsenie/WetboekvanStrafrecht_EN_G_PV.pdf) (accessed on 16/10/2019)

<sup>18</sup> *Summary Terrorist Threat Assessment Netherlands 50*, p. 3.

<sup>19</sup> *Ibid*, p. 3.

<sup>20</sup> M. A. H. Van der Woude, (15 december 2010), *Wetgeving in een Veiligheidscultuur : totstandkoming van antiterrorismewetgeving in Nederland gezien vanuit maatschappelijke en (rechts)politieke context* (Dissertatie. Instituut voor Strafrecht en Criminologie, Faculty of Law, Leiden University) Meijers-reeks nr. 187. Den Haag: Boom Juridische Uitgevers.

<sup>21</sup> “Artikel 83a,” *Wetboek van Strafrecht*, <http://www.wetboek-online.nl/wet/Wetboek%20van%20Strafrecht/83a.html> (accessed October 15, 2019)

Article 205 of the Dutch Penal Code allows for the penalisation of any “recruitment for violent extremism”, but any intent or conspiracy to carry out a terrorist action will be charged separately. The underlying motivation for the adoption of the Act is that it will simplify the commencement of criminal proceedings against terrorist networks and movements, as they continue to operate in an ever-adapting space.

Articles 140a, 205, 282b, 285, and 288a all contain the necessary legal requirements on what is needed to carry out a conviction against any terrorist offences, such as recruitment, financing terrorist acts, or joining an associated organisation. Overall, being sentenced for a criminal offense (like conspiracy, murder or planning an attack) with terrorist motive has three main implications:

- (i) it leads to longer sentences;
- (ii) it leads to the application of a precautionary logic (using law to intervene to protect national security), and;
- (iii) it leads to the use of criminal law as a policy measure rather than as the last resort (the switch from *ultimum remedium* to *optimum remedium*).<sup>22</sup>

Once terrorist intent has been established, Dutch criminal law states that imprisonment of such acts will be distinguishable from those imprisoned under non-terrorist offences.<sup>23</sup> As a result, sentences for terrorism-related offences are often increased by no more than a third or a half compared to sentences for non-terrorism related criminal offences.

Under the Counterterrorism Act, a number of administrative measures are provided that the government can “impose on the basis of conduct that is connected to terrorist activities or support for such activities”. When it comes to administrative measures—in line with the European Parliamentary Research Service’s evaluation<sup>24</sup>—the maximum pre-charge detention period is six days and 15 hours. The maximum pre-trial detention period is three months (extendable up to two years).<sup>25</sup> Other administrative measures include deprivation of citizenship,<sup>26</sup> travel bans,<sup>27</sup> a refusal to issue or a decision to seize/invalidate ID cards and passports in case of a security risk, without evidence for a formal charge for a terrorist offence.<sup>28</sup> There is also the “Investigation of Terrorist Offences Act” which concerns special powers that can be used if there are indications that a terrorist act is being prepared, for instance, “surveillance, infiltration, pseudo-purchase and wiretapping”. The so-called Temporary Law on Counterterrorism Administrative Measures “makes it possible to extend...temporary custody without serious objections in case of suspicion of terrorist

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<sup>22</sup> L. Van der Heide & J. Geenen “Preventing Terrorism in the Courtroom—The Criminalisation of Preparatory Acts of Terrorism in the Netherlands”, *Security and Human Rights*, 26(2-4), (2015), pp. 162-192.

<sup>23</sup> As laid out in Art.114A/B,120A,130A,140A,176A,225,304A,415A of the Dutch Penal Code: “Boek 2. Misdrijven Titel I. Misdrijven Tegen De Veiligheid Van De Staat,” *Wetboek van strafrecht*, <http://www.wetboek-online.nl/wet/Wetboek%20van%20Strafrecht.html#1090>, (accessed October 15, 2019)

<sup>24</sup> Scherrer, ed., “The Return of Foreign”, p. 42.

<sup>25</sup> Scherrer, ed., “The Return of Foreign”, p. 42.

