
Deliverable submitted May 2009 (M14) in fulfillment of requirements of the FP7 Project, Converging and Conflicting Ethical Values in the International Security Continuum in Europe (INEX)
Security Ethics

A Thin Blue-Green-Grey Line

“The profession of public service has no parallel among other professions (excepting priesthood) in the sense that society expects public servants to act with unwavering integrity, absolute impartiality, and complete devotion both to the public interest and to the state. This is the basis and fundamental precept upon which various standards and requisites of performance for public servants have been built.” (Dwivedi, 1988: op cit p. 233)
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Executive Summary

Security and insecurity are social, cultural and political concepts. The security threat to Europe, once confined to the logic of a bipolar arms race, became in the recent years more ubiquitous, and the need to guard against security threats turned increasingly inward. Security agencies traditionally responsible for assuring security from external dangers (primarily the military) began to develop means and mechanisms for identifying threats inside Europe, thus overlapping with the traditional dominion of internal security agencies. The attacks on 9-11 in the United States, together with those in Madrid in 2004 and London in 2005 intensified and accelerated this process. However, while external security authorities increasingly seek to locate threats in the internal security sphere, traditional internal authorities such as the police, increasingly seek security threats beyond borders: transnational organized crime networks, terrorist networks, etc. This way, a security continuum linking and imbricating internal and external security concerns has emerged. Internal and external security challenges lie on a continuum of security practices.

Defending Europe is identical to defending these values. Europe’s external borders are therefore not simply physical barriers, but also demarcations between ‘ethical zones’ where certain regimes of social, political, legal and moral rights are distinctly valid and where others are not. The borders also represent the limit that differentiates what security practices may be implemented, which tools and means of policing and criminology, diplomatic protocol and military modes of operation are both legitimate and functional. However, the internal/external security continuum reflects an encroaching ambiguity of the ‘inside-ness’ and ‘outside-ness’ of security practices. Both the concepts and the definitions, and the actual practices by which Europe traditionally differentiates between itself and the threats which it confronts are less distinct.

The ethical framework of the security field is a complex and dynamic subject. Many factors and variables are at stake, and they mutually influence one another: security culture(s), leadership, training and education, social and political context, technological influences, international cooperation, security styles and ethical codes. The ‘normative orders’ of police, intelligence and military differ but also intertwine. Each of those contexts raises different issues and questions concerning ethical security practices, and they may produce different dilemmas and contradictory ethical claims. Political and administrative prioritization of ethical values may deliver different outcomes as to the way in which security organizations account for the compliance with ethical standards.

Notwithstanding the rich academic knowledge on security ethics, which this literature review offers an appreciation of, we have established an academic void when it concerns ethics research in emergent hybrid and transnational security practices. The complexity of this hybrid and ethical blurred field has several implications for empirical research into the ethical values of security.
First of all, it is necessary to identify and operationalize the variables that are at stake and to analyze their role in specific contexts: the ethical values that apply in local community projects may be considerably different from those that are applied in the context of a joint international investigation team on organized crime; the application of homogenous legal frameworks may differ greatly from the use of incremental or even fragmented legal norms; ethical values may be differentially applied by public police forces in the context of third-party policing. The operationalization of the variables at stake will be part of the empirical phase of WP 3 of the INEX project. Further, a workshop scheduled for 2010 will provide an opportunity for the validation and valorisation of the insights, knowledge and variables of security ethics developed in this paper.

Second, this literature review has also made clear that there is an urgent need for empirical longitudinal research: compliance with ethical standards in security organizations can only be properly investigated when measured over a longer period of time in stable professional environments.

Third, and perhaps most important in view of the INEX-project, we have established an urgent need to expand the scope of ethics research to new security arenas, including international intelligence-led policing, cross-border policing, peacekeeping missions, international counterterrorism, co-operation and information sharing between different intelligence organizations, and security reform projects. There is also a pressing need to focus more on the European context, as there seems to be an American bias in most research and knowledge.

The paper in hand will assist researchers to sharpen their research frames and

a) to identify ethical codes;
b) to appreciate differences between the ethical values in different national security cultures (empirical comparison between EU Member States);
c) to identify whether there are differences between the ethical values of different security organizations (empirical comparison between police, intelligence, army); and
d) to establish whether security professionals and their controllers (parliaments, inspectorates, review committees and ombudsmen) are of the opinion that ethical values are subject to transformations due to shifts in security;
e) to establish whether national and international codes of ethics are implemented and complied with in security organizations; and
f) to formulate a series of policy recommendations on the conditions under which professional ethical codes can be and will remain anchored in public and private security environments.
Introduction

Security and insecurity are social, cultural and political concepts. The security threat to Europe, once confined to the logic of a bipolar arms race, became in the recent years more ubiquitous, and the need to guard against security threats turned increasingly inward. Security agencies traditionally responsible for assuring security from external dangers (primarily the military) began to develop means and mechanisms for identifying threats inside Europe, thus overlapping with the traditional dominion of internal security agencies. The attacks on 9-11 in the United States, together with those in Madrid in 2004 and London in 2005 intensified and accelerated this process. However, while external security authorities increasingly seek to locate threats in the internal security sphere, traditional internal authorities such as the police, increasingly seek security threats beyond borders: transnational organized crime networks, terrorist networks, etc. This way, a security continuum linking and imbricating internal and external security concerns has emerged. Internal and external security challenges lie on a continuum of security practices.