<sup>26</sup> Dutch national law art. 15/1: “Rijkswet Op Het Nederlanderschap,” *Overheid.nl*, <https://wetten.overheid.nl/BWBR0003738/2018-08-01>. (accessed October 15, 2019)

<sup>27</sup> These can be issued according to “Temporary administrative measures to combat terrorism” art.3: “Tijdelijke Wet Bestuurlijke Maatregelen Terrorismebestrijding,” *Overheid.nl*, <https://wetten.overheid.nl/BWBR0039210/2017-03-01>. (accessed October 15, 2019)

<sup>28</sup> Scherrer, ed., “The Return of Foreign”, p. 43.

crime”.<sup>29</sup>

## The Dutch extremist offender population

The number of detainees in Dutch prisons has declined from a peak of 14,468 in 2005 to 8,019 in 2016. However, an increase does exist between 2017 and 2018, when the detainees rose from 8,346 to 8,777.<sup>30</sup> A report published by the Custodial Institutions Agency (*Dienst Justitiële Inrichtingen, or DJI*) in April 2019 showed the most recent prison population to be as high 9,367,<sup>31</sup> thus showing a steady increase from 2018. In June 2019, according to member state data provided to Europol, a total of 32 prisoners were terrorist convicts,<sup>32</sup> with that number increasing even further to 36 inmates as of November 2019. Between 2006 and 2019, the Dutch terrorism wings in both Vught and De Schie combined, were thought to have housed around 200-300 individuals.

2018 saw 49 individuals arrested in the Netherlands for terrorism-related offenses as well as 37 individuals who were actually sentenced, without any necessary correlation between these numbers. There are instances where arrests do not necessarily lead to a conviction and the 2019 rate of sentencing most likely includes a majority of individuals who were arrested in or before 2018. As of 2018, the population of extremist offenders in the Netherlands seems to have stagnated at 37 individuals—a reduction from 2017 (46 offenders) and 2016 (42 offenders).<sup>33</sup> The offenders sentenced in 2018 were categorised into two groups, as 32 fell into the jihadist category and the other 5 were right-wing extremists.

## Extremist offenders and the Dutch prison model

The Dutch system relies on centralised containment, also referred to as the ‘concentration model’, when it comes to any offenders or suspects who are extremist-related. Terrorism wings (*terroristen afdeling (TA) in Dutch*) are the special terrorist units set up by the Dutch Custodial Institutions Agency (DJI) within the prisons. These TAs allow for the extremist offenders to be segregated from the rest of the general prison population. The motivation behind this separation is an active effort to prevent the spread of any extremist ideologies as well as the formation of any extremist networks in the regular prison context.<sup>34</sup>

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<sup>29</sup> Investigation and Prosecution of Terrorist Offences (Extension of Powers) Act  
[https://www.legislationline.org/download/id/3136/file/Netherlands\\_CODEXTER\\_Profile\\_2008.pdf](https://www.legislationline.org/download/id/3136/file/Netherlands_CODEXTER_Profile_2008.pdf)

<sup>30</sup> *Gevangeniswezen*, (Dienst Justitiële Inrichtingen (DJI), April 2019), p. 1,  
[https://www.dji.nl/binaries/120687\\_03\\_dji\\_infosheet\\_gevangeniswezen\\_april\\_2019\\_V4\\_tcm41-352270.pdf](https://www.dji.nl/binaries/120687_03_dji_infosheet_gevangeniswezen_april_2019_V4_tcm41-352270.pdf)

<sup>31</sup> *Capacity and Occupation, January to April 2019* (Department of Justice Institutions (DJI), 2019),  
[https://www.dji.nl/binaries/Capaciteit%20en%20bezetting%20januari%20tm%20april%202019\\_tcm41-388713.pdf](https://www.dji.nl/binaries/Capaciteit%20en%20bezetting%20januari%20tm%20april%202019_tcm41-388713.pdf)

<sup>32</sup> *Terrorism Situation and Trend*, pp. 69-73.

<sup>33</sup> *Terrorism Situation and Trend*, p. 71.

<sup>34</sup> Tinka Veldhuis (2016). *Prisoner Radicalization and Terrorism Detention Policy: Institutionalized Fear or Evidence-Based Policy Making?*. Routledge.

Terrorism wings, or TAs, were a new model of incarceration implemented by the 2006 Dutch government in response to the question of where to house terrorist offenders. With the arrests of several *Hofstadgroup* members, the government faced increased political pressure.<sup>35</sup> The motivation for these specialised housing wings had two main components. The first of which was an attempt to prevent any influence that the extremist offenders may have had on other prisoners; and the second was the intent to allow the staff working in these units to become proficient in how to handle this specific type of offender.<sup>36</sup> In 2016, an additional rationale was included, which was the desire to create specialised and individualised programs to rehabilitate and re-socialise the offenders. During the infant years of the TA, there were only around five offenders, with some years even having a population as low as two offenders. With only a small amount of offenders, the Dutch system was able to gradually foster its proficiency in the way it dealt with extremists in the context of a prison. As Syria and Iraq saw increasing levels of conflict, the Netherlands, in line with this development, saw an influx of its citizens leaving to join extremists in those regions. This ultimately led to an increase in the prison population held within the confines of the terrorism wings. The increase led to a need for a greater capacity in which to house these individuals, as the level of offenders from 2013 onwards rose to around 30-40 individuals.

The TAs are both part of high-security prisons, otherwise referred to as extended secure institutions (EBI),<sup>37</sup> which have the means to contain this particular group of offenders. Within the Netherlands, there are two active terrorism wings, one, De Schie, which is located in Rotterdam, and the other, TA Vught, which is located in the south-eastern city of Vught. Any time an individual is convicted—or even suspected—of terrorism, they are placed within one of the two TA units.<sup>38</sup> The most recent record of the prison population in the Netherlands (including both general and extremist offenders) from April 2019, shows that De Schie currently holds 249 offenders and Vught holds 625.<sup>39</sup> The overall capacity for extremist offenders between the two TA's is a combined 48 holding places.<sup>40</sup> The Netherlands usually has an average of around 30-40 offenders who are housed within these TA's, and in June 2019 the NCTV stated that the prisons contained “several dozen” jihadists.<sup>41</sup>

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<sup>35</sup> Inspectie van Justitie en Veiligheid, *De Terroristen Afdeling in de Nederlandse Gevangenis: Plan van Aanpak*, p. 3, for the English translation see <https://www.inspectie-jenv.nl/Publicaties/rapporten/2019/09/16/the-terrorist-detention-units-in-the-netherlands>

<sup>36</sup> *Terroristen in Detentie. Evaluatie van de Terroristenafdeling*. Rijksuniversiteit Groningen. In opdracht van het WODC, ministerie Veiligheid en Justitie, 2010.

<sup>37</sup> Marjolein Hordijk, and Koek, “DJI brede visie op radicalisering en extremisme.” DJI: Utrecht, The Netherlands, (2016).

<sup>38</sup> Amandine Scherrer, ed., “The Return of Foreign Fighters to EU Soil: Ex-Post Evaluation,” (European Parliamentary Research Service (EPRS), May 2018), p. 51, [https://wb-iisg.com/wp-content/uploads/bp-attachments/5634/EPRS\\_STU2018621811\\_EN-1.pdf](https://wb-iisg.com/wp-content/uploads/bp-attachments/5634/EPRS_STU2018621811_EN-1.pdf)

<sup>39</sup> *Capacity and Occupation*.

<sup>40</sup> Jonathan Birchall, “Antiterrorism Detention Regime in the Netherlands Breaches Human Rights,” Open Society Justice Initiative, October 30, 2017, <https://www.justiceinitiative.org/newsroom/antiterrorism-detention-regime-netherlands-breaches-human-rights>

<sup>41</sup> NCTV (2019). *Terrorist Threat Assessment for the Netherlands 50*, [Terrorist Threat Assessment for the Netherlands 50 - National ...english.nctv.nl > publications > 2019/07/04 > Summary+DTN50](https://english.nctv.nl/publications/2019/07/04/Summary+DTN50)

## Containment and differentiation

Between the two TAs, the Netherlands has the ability to house 48 extremist prisoners. Vught has five departments with a total capacity of 41 and De Schie has one department with capacity for seven places. The benefit of the various departments is that it allows for differentiation within the group of extremist offenders and accounts for their unique profile—which differs from the concentration model typically employed by Dutch prisons. When it comes to separating the offenders, the Netherlands takes into account a number of factors, such as:

- a person’s potential background in battlefield experience;
- any criminal record;
- their level of anger or frustration;
- group suitability;
- vulnerability;
- susceptibility to influence, and;
- gender.