The question relevant for this part of the INEX-project is which value assumptions and ethical consequences are contained in the internal/external security continuum. What is the link between security and ethics on the internal/external continuum? Europe’s security has historically revolved around the presumption of a distinct set of European values that are forming the foundation of European identity. Manners (2002: 240-241; Manners 2008) for instance, observes that the EU’s normative difference comes from its historical context. The EU was created in a post-war historical environment which reviled the nationalisms that had led to barbarous war and genocide. Peace and liberty were thus defining features of west European politics in the immediate post-war period. The norms of democracy, rule of law and human rights grew later when it was important to distinguish democratic Western Europe from communist Eastern Europe. These then became defining features of transition from communist rule in the immediate post-cold war period as the Copenhagen criteria demonstrate. The principles of democracy, rule of law, social justice and respect for human rights were first made explicit in the 1973 Copenhagen declaration on European identity, although the centrality of many of these norms was only constitutionalized in the TEU. Citing different scholars, Manning argues that a strong commitment to human rights is one of the principal characteristics of the European Union. Further, according to Manners, The EU external relations are more informed by the universal declaration of human rights than most other actors in world politics. Manners distinguishes the following normative characteristics of Europe:

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<th>FOUNDING PRINCIPLES</th>
<th>TASKS AND OBJECTIVES</th>
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<tr>
<td>Liberty</td>
<td>Social Solidarity</td>
<td>Dignity</td>
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<td>Democracy</td>
<td>Anti-Discrimination</td>
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<td>Fundamental Freedoms</td>
<td>Sustainable Development</td>
<td>Equality</td>
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<tr>
<td>Rule of Law</td>
<td>Solidarity</td>
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<tr>
<td>Citizenship</td>
<td>Justice</td>
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Defending Europe is identical to defending these values. Europe’s external borders are therefore not simply physical barriers, but also demarcations between ‘ethical zones’ where certain regimes of social, political, legal and moral rights are distinctly valid and where others are not. The borders also represent the limit that differentiates what security practices may be implemented, which tools and means of policing and criminology, diplomatic protocol and military modes of operation are both legitimate and functional. However, the internal/external security continuum reflects an encroaching ambiguity of the ‘inside-ness’ and ‘outside-ness’ of security practices. Both the concepts and the definitions, and the actual practices by which Europe traditionally differentiates between itself and the threats which it confronts, are less distinct.

In this literature review, we have endeavoured to make a preliminary scan of the research material that is available about the ethical values and moral codes that are embedded within security organizations. We will focus mainly on the police, the military, and the intelligence community. We have made an effort to plow through a pile of literature, resulting in a unique appreciation of the scientific knowledge on security ethics. However, notwithstanding the rich academic knowledge, we have established an academic void when it concerns ethics research in emergent hybrid and transnational security practices. There is an urgent need to expand the scope of ethics research to new security arenas, including international intelligence-led policing, cross-border policing, peacekeeping missions, international counterterrorism, co-operation and information sharing between different intelligence organizations, and security reform projects. The ethical framework of the security field is a complex and dynamic subject. Many factors and variables are at stake, and they mutually influence one another: security culture(s), leadership, training and education, social context, technological influences, security styles and ethical codes.

It is necessary to identify and operationalize the variables that are at stake and to analyze their role in specific contexts: the ethical values that apply in local community projects may be considerably different from those that are applied in the context of a joint international investigation team on organized crime; the application of homogenous legal frameworks may differ greatly from the use of incremental or even fragmented legal norms; ethical values may be differentially applied by public police forces in the context of third-party policing. The ‘normative orders’ (Herbert 1998) of police, intelligence and military differs but also intertwine. Each of those contexts raises different issues and questions concerning ethical security practices, and they may produce different dilemmas and contradictory ethical claims. Political and administrative prioritization of ethical values may deliver different outcomes as to the way in which security organizations account for the compliance with ethical standards. The operationalization of the variables at stake will be part of the empirical phase of
WP 3 of the INEX project. Further, a workshop scheduled for 2010 will provide an opportunity for the validation and valorisation of the insights, knowledge and variables of security ethics developed in this paper.

The paper in hand will assist researchers to sharpen their research frames and a) to identify ethical codes; b) to appreciate differences between the ethical values in different national security cultures (empirical comparison between EU Member States); c) to identify whether there are differences between the ethical values of different security organizations (empirical comparison between police, intelligence, army); and d) to establish whether security professionals and their controllers (parliaments, inspectorates, review committees and ombudsmen) are of the opinion that ethical values are subject to transformations due to shifts in security; e) to establish whether national and international codes of ethics are implemented and complied with in security organizations; and f) to formulate a series of policy recommendations on the conditions under which professional ethical codes can be and will remain anchored in public and private security environments.

Throughout this paper, we understand ethics as the systematic reflection on values and norms or the systematic reflection on morality. Ethics refers to thinking about what constitutes good and bad and should or should not guide human conduct (Van der Wal 2008: 26). Thus, ethics is not a model of correct behaviour, it is about self-reflection. It is the label for the recognition that we have choices (Burges 2008). Values are here defined as qualities and standards that have a certain weight in the choice of action. Norms are regulations prescribing the proper conduct in general as well as certain situations. Morals, then, are the collection of values and norms that provides a framework for acting. Integrity is understood as the quality of acting in accordance with relevant socially accepted moral values, norms, and rules (Huberts 1998).
PART ONE: ETHICS AND POLICING

1. Introduction

Ethics seems particularly important for policing; the police organization operates on the front-line of society and holds the monopoly of power. As such it is equipped to use coercive competences, such as the power of arrest or the staging of a search of private premises. Police has the discretion to make decisions which affect the life, liberty and property of citizens. If police is to maintain norms and rules in a society, it has to follow as a prerequisite these norms and rules by itself. In a sense, integrity - the umbrella concept of acting or being in accordance with all the moral values, norms and rules that are valid within the context in which one operates - pervades the soul of police organizations. Integrity is a necessary condition for the credibility and legitimization of policing (Lasthuizen, Huberts and Kaptein 2004: 10). The ethics of policing is however a dynamic concept. Discussion on the ethics of policing are intertwined with discussions on the particularistics of policing and the culture of policing, the role and function of police in society and the environment police is operating in. As Neyroud and Beckley (2001: 216) state: the environment of policing plays a key part in shaping the terms of the debate about its ethics.