The most important separation within the group is that of followers and leaders.<sup>42</sup> Despite the fact that inmates with similar profiles are grouped together, the overall spectrum of this offender population can still vary from seasoned extremists to those who remain susceptible.<sup>43</sup> Given the size of the group, the NCTV has recognised that with the “limited space available, they may struggle with keeping different categories of prisoners separated from one another (i.e. serious and less serious offenders, dyed-in-the-wool jihadists and neophytes, etc)”.<sup>44</sup>

When extremist offenders first arrive in prison, they are held for a maximum of ten weeks within TA Vught’s reception and diagnostic area (the *Inkonstenafdeling*). After they collect the information necessary to perform a risk analysis, the TA staff design a tailored plan for each individual detainee. To do so, staff collects information such as the detainees suspected crime, their personal and criminal history, and their overall behaviour. The staff also observes how the prisoner behaves with other offenders as well as with the general staff, the prison psychologist also performs an intake interview. The Violent Extremist Risk Assessment (VERA-2R) is used by the Dutch Probation service to perform a risk assessment. The Detective Investigation Information Point (GRIP) also performs a risk analysis, per the request of the TA. Once all of the information is collected, it is used to help in the decision-making process of classifying and housing each offender, as well as aiding to tailor the various interventions. The Dutch Inspection has, however, concluded, “the use and utility of the risk assessment tool (VERA-2R) warrants further monitoring. The information is not provided in time or to the extent possible by the Dutch Probation Services (RN). As such, the penitentiary institutions are not able to assess the risk of the detainees based on the information proved by RN.”<sup>45</sup>

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<sup>42</sup> Dienst Justitiële Inrichtingen (2019), *Terroristenafdeling (TA)*, p. 2,

[https://www.dji.nl/binaries/Factsheet%20TA\\_tcm41-382106.pdf](https://www.dji.nl/binaries/Factsheet%20TA_tcm41-382106.pdf)

<sup>43</sup> Dienst Justitiële Inrichtingen (2019), *Terroristenafdeling (TA)*, p. 2,

[https://www.dji.nl/binaries/Factsheet%20TA\\_tcm41-382106.pdf](https://www.dji.nl/binaries/Factsheet%20TA_tcm41-382106.pdf)

<sup>44</sup> NCTV (2019). *Terrorist Threat Assessment for the Netherlands 50*, p. 4,

<https://english.nctv.nl/documents/publications/2019/07/04/summary-terrorist-threat-assessment-netherlands-50>

<sup>45</sup> Inspectorate of Justice and Security (2019), *The Terrorist Detention Units in the Netherlands*, p.7, <https://www.inspectie-jenv.nl/Publicaties/rapporten/2019/09/16/the-terrorist-detention-units-in-the-netherlands>

Within the terrorist wings, there are departments consisting of tailored groups of usually around five prisoners who are held under more stringent supervision, as compared to other departments within the prison. The more frequent body searches and the monitored phone calls (excluding any privileged conversations), characterise the TAs management as one that is generally stricter in its approach. A prisoner’s ability to engage in any activities—whether individual or group—is decided by the prison’s director. Overall, the stringent supervision and small groups have led to the TA management model as being classified as ‘austere and humane’.<sup>46</sup>