The scientific elaboration of theoretical concepts and empirical enquiry into the ethical dimensions of policing is neither conclusive nor unambiguous. First, American literature and American research are dominant in the scientific debate. Experiences and insights from the American context cannot however be translated unthinkingly into the European situation. Further, there is an ongoing discussion on the question how the ethical dimensions of policing are being shaped. What is decisive? The individual characteristics of police officers, training and education, socialization processes, police culture, the particularities of policing, the environment police are operating in? Third, the practice of policing result in a mixed picture. On the one hand, in modern liberal democracies policing is bound by the rule of law and has become subject to scrutiny, accountability and transparency. Ethics is an integral part of police training and socialization. There is broad societal and political consensus on the mission of the police in the responsibility for protecting individual and collective freedoms, with the requirement of a set of democratic principles to run through the police. We can observe professional police officers, ethical highly motivated and with a profound sense of policing as a societal service aimed at restoring and balancing societal peace and stability. On the other hand, the police are characterized as the ‘thin blue line’, a cynical group alienated from the rest of the community yet expected to serve them (Bennet and Schmitt, 2002: 493). This separation has been manifest at different times throughout the past century, bringing with it scandal, tragedy and upheaval. Corruption, abuse of authority, brutal tactics and violations of constitutional protections have left an ‘unfortunate imprint’ (Neyroud and Beckley 2001: 82) on the history of Western policing. Although many reform efforts have mitigated the
prevalence of these problems, police agencies are still struggling with matters of image and ethics (Schafer and Martinelli 2008: 306). According to Neyroud and Beckley (2001: 11), there is ‘substantial evidence’ for crisis in the series of scandals that have beset policing over the last few years: concerns about corruption, abuse of force, over-policing and under-protection of minority communities.

1.1 Codes of ethics

One way of looking at ethics and policing is by examining the formal codes of ethics that are regulating policing in Europe. Codes of ethics can be understood as public statements in which professional organizations articulate standards that should characterize their membership or operations and that would therefore mediate their provision of goods or services (Kleinig 1996: 234). An important step in ‘ethical policing’ in the European context was given by the adaptation in 2001 of the *European Code of Police Ethics* by the Council of Europe. According to the signing parties, by laying the foundation for ethical norms, a code of police ethics enhances the possibility that ethical problems are more readily defined, more fully understood, analysed more carefully and more readily resolved. Further, the Council of Europe is of the opinion that a well publicised police code of ethics, by underlining the common standards, purposes and values of the police, can help to promote public trust in the police and further good public relations and co-operation. In terms of its possible influence upon police practice, a police code of ethics recommends best practices for the police, and is a specialized version of habitual, everyday, common-sense principled conduct. The rule of law, as the signing parties acknowledge, is focused not only on what is done but on how it is done. In carrying out their duties, police need to respect citizen’s individual rights, including human rights, and freedoms and avoid arbitrary or unlawful action. This is fundamental to the meaning of the rule of law and ‘therefore to the whole meaning and purpose of police duty in a democracy’.

Amongst the principles set out in the European Code of Police Ethics are:

* Police operations must always be conducted in accordance with the national law and international standards accepted by the country
* Legislation guiding the police shall be accessible to the public and sufficiently clear and precise, and, if need be, supported by clear regulations equally accessible to the public
* The police shall be organized in a way that promotes good police/public relations and, where appropriate, effective co-operation with other agencies, local communities, non-governmental organisations and other representatives of the public, including ethnic minority groups
* Police organizations shall be ready to give objective information on their activities to the public, without disclosing confidential information
* The police organization shall contain efficient measures to ensure the integrity and proper performance of police staff, in particular to guarantee respect for individuals’ fundamental rights and freedoms as enshrined, notably, in the European Convention on Human Rights
* Effective measures to prevent and combat police corruption shall be established in the police organisation at all levels
* Police personnel shall be able to demonstrate sound judgment, an open attitude, maturity, fairness, communication skills and, where appropriate, leadership and management skills. Moreover, they shall possess a good understanding of social, cultural and community issues
* Police training shall take full account of the need to challenge and combat racism and xenophobia
* The police, and all police operations, must respect everyone's right to life
* The police shall not inflict, instigate or tolerate any act of torture or inhuman or degrading treatment or punishment under any circumstances
* The police may use force only when strictly necessary and only to the extent required to obtain a legitimate objective
* Police must always verify the lawfulness of their intended actions
* The police shall only interfere with individual's right to privacy when strictly necessary and only to obtain a legitimate objective
* The collection, storage, and use of personal data by the police shall be carried out in accordance with international data protection principles and, in particular, be limited to the extent necessary for the performance of lawful, legitimate and specific purposes
* The police, in carrying out their activities, shall always bear in mind everyone's fundamental rights, such as freedom of thought, conscience, religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions
* Police personnel shall act with integrity and respect towards the public and with particular consideration for the situation of individuals belonging to especially vulnerable groups
* Police personnel shall, during intervention, normally be in a position to give evidence of their police status and professional identity
* Police personnel shall oppose all forms of corruption within the police. They shall inform superiors and other appropriate bodies of corruption within the police
* The police shall be accountable to the state, the citizens and their representatives. They shall be subject to efficient external control
* State control of the police shall be divided between the legislative, the executive and the judicial powers
* Public authorities shall ensure effective and impartial procedures for complaints against the police
* Accountability mechanisms, based on communication and mutual understanding between the public and the police, shall be promoted
* Codes of ethics of the police, based on the principles set out in the present recommendation, shall be developed in member states and overseen by appropriate bodies

1.2 Universal Police Ethics
In an international comparison of ethical values summed up in different codes, some common principles, or core universal values for global policing have been distilled (Van Buuren 2008):
It is interesting to note the similarities between the core ethical values in policing, and the core values that are found more generally in the public sector (Van der Wal 2008: 55):

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<th>Accountability</th>
<th>Independence</th>
<th>Trust</th>
<th>Loyalty</th>
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<tr>
<td>Discipline</td>
<td>Social Responsibility</td>
<td>Ethical Conduct</td>
<td>Compassion</td>
</tr>
<tr>
<td>Fairness</td>
<td>Sustainability</td>
<td>Integrity</td>
<td>Freedom</td>
</tr>
<tr>
<td>Honesty</td>
<td>Transparency</td>
<td>Excellence</td>
<td>Equality</td>
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</table>