Each inmate has a weekly allowance of 26 hours that they can use for a variety of activities, such as work, education, sports, recreation, time outside, or time for spiritual guidance. In practice, however, the ability for inmates to partake in work-related activities has generally been limited. Nonetheless, the allowance for work will soon be increased to a maximum of ten hours each week.<sup>47</sup> When it comes to family and friends, each of the offenders housed within the TA are allowed once a week to receive a visitor as well as to make up to four calls of ten minutes each to family or friends. Every call, as well as any correspondence sent or received, is both monitored and recorded. There is a screening process required for all outside visitors and every interaction they have with the inmates is monitored also. The overall staff within the TA is quite varied as it includes guards (more seasoned workers), psychologists, psychiatrists, nurses, social workers, teachers, sports coaches, spiritual counsellors, and case managers (each manager has the responsibility to coordinate the tailored approaches taken with each individual detainee). The DJI employs a total of 167 spiritual counsellors who help to provide spiritual guidance to those within the correctional institution. Among the 167 counsellors, there is a representation of seven religions and movements: Buddhist, Hindu, humanist, Islamic, Jewish, Protestant, and Roman Catholic.<sup>48</sup> When a prisoner within the TA has completed three-quarters of their sentence, and have only four to twelve months remaining, they can sometimes be transferred to a regular prison. A stipulation being that the offender could not have, in the last year of their incarceration, been involved with any spreading of extremist ideology or be any risk of escape or extradition.<sup>49</sup>

In regards to the gender breakdown, the Dutch prison population currently consists of 93% male and 7% female offenders.<sup>50</sup> A gender bias, however, has become more visible amongst extremist offenders as the criminal justice system responds more favourably to female returnees.<sup>51</sup> Additionally, there seems to be an increase in the rates of youth radicalisation, as in the Netherlands the average age of extremist offenders is 37<sup>52</sup> and foreign fighters are typically under the age of 25.<sup>53</sup>

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<sup>46</sup> *Terroristenafdeling (TA)*, p. 2.

<sup>47</sup> *Terroristenafdeling (TA)*, p. 2.

<sup>48</sup> *This Is the Custodial Institutions Agency (DJI): In Facts and Figures Based on 2018* (Dienst Justitiële Inrichtingen (DJI), March 2019), [https://www.dji.nl/binaries/Dit%20is%20DJI%20maart%202019%20Engels\\_tcm41-121757.pdf](https://www.dji.nl/binaries/Dit%20is%20DJI%20maart%202019%20Engels_tcm41-121757.pdf)

<sup>49</sup> *Dienst Justitiële Inrichtingen (2019), Terroristenafdeling (TA)*, p. 3, [https://www.dji.nl/binaries/Factsheet%20TA\\_tcm41-382106.pdf](https://www.dji.nl/binaries/Factsheet%20TA_tcm41-382106.pdf)

<sup>50</sup> *Gevangeniswezen*, p. 1.

<sup>51</sup> Scherrer, ed., “The Return of Foreign”, p. 46.

<sup>52</sup> *This Is the Custodial Institutions*, p. 3.

<sup>53</sup> Scherrer, ed., “The Return of Foreign”, p. 34.

## Detention/Reintegration policies for extremist offenders

The existence of the TA model is the result of the very real concern that detainees may radicalise others, however, it also allows for a space within the correctional facility that promotes and encourages this unique population in their rehabilitation and resocialisation process.<sup>54</sup> Ideology, politics, religion, impulses, and psychopathology are all listed by the DJI as the main drivers of violent extremism.<sup>55</sup> With those drivers in mind, all prison staff are qualified to signal potential red flags, such as individuals who hold on to insecurities or feelings of disrespect, contact with radical individuals, or any group based subordination.