1.3 Alien impositions

However, codes of ethics can never be the ‘silver bullet’ to questions regarding ethical policing. Ethical values, or, for instance, human rights, provides no absolute base for police behaviour as there are few absolute rights and most rights and values can be seen as complex and subject to considerable flexibility of interpretation or ‘margins of appreciation’ (Neyroud 2003: 585). Codes of ethics as such do not provide the flexible, balanced model to help and support officers and leaders convert declaratory statements into real life ethical judgements. It seems in the end that a complex of aspects is relevant in the fostering of an ethical culture of policing. Further, according to Kleinig, there are also structural problems with these kinds of codes. The function of codes of ethics can be seen as external and internal. External functions of a code of ethics can be understood as a way of assurance to the public, an instrument for improved public relations and as a form of liability limitation (Kleinig 1996: 244-245). Its internal functions can be seen as the setting of a personal standard, an organizational ethos, an organizational benchmark and a teaching device (Kleinig 1996: 246-248). However, there is a tension between the external and internal functions of codes of ethics. On the one hand the code serves the important socio-psychological purpose of binding and motivating the police; on the other hand it provides a moral framework and standard of conduct for what is done, one that is responsive to the concerns of a wider community. In this sense, there is ‘an implicit tension’ between serving others as the binding raison d’être of the police and a loyal commitment to fellow officers. The stronger the organizational ethos, the more police service to the public tends to be vulnerable to compromise, for personal loyalty to fellow officers tends to take precedence over the commitment to a more impersonally construed public audience.

Kleinig further notes contingent and endemic problems with codes of ethics (1996: 249-254). Among the contingent problems, he notes the problem of enforceability, because the notorious ‘blue wall of silence’ leads to a great unwillingness to report breaches. ‘The very code that evokes and reinforces group loyalty also encourages its ineffectiveness.’ Besides that, there is the problem of cynicism.
Sometimes codes place global, unnecessary or unreasonable demands on those who are called to affirm them. Police codes may sometimes make excessive demands and thereby encourage a cynical response; cynicism can also have its source in the manner of their introduction. Very often, codes of ethics are top-down productions, creations of boards of management and not the result of cooperative dialogue and community consultations; ‘alien impositions’, motivated not by a commitment to service but by the desire for control, political exigencies, or just plain arrogance. So police officers then do not experience a sense of ownership (1996: 249-254). As early as 1993, Felts and Donahue (1993: 347) launched this same critique. ‘Ethics’ becomes a category of training; it is something to be learned within an institutional framework, not developed in a give-and-take exchange in which the goal is to create consensual norms and define behavioural expectations that must be internalized, they argued. Hierarchical arrangements in policing invalidate bilateral discussion and agreement on occupational norms. This, in turn, ensures that ethical standards will always be viewed by rank-and-file police officers as externally imposed. Whether the source is recruit school, in-service training, standard operating procedures manuals, policy manuals, written or oral directives from the chief's office, or the official Code of Ethics, street officers have no investment or ownership in these standards, ethical or otherwise. Standards may be imposed, but they are not inter-subjectively generated or agreed upon. As Foster (2003: 222) suggests, if we want police organizations to move forward then perhaps it is time for a new approach that seeks to explore more fully police officers’ own perceptions of what they value in their organizations and how they believe they need to move forward. This is to guarantee commitment, ownership and endorsement of ethical values within professional organizations.

1.4 Kitchen sink values
As regarding the ‘endemic’ problems with codes of ethics, Kleinig suggests there may be a ‘behavioural bias’ due to a focus on outcomes: on ensuring that behaviour meets certain standards. The emphasis tends to be on doing rather than being. Kleinig warns that we should not confuse a certain kind of outcome optimization with acting ethically, because motivation is relevant to any moral assessment of what people do. ‘Why we do what we do is of central moral importance, not just that we do it.’ There is more to morality than an optimization of outcomes. Indeed, part of the point of a professional code must be to inspire service, to point members beyond economic and personal reward as the basis for their conduct. In the same line of reasoning, Kleinig warns for the ‘encouragement of inauthenticity’. It is important that the reasons be one’s own. Codes encourage an externalization of conduct not just by divorcing conduct from its appropriate springs, but by detaching it from a certain kind of subjectivity that makes it an authentic expression of the person whose conduct it is. The reasons for engaging in ethical conduct must express what is within, and not conform simply to what is demanded without. A last warning reminds of the failure to prioritize. Codes are rarely helpful to the making of discretionary decisions or judgements. They enumerate goals and standards without indicating priorities or procedures for handling conflicts between code requirements. That, of course, is not surprising. To give detailed attention to priorities would undermine some of the functions codes are generally intended to have. The more a code is prepared to address specific issues, the more likely it
is to arouse controversy both within and outside. And since codes are usually intended to inspire confidence without and unity within, there is a certain counter-productivity associated with detail. The danger however of a code that attempts to be encompassing is that it inevitably breaks down into an mush of platitudes, in which it is no more than a list of kitchen sink values.

A more fundamental challenge to the concept of codes of ethics was launched by Feltes (1999). He questions whether there is really a need for such a special “Police Ethic”. The basic ethic and moral aspects of a society, their constitution and their laws should be the ethical background of policing. If one accepts this, police do not need a special Code of Ethics. Kleinig agrees that unless a code of ethics demands more of those to whom it applies than can be ordinary expected of others, it has no point (1996: 240). This matter reflects a discussion on whether police officers should be seen as ‘role models’: can they be expected to be moral exemplars in a social environment that sometimes breeds moral cynicism? Are officers bearers of a public trust, model citizens, bearers of community standards, carriers of the social mores? One argument in support of this view is that if police are to fulfil their proper social function, they must be role models. Another line of reasoning says that, as a matter of fact, police are looked to as social role models, it is reasonable therefore to expect that they will live accordingly (Kleinig, 1996: 200). But why should the police be required to be social role models more than anyone else? And, Kleinig adds, the role model function is not argued for, but simply claimed as a social fact from which certain responsibilities should follow. However, Kleinig argues that in the end, officers should be seen as ‘moral agents’. If they are retain their authority, they may need to ensure that their claim to recognition, as people ‘in the know’, is not belied or at least called into question by their private conduct. Since much of police discretionary decision-making contains a significant moral component, there is a real possibility that what are seen as character defects, even if displayed only in private, will serve to undermine public authority (1996: 204). In some respect ethical codes are, in the words of Kleinig, like firearms. They have their value, they have their dangers. But they are also like barometers (1996: 254). They can be used to register fluctuations of social pressure, and reflect a society's or service association's dominant concerns. One of the most important functions that a code can fulfill, according to Kleinig, is a procedural one. The very task of drawing up a code should be an opportunity for an organization or association to look at itself – to ask itself what it is really about, what is reasonable to expect of its members, what standards should determine it’s internal as well as its external affairs. Codes of ethics should be seen as active common expressions of the self-awareness of a ‘community within a community’. But they never can be the final answer to the ethical challenges police is facing: codes should be seen as hypotheses to be tested and adapted while following it (1996: 254).