For each inmate in TA, goals for their specific treatment are listed within a so-called Detention and Reintegration (D&R) plan. The essential goal of the rehabilitation and reintegration process in prison is disengagement, which targets behaviour, as opposed to de-radicalisation, which targets an inmate's beliefs.<sup>56</sup> According to DJI, for an inmate to achieve true de-radicalisation, there has to be an active cognitive transformation, which makes disengagement a more realistic goal to be achieved during incarceration. It is easier to achieve disengagement in that it simply requires an inmate to stop radical behaviour, without having to have a complete renouncement of or delve too deeply into their core values and beliefs. Interventions are tailored to each individual inmate and provided by trained specialists, which helps make the process of disengagement achievable in prison. When it comes to extremist offenders, they are believed to generally require higher levels of mental care and guidance,<sup>57</sup> as opposed to other, non-extremist detainees. Special attention is also paid in these interventions to the risks posed by an individual within the larger process of re-socialisation.<sup>58</sup> The two core goals of this tailored approach are to prevent inmates from committing any terror-related crimes as well as the prevention of the recruitment or radicalisation of other inmates in the facility. To facilitate these goals, two guards are always present and supervising when inmates interact with each other. There is also strict monitoring of any contact or correspondence that may take place, including that of phone conversations. The inmates are searched on a daily basis and any need to transport extremist offenders is done with the use of specialised and protected vehicles. With these security measures in place, the safety and security of the inmates as well as the general staff can be guaranteed.

The Terrorism, Extremism and Radicalisation (TER)-team, a dedicated team within the Dutch Probation Services (*Reclassering Nederland (RN)*), is in charge of the coordination and implementation the extremist offenders reintegration process. In either pre-trial or post-detention, each offender has two of the around 15 TER-team members assigned to supervise them. With access to specialised re-socialisation and aftercare, the intent behind RN's approach is the prevention of recidivism.<sup>59</sup> Within a

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<sup>54</sup> Hordijk, Marjolein and Koek. (2016). *DJI brede visie op radicalisering en extremisme*. DJI: Utrecht, The Netherlands.

<sup>55</sup> Ibid

<sup>56</sup> Ibid

<sup>57</sup> *Terroristenafdeling (TA)*.

<sup>58</sup> *Terroristenafdeling (TA)*.

<sup>59</sup> Liesbeth van der Heide and Bart Schuurman, "Re-Integratie Van Delinquenten Met Een Extremistische Achtergrond: Evaluatie Van De Nederlands Aanpak," *Re-Integratie Van Delinquenten Met Een Extremistische Achtergrond: Evaluatie Van De Nederlands Aanpak*,

legal mandate, all offenders who are convicted or suspected of executing/developing terrorist crimes are placed under the TER-team's supervision. Additionally, the TER-team provides expert advice to government actors such as the general prosecutorial office, the NCTV and/or municipalities. A total of 189 extremist offenders have been aided by the TER-team since its inception in 2012 up until mid-2018. The offenders are all on the spectrum of extremism, ranging from jihadist extremists to left- and right-wing extremists.

Each of the TER-team members have received specialised training on how to engage with those who hold extremist mentalities. In order to achieve changes in behaviour, the TER-team works to reconnect or establish a connection between these offenders and Dutch societal values. This process is thought to be incredibly significant in the way it can help an offender disengage from a more radical or extremist mindset. The offenders receive assistance on matters such as advancing their education or finding a job, as well as working to try and restore familial bonds. Any supervision of an individual is always conducted by two TER-members. Additional support or intervention expertise can be provided by religious experts and psychologists. The NCTV, police, Public Prosecution Services, prisons, youth aid organisations, and municipalities have also worked to form partnerships with the TER-team.

The approach taken by the TER-team has proven to be quite fruitful, as extremist offenders in the Netherlands have an incredibly low recidivism rate of 4.4 percent, while the recidivism rate for 'regular detainees' remains around 50 percent.<sup>60</sup> A critical aspect of the proven success comes from the TER-team's ability to build strong relationships with the extremist detainees. Despite its steps towards success, there are still areas in which to improve. Evaluations have shown that success has not been operationalised sufficiently, interventions on ideology are still lacking and no clear evaluation or monitoring of long-term recidivism is currently conducted.<sup>61</sup>

In the context of reintegration of extremist offenders, local municipalities take the lead when individuals are released from prison. Within the Netherlands, a specific approach has been developed that is known as the local 'Security House' approach, where local partners develop a joint approach to complex cases including cases related to radicalisation and terrorism. Local partners include the TER-team, police, general prosecution, the Child Protection Board, the Dutch Custodial Services, youth services and dependent on the case, other actors such as mental health care providers, theologians, experts or local municipality officers can participate as well. All Dutch bigger cities have Security Houses and many mid-sized cities do as well. For smaller cities and villages, the Security House of the nearest larger city takes on a regional approach. Because this approach has been developed in the 1990s – and has been tailored to both different local contexts as well as to the development of complex problems, the exact organisation (who takes the lead, what actors participate and what procedures are used) can differ per region, but the overall

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2018, p. 8, [https://www.universiteitleiden.nl/binaries/content/assets/governance-and-global-affairs/isga/reintegratieevaluatie\\_isga\\_2018.pdf](https://www.universiteitleiden.nl/binaries/content/assets/governance-and-global-affairs/isga/reintegratieevaluatie_isga_2018.pdf)

<sup>60</sup> Van der Heide & Schuurman, p. 3.

<sup>61</sup> Ibid, p.47.

framework is the same.<sup>62</sup> Together, the actors that represent security as well as care providers, aim to combat crime and recidivism.<sup>63</sup>

Aside from the local Security House approach, both municipalities as well as the Dutch Custodial Agency can make use of a variety of specific assistance including coaches or EXIT-facilities.<sup>64</sup> An EXIT-trajectory was developed in 2015 to facilitate voluntary desistance from jihadist extremist networks and the organisation running this program can work both with offenders as well as with individuals who are radicalised and/or their family members.<sup>65</sup>

## Conclusion and way forward

The Dutch concentration model for extremist offenders, with its specialised staff, has proven to be quite effective. Other (non-terrorist) inmates are free of the influence of potential recruitment or radicalisation as there is no inter-mingling between the distinct offender types. Staff have gained strong expertise in this particular area, as they have been able to develop their knowledge about the particular group of offenders, both within and outside the prison context. Given that the terrorism units were established in 2006, there has been an on-going refinement of the approach over the years. Examples include the implementation of more discernment in the characterisation of extremist offenders as well as employing staff that are qualified to identify and implement interventions on extremist ideologies.

As of 2019, a number of challenges for the Dutch system have become apparent as some policy decisions may induce unintended or unforeseen consequences. Additionally, the Dutch prison system is faced with the increasing challenge that offender types are becoming more and more diverse, complicating the classification process. While the current system has excelled in the basic aspects of prison management such as clear housing procedures, effective (dynamic) security, appropriate classification, and professionally trained staff, true rehabilitation and the ability to de-radicalise an offender from extremist views and aid them in their reintegration upon completion of their sentence is still a very real challenge.<sup>66</sup> Given that the means for this particular type of rehabilitation are still in their infancy in the Netherlands, it has been especially difficult to successfully intervene with those offenders who are classified as ‘hardliners’—whether idealists or leaders—both during their sentence as well as post-prison.

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<sup>62</sup> Ministerie van Veiligheid en Justitie (2013). National Framework: Safehouses, p. 7, [landelijke kader](#)

<sup>63</sup> Ministerie van Veiligheid en Justitie (2017). Evaluation of the Netherlands comprehensive action programme to combat jihadism, p. 30., <https://www.inspectie-jenv.nl/Publicaties/rapporten/2017/09/06/evaluation-of-the-netherlands-comprehensive-action-programme-to-combat-jihadism>

<sup>64</sup> Van de Rijt & Weggemans (2017). Terrorisme-gedetineerden: over scheiding, spreiding en re-integratie, p. 11, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/75071/Rijt\\_Weggemans\\_2017.pdf?sequence=1](https://openaccess.leidenuniv.nl/bitstream/handle/1887/75071/Rijt_Weggemans_2017.pdf?sequence=1)

<sup>65</sup> Evaluatie ten behoeve van de Nationaal Coördinator Terrorismebestrijding en Veiligheid (2018). Evaluatie Forsa en Familiesteunpunt, p. 8, <https://www.nctv.nl/documenten/rapporten/2019/03/11/evaluatie-forsa-en-familiesteunpunt>

<sup>66</sup> L. Van der Heide & Bart Schuurman, “Reintegrating Terrorists in the Netherlands”.