1.5 Discretion
As Kleinig notes, a limitation of the usefulness of ethical codes is the global character from it. Real ethical dilemmas and the real ethical fulfilment of policing will be materialized in the streets. Police officers enjoy a certain degree of discretion in their work, which also means discretion in the handling
of ethical dilemmas. The discretionary power of police officers is however contested. The exercise of discretion is said to be central to the police profession. Discretion can be understood as the power the police have to exercise their own judgement with regard to situations in which action is called for; it is best understood as a normative condition: a permission, privilege or prerogative to use one’s own judgement about how to make a practical determination (Kleinig, 1996: 82-83). Four types of discretion can be distinguished. Scope decisions (does the matter fall within the police role); interpretative decisions (how to resolve incidents, formally by using legal powers or informally through negotiations); decisions about priority (more of a management issue, the balancing of resources against priorities); and tactical decisions (management dilemma, the balancing of rights and the decisions over exercising intrusive powers in a potential public disorder). Skolnick and Fyfe (1993: 137) observed the development of sub rosa codes of behaviour, along which police officers define their own loyalties, their own systems for defining and dealing with good and bad police work, and their own methods ‘of telling headquarters what it wants to hear.’

Peer approval and peer pressure are powerful factors in the shaping of value systems. The difference between the street and the management dilemmas lies in the complexity and the number of actors and the decision-making environment and time frame. Street decisions tend to involve relatively fewer choices, a smaller number of actors, but a short time frame and potentially an environment of danger. For managers the choices are many, the actors many and multi-layered, but the time frame and environment may be less problematic. The reason for concern in the exercise of discretion has been that bias on the part of individual officers can result in a wide variation as to how laws are administered. It is claimed that the manner in which police officers exercise their discretion is more guided by the values and attitudes resulting from the police culture, than by legal rules or court decisions (Skolnick 1966: 219; Goldsmith 1990: 94). Some authors (K.C. Davis, 1975) describe discretion mostly in terms of individuals misappropriating judicial power. For Davis, too much free will must not be allowed. Kappeler, Sluder and Alpert (1984) see discretion as a process of discrimination and the exercise of discretion as something undertaken by an individual officer constrained by operational ideologies or cultures. For Pollock (1998: 157), on the other hand, discretion is substantially beneficial, as a necessary element in tempering law with humanity; police are trusted to act ethically and use their judgement. Michael Davis (1996) has the most positive view: discretion is the essence of informed professionalism in policing. He argues strongly against those who would bind the police with more and detailed rules. According to Kleinig (1996: 17), in exercising discretion in law enforcement, police officers are required not to lapse in private decisions on how they act, but they must be attuned to the professional codes and protocols and to cultural traditions and mores that inform the world they serve.
2. Morality as the heart of police culture

Looking at the ethical dimensions of policing will result in a mixed picture. On the one hand, in modern liberal democracies policing is bound by the rule of law and has become subject to scrutiny, accountability and transparency. Ethics is an integral part of police training and socialization. There is broad societal and political consensus on the mission of the police in the responsibility for protecting individual and collective freedoms, with the requirement of a set of democratic principles to run through the police. Police officers imbue their work with a pronounced sense of moral purpose, or the ‘sense of their mission’ as Reiner called it (1992: 89-90). Officers frequently invoke the term ‘bad guys’ to describe ‘the evil’ that pollutes the streets. The police are simultaneously constructed as the good guys who cleanse the street of polluting effects (Herbert, 2001: 453-454). Reenen and Kaptein (1998: 58) confirm these findings for the Dutch situation. The value orientation of officers is mostly a moral orientation in which criminality is seen as an evil that has to be fought by the representatives of the ‘just order’. According to Crank (1998: 81), in the heart of every cop is a sense of morality. Morality is the bottom-line. Police regard themselves as representatives of a higher morality embodied in a blend of traditionalism, patriotism and religion. As moral agents, police view themselves as guardians whose responsibility is not simply to make arrests but to roust out society’s troublemakers. Morality is acted out daily by officers on the beat. The expectation that the police will control crime at the societal level is enacted at the individual level as the ability of the police officer to control his or her beat. The beat of an officer is thus transformed into a moral responsibility, the officers’ dominion. The notion of beat control is an imperative with a powerful moral thrust. Only an ‘asshole’, as Crank paraphrases the cops’ way of thinking, could disagree with how a police officer does his or her job. The moral dimension of police practice is the heart of police culture. Morality is the first scheme of solidarity; it is the theme that energizes and makes imperative the aesthetic of coercive territorial control (Crank 1998: 205). Police are said to be idealistic and attracted to the possibility of helping others and contributing to society (Walker 1999: 349). Police applicants tend to see police work as an adventure, as a chance to work outdoors without being cooped up in an office, as a chance to do work that is important for the good of society, and not as a chance to be the toughest guy on the block. Police recruits come to the profession with high ideals and positive ethical standards.

On the other hand, the police are characterized as the ‘thin blue line’, a cynical group alienated from the rest of the community yet expected to serve them (Bennet and Schmitt, 2002: 493). This separation has been manifest at different times throughout the past century, bringing with it scandal, tragedy and upheaval. Corruption, abuse of authority, brutal tactics and violations of constitutional protections have left an ‘unfortunate imprint’ (Neyroud and Beckley 2001: 82) on the history of Western policing. Although many reform efforts have mitigated the prevalence of these problems, police agencies are still struggling with matters of image and ethics (Schafer and Martinelli, 2008: 306). According to Neyroud and Beckley (2001: 11), there is ‘substantial evidence’ for crisis in the series of scandals that have beset policing over the last few years: concerns about corruption, abuse of force, over-policing and under-protection of minority communities. They call it the vicious cycle: first
there is crime fighting, where the police are focussed on a ‘war’ on crime and criminals, which leads to corruption and scandal; then there is a societal and institutional reaction, often through rule tightening and reorganisations; this results in a commitment to new norms, however followed by a drift back to crime-fighting; and new scandals will emerge (2001: 10). Loyalty, solidarity and morality, in itself important virtues for police, can lead to action that is contrary to the legitimate ends of policing. In such case, loyalty, solidarity and morality become vices (Miller, Blackler and Alexandra 2006: 12).

2.1 Police personality

Explanations focussing on the sometimes noted discrepancy between the desired ethics and the actual behaviour of police officers differ. Some scholars have focused on the individual psychological characteristics of police officers, assuming that behaviour is predetermined by a pre-existing personality that is shared by people entering the law enforcement profession (Griffin and Bernard, 2003: 7). Kleinig (1996: 215) for instance, is of the opinion that it is a problem that police recruits are drawn from a segment of society that may not self place much value on traditions like tolerance, impartiality and the defence of civil rights. The segment of society police is recruited from is marked by clear standards of what is right and what is wrong and a commitment to traditional values.

The characteristics usually associated with police personalities are machismo, bravery, authoritarianism, cynicism and aggression. In an oversight on scientific literature and research on the personal characteristics of police officers Paolini (2004: 207) notes particularities like distrust and suspiciousness of citizens and a prescription to assess people and situations in terms of their potential threat and a strong identification with the crime fighting aspects of policing. The most frequently noted element of the police personality is authoritarianism (Griffin, 2003: 7). Several characteristics are associated with this authoritarianism: cynicism, bigotry, violence, conventionalism, and suspicion. Furthermore, people with an ‘authoritarian’ personality are said to have difficulty tolerating persons who do not subject to their authority and are seen as ‘outsiders’: women, homosexuals, minorities.

Ford (2003) however concluded on the basis of a literature review that explanations focussing on a specific pre-existing personality that is shared by people entering the law enforcement are flawed. The larger proportion of police applicants come to policing from successful working class families. Their values appear roughly similar to those of their working class peers. As Crank finds, there exists a wide ‘culture of policing’ carried by many groups in (American) society that predisposes its members to accept police values and see themselves as unified with the police (1998: 242). Earlier studies had already demonstrated that police attitudes are not very different from their civilian counterparts. Walker (1999: 349) for instance concluded that there is no evidence that a particular type of person is attracted to law enforcement, or that this explains police behaviour. Police are not drawn to their occupation for power. Instead, they are idealistic and attracted by the possibility of helping others and contributing to society. Twersky-Glasner (2005: 58) points to a rarely recognized fact in several studies, namely that police officers undergo strict screening procedures prior to their
acceptance into training and/or the department. The most important purpose the screenings serve is that due to the stringent nature of the selection process, only candidates who display particular personality profiles are selected for the force. According to her research, the police academies regard qualities as hostility, lack of impulse control, potential for alcohol and/or substance abuse, psychoses, paranoia and the like as undesirable personality traits. On the whole, successful candidates displayed more poise and self-assurance and had a higher level of achievement potential, intellectual efficiency and social insight. These findings stand in sharp contrast with the notion that police officers are cynical, suspicious, violence prone authoritarians (Twersky-Glasner, 2005: 60).

2.2 Police culture
Other scholars focussed more on police culture as an explanation. The lineage of policing subculture research can be traced to Westley’s (1953) pioneering study of police in a small town in Indiana (Griffin and Bernard 2003: 6). Westley argued that police behaviour was best explained as a function of attitudes held by the police as an occupational group. According to Chan (1996: 111) the concept of police culture is ‘loosely defined’. The concept of police culture can refer to the core skills, cognitions and affect that define good police work, including accepted practices, rules, and principles of conduct that are situationally applied. Reiner (1992: 111) equates police culture with the ‘values, norms and perspectives and craft rules that inform police conduct’. Others (Nickels and Verma, 2008: 188) define police culture as an ‘overarching set of beliefs and behaviours shared by all officers and buttressed through socialization and solidarity’, or as the ‘deeper level of basic assumptions and beliefs that are shaped by members of an organisation, that operates unconsciously and define in a basic taken-for-granted fashion an organisation’s view of itself and its environment’ (Schein, 1985: 6).
No matter how the concept of police culture is exactly defined, certain features of police culture are seen in the scientific literature to be dominant. Below, we will discuss the most dominant features.

Cynicism
According to Kleinig (1996: 79) cynicism is an ‘ongoing temptation’ for police. The police experience of social and organizational morality is conducive to the development of moral cynicism. Cynicism can be seen as the result of the internal struggle between rank-and-file police officers who view their administrators as dangerous outsiders to the patrol subculture (Bennet and Schmitt, 2002: 494). Senior officers have lost touch with the harsh realities of life as faced by their subordinates (Rowe, 2006:763). There are however also external features that are believed to foster police cynicism. Police engage with a world that easily encourages cynicism: they are being held accountable to standards that others themselves do not observe (Kleinig, 1996: 77).

Solidarity
Solidarity is reinforced by the perceptions shared by many officers that they are isolated from and in conflict with many elements of the public, the courts, their bosses and the administration. Conflict mobilizes group identity (Crank, 1998: 59-62). Another effect of the social isolation and the us-them
mentality is the intense loyalty that develops within police, which find expression in the notorious ‘Blue wall of silence’ (Kleinig, 1996: 69; Ruess-Ianni, 1983: 107; Skolnick and Fyfe, 1993: 226). According to Goldsmith (1990: 93), police solidarity is the most basic police cultural value. In an environment perceived as hostile and unpredictable, the ‘bond of solidarity’ offers police officers reassurance that the other officers will pull their weight in police work, that they will defend and assist their colleagues when confronted with external threats and that they will maintain secrecy in the face of external investigations. According to Skolnick (1996: 102) these feelings can be traced to elements of danger and shared experiences of hostility in the police officer’s role, which combined with the tendency for police to become isolated breeds the us-them attitude. Dutch research (Reenen and Kaptein, 1998: 57) found that solidarity and collegiality were the most dominant values in police. According to the researchers, the necessity for physical and professional survival in a context of danger and tension can explain for these findings. Crank reaffirms that the sense of solidarity is ‘one of the most powerful aesthetics of cop culture’ (1998: 197). It is a product of conflicts and antagonisms with diverse out-groups, of which criminals are only one type. This solidarity derives from the dangers of police work.

***Suspicion***

According to Crank, suspicion is a main feature of police resulting from its working environment. It is a widely shared attribute of the police worldview, and is said to be driven by everyday characteristic of the occupational environment of police officers (1998: 143). Suspicion is a special craft of policing. The skill of suspicion lies in the ability to identify wrongdoers on the basis of only a few indications (1998: 145). Suspicion is not a friendly sort of social attribute, Crank adds. It is a behaviour that sets police apart from conventional citizens who are put off by obvious displays of distrust. In an attempt to be attentive to any possible violence the officer is generally suspicious of everyone. Further, as Miller, Blackler and Alexandra (2006: 234-235) state, for police disorder equals danger. The ethical problem confronting the police is how to maintain a level of suspiciousness and a commitment to law and order necessary for successful policing, without lapsing into ‘mindless conservatism’ which will led to dysfunctional policing.

***Corruption***

Other scholars looked more into the particularities of the police occupation. It is said, for instance, that police is particularly vulnerable to corrupt practices. The tendency to corruption ought to be regarded as a basic occupational hazard in the profession of police (Miller, Blackler and Alexandra 2006: 140). For instance, in their law enforcement role, police are brought into contact with law breakers who have an interest in police not doing what they have a duty to, and may have access to substantial benefits and influence. Police officers are also, as we stated earlier, regularly brought in contact with a side of life that inclines them to moral cynicism; corruption can be seen as a game in which everyone is out to get a larger share. Besides that, many kinds of minor corruption are tacitly encouraged or accepted by the wider community. And as a result of the ‘Blue wall of silence’, police have frequently been reluctant to admit to corruption within their ranks. This keeps them from confronting it openly and dealing with it head on (Kleinig, 1996: 163-164; Huberts 1998).
Deception

Another characteristic of police occupation is the use of deception in controlling crime, like under cover operations, fishing expeditions, the use of force during interrogations and the ‘Dirty Hands’-doctrine: it is argued that by virtue of their role responsibilities police sometimes ‘must’ violate the canons of ordinary moral decency (Kleinig, 1996-53); do evil in order to do good (Miller, Blackler and Alexandra 2006: 157; Crank, Flaherty and Giacomazzi 2007). These features of policing are said to encourage ‘noble cause corruption’, such as police testimonial deception or ‘testilying’. A significant amount of police testimonial deception seems to be directed to the securing of serious and worthy ends – the control of crime, the conviction of those who are morally guilty, and social justice. Police often take the view that what impedes their achievement of these ends and what necessitates their engagement in testimonial deception are deficiencies in the criminal justice system. They believe, therefore, that what they are doing is, in a broad sense, justifiable (Kleinig, 1996: 146). There may be a more general frustration about the criminal justice system; deception constitutes a strategic move in a game whose ends have become obscured. Police find themselves between a rock and a hard place, on the one hand constrained by various constitutional and moral requirements, and on the other hand expected to achieve certain results, despite the ‘inefficiencies’ created by those constraints (Kleinig, 1996: 63). As police easily see it, justice is not a procedural abstraction, the outcome of a set of procedures, but the achievement of a just result in circumstances that police consider to be negative. In the light of opposition to the stringency of such rules, police may feel that the interests of justice will sometimes be served best by breach-and-concealment (see also Goldschmidt 2008). Further justification can be found in two general factors: the targets of their deception are often themselves deceivers and, it is felt, deserve no better from others; so police are not fabricating evidence against the innocent but against those whom they have every reason to believe to be the guilty. And secondly, such an attitude fits comfortably into an environment where deception is otherwise available to police in the prosecution of their law enforcement activity (Kleinig, 1996: 147-148). This brings Crank to the observation that police activity has much in common with criminal activity (1998: 189); characteristic skills and expertise like the powers of observation, a sense of suspicion and the willingness to use coercive force can also be a great aid to corrupt police in maximising their pay-offs (Miller, Blackler and Alexander 2006: 22).

Coercive force

A last particularity seems to be situated in what is believed to be the central function of the police: to exercise legitimate coercive force. The capacity to use force undergirds an important aspect of police culture (Herbert, 2001: 453): adventure/machismo, or the emphasis in the police subculture on bravery and aggressiveness. The capacity to use force is accompanied by a sub cultural emphasis on the sort of person who can use force ably – a warrior in the fight against crime. Police use of force is a powerful stimulus for cultural solidarity. According to Crank (1998: 106) scholars tend to see the negative sides of force and police solidarity. But force is bound up in the day-to-day doing of police work and linked to other important themes of police culture. A police officer uses force in the street because
it is supposed to solve a problem. The law, from this perspective, is not a set of rules to bind police behaviour: it is what sets the legitimating factors for the police use of force.

3. Officers attitudes

What do police officers themselves think of the ethical principles underlying their work? Early research by Felkenes (1984) showed that a considerable number of police officers complained that there were no professional rules or ethical principles which could be helpful to meet the demands of discretionary decision making in complex situations (1984: 212). Felkenes found that under officers ‘professional honesty’ was rated most clear. ‘Self-Restraint under Provocation’, ‘Obligations to Community or Public’, and ‘Obligations to Respect the Rights of All Men to Equality’ were ranked second, third and fourth respectively. ‘Obligations to Engage in Appropriate Private Conduct’ was rated least clear. The research also found that most officers agreed with the item ‘I depend mostly upon my own personal ethical beliefs rather than law enforcement’s ethics to guide me in my professional activities’. Over half of the officers indicated that they agreed with or were neutral toward the idea that a police officer must sometimes use unethical means to accomplish enforcement of the law. Sixteen percent did not positively state that they would not use illegal means to achieve arrest of a criminal suspect. Two more sets of responses were even more pronounced in demonstrating a seeming unwillingness or uncertainty on the part of the respondents about upholding the law and ethical commitment. One-third disagreed that they would challenge agency practice if such practice interfered with the rights of subjects. More than a third disagreed that they would take action if they knew of unethical conduct on the part of a colleague. Even though over half of the respondents showed clear commitment to professional police ethics, many did not. Although most respondents claimed that the use of particular ethical principles was clear to them, ethics in general were described as not especially helpful (1984: 215). The study revealed that 41 percent of the respondents were neutral or agreed that police professional ethics are too abstract or idealistic to be of much use in actual practice. Over two-thirds of the officers disagreed with or were neutral about the idea that law enforcement’s ethics helped them in dealing with – then actual - moral issues such as homosexuality, prostitution, sexual freedom, or use of firearms. Over 20 percent of the respondents agreed with or were neutral about the statement that it does not matter what professional or personal ethics a police officer believes in so long as he is competent to do his or her job.

3.1 Dutch findings

Dutch research into the ethics of policing (Reenen and Kaptein, 1998) saw a shed in values between a more general ethics that almost every organisation has (honesty, transparency and reliability), a set of ethic values aimed at the stakeholders of police, and a set of values specific for police. These last, ‘organizational values’ were formulated as loyalty and collegiality; commitment to police work; internal
openness; and carefulness and secrecy (1998: 57). Especially collegiality seemed to be important. The researchers also looked into the popular difference between street cop culture and management cop culture (Ruess-Ianni 1983; Punch, M., P. Tieleman en A.H. van de Berg 1999). They found that in every day policing, this distinction did not exist. ‘There seems to be a common ethics’ (1998: 62). All officers involved in policing thought the same about ethics and what was acceptable and not acceptable regarding violations of ethical standards. However, they found that police leaders with a clear set of norms and values, and who were willing to live up very openly to these standards, were influencing the behaviour of their police department and the amount of corruption witnessed. Official department policies on the other hand seemed to be of little influence into the ethical behaviour of police officers (1998: 67).

Another Dutch survey (Lasthuizen, Huberts and Kaptein 2004) showed also that men and women, detectives and community officers, white shirts and officers on the beat, shared a common knowledge and appreciation of ethics and integrity. This common knowledge did not seem to depend on, or to be influenced by attitudes regarding the style of leadership, structure of the police organization, departmental policy and organizational culture. ‘Police officers have a strong moral fundamental attitude that is not changing when their environment changes,’ the researchers concluded (Lasthuizen, Huberts and Kaptein 2004: 70). There were however some differences in the way violations of integrity were interpreted. Female officers signalled more sexual intimidation and discrimination than male officers. Older officers signalled fewer violations of integrity than younger officers, senior officers noted more violations of integrity than junior officers and detectives signalled less problematic behaviour in their own working environment and less abuse of investigative powers than the other officers. According to the study, there is some correlation between characteristics of police leadership and the police organization and the signalling and appearance of violations of ethics (Lasthuizen et al., 2004: 70-73):

* There is less corruption, fraud, abuse of information and underachievement when police leadership is approachable and has very clear and tough rules on ethics
* There is less corruption and ethical behaviour is stimulated when police leadership is reliable and complies with the ethical standards of the organization
* The organizational structure, and especially the way the workload is managed and believed to be honest and right, has a profound effect on ethical behaviour
* The gap between leadership and frontline-officers and the chances that unethical behaviour is detected affect (un)ethical behaviour
* The culture of the specific police organization, and especially the working atmosphere and mutual trust amongst officers, influences ethical behaviour
* The judgement of external stakeholders is of influence in the perception of ethical behaviour
3.2 American findings

An American national survey (Weisburd and Greenspan 2000) under 950 police officers showed that most police officers in the United States disapprove of the use of excessive force. Nonetheless, a substantial minority believed that officers should be permitted to use more force than the law currently permits and found it acceptable to sometimes use more force than permitted by the laws that govern them. More than 30 percent of the sample agreed or strongly agreed that police officers are not permitted to use as much force as is often necessary when making arrests. Almost 25 percent agreed or strongly agreed that, to control a person who is physically assaulting an officer, it is sometimes acceptable for the officer to use more force than legally permissible. Moreover, over 40 percent agreed or strongly agreed that always following the rules is incompatible with getting their job done. Almost 22 percent agreed or strongly agreed that officers in their departments sometimes (or often or always) use more force than necessary, and only 16 percent reported that their fellow officers never do so. Although more than 90 percent found it inappropriate for officers to respond to verbal abuse with physical force, almost 15 percent indicated that officers in their departments engaged in such behaviour at least sometimes (Weisburd and Greenspan 2000: 3).

More than 80 percent of police surveyed reported that they do not accept the ‘code of silence’ as an essential part of the mutual trust necessary to good policing. However, about one-quarter of the sample agreed or strongly agreed that whistle blowing is not worth it, more than two-thirds reported that police officers who report incidents of misconduct are likely to be given a ‘cold shoulder’ by fellow officers, and a majority agreed or strongly agreed that it is not unusual for police officers to ‘turn a blind eye’ to other officers’ improper conduct. A surprising 6 in 10 indicated that police officers do not always report even serious criminal violations that involve the abuse of authority by fellow officers (id. 2000: 5). Almost half of the officers in the sample agreed or strongly agreed that a bad attitude would increase the likelihood of arrest, and just more than half disagreed or strongly disagreed with this statement. Of the sample, about one in six believed that whites are treated better by police than blacks and other minorities, and about one in 10 believed that more police violence occurs against blacks than against whites. Fourteen percent of the sample believed that police officers use physical force against poor people more often than they do against middle-class people in similar situations. Almost 85 percent of the sample agreed or strongly agreed that a police chief’s strong position against the abuse of authority can make a big difference in deterring officers from abusing their authority (id. 2000: 6). As important as the officers in the sample viewed the role of the chief in preventing abuse, an even greater majority (almost 90 percent) believed those good first-line supervisors were effective in preventing police officers from abusing their authority. In focus-group sessions, police supervisors indicated that supervisors serving as role models were a critical aspect in good first-line leadership. Although 90 percent of the survey sample stressed the importance of good supervisors in preventing abuse, only 55 percent agreed or strongly agreed that most abuse could be stopped with more effective methods of supervision. The survey also examined the extent to which specialized training helps control the abuse of authority. The majority of police officers in the sample who had received
training in ethics, interpersonal skills, or cultural sensitivity believed that such training could play a role in controlling abuse of police authority. A substantial