Secondly, as noted in the NCTV's latest threat assessment, the Dutch prison system has received an influx of extremist offenders. The concentration model utilised by De Schie and Vught is facing increased pressure as their combined average occupancy reaches around 30-40 offenders. With this increased pressure also comes the real test of its overall sustainability. The group of detainees has become substantially more diverse and includes a much more resilient mixture of high level individuals from groups like Jabhat al-Nusra, as well as offenders who have either financed attacks, sought to carry out an attack, committed a violent attack, or those simply vulnerable to extremist influence. Given this variety in type and level of extremist offender, the prison staff face the increasing challenge of how to properly monitor each individual while maintaining a close watch on any developing networks or susceptible inmates. One outcome of the Dutch concentration model has been the (inevitable) formation of networks and the existence of undesirable mutual influence amongst the extremist detainees, as well as a strengthening of the crime-terror nexus.

Consequentially, it is no longer sufficient to adhere to a simplistic differentiation and separation between *just* the followers and leaders. It is imperative that the Dutch government develop the means to better specify and differentiate the various offender characterisations that exist within each of these groups. Implications of housing and designation should also be taken into consideration. A potential avenue would be further outplacement<sup>67</sup> of extremist detainees given the increasing size of the group and the need for further differentiation of the population. Policymakers such as the Ministry of Justice and Security, as well as the DJI and NCTV, are exceedingly aware of these needs and potential challenges, as are those within the police and intelligence communities. There has been a shift in the way that Dutch agencies view the TAs and their ability to monitor and manage the offenders. The TAs are now given due credit as a key player in the realm of rehabilitation and reintegration. Policymakers have acknowledged that what happens during and after incarceration is just as vital as the steps taken before a terrorism-related incident occurs.

The further development of the approach towards terrorist offenders in the Netherlands will likely play out in one of two most likely scenarios. With the existing TAs quickly reaching their maximum capacity, there would be an urgent need to increase the existing capacity by adding on additional departments. However, this will prove to be rather time and resource heavy, as it would mean intensive restructuring of the physical buildings. At the same time, this scenario would also see the continuation of both the current benefits and disadvantages of the concentration model. The TAs could then maintain their staff's expertise, the ability to tailor each individual's socialisation, and prevent the influence of extremism among non-terrorist offenders. However, the existence or formation of networks, the crime-terror nexus, and the deepening of extremist values would not be mitigated. In a second scenario, the option of increasing outplacement procedures could be relied on. Outplacement would occur towards the end of an offender's incarceration, once an inmate has demonstrated good behaviour and is viewed as posing a low risk by actively engaging in the reintegration interventions, they would then have the possibility of being transferred to other institutions. Previously, dispersion, which dispersed the

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<sup>67</sup> This refers to the ability to transfer an offender during the last year of their sentence if (1) they are not an escape risk, (2) there is no extradition, and (3) there were no signs of recruitment in the last year. Yola Wanders (2017), *The Dutch Experience. Custodial Institutions Agency*.

offenders among various regular correctional facilities, was used at the beginning of a terrorist-offenders sentence, before they were able to achieve any of the TAs intended goals. This particular scenario would mean that additional staff outside the terrorism wings would have to receive proper training, additionally, monitoring and evaluation capabilities would have to be implemented should the outplacement occur.

In a third and final scenario, the Dutch government could rely on the use of the dispersion model. Through this model, terrorist offenders would be dispersed among the various regular correctional facilities based on their individual profiles. Through this, there would no longer be a need for a concentrated and dedicated space in the institutions. However, this model would still allow for adopting the TA regime (i.e. the strict approach) within other facilities as a way to ensure security and the success of interventions. A centralised monitoring system could be implemented which would allow the Dutch Custodial Agency, along with the RN and the NCTV to have the ability to determine where each extremist offender should be housed and to monitor their classification and further development

With the repatriation of Dutch women and children becoming a more prevalent and pressing issue, a decision may be forced on the Dutch government sooner than expected or desired. With the TA's already reaching their maximum capacity, alternative solutions would have to be created if and when the group returns. Thus, the Dutch approach will likely continue to be characterised by policy thinking on paper and pragmatic solutions in practice.

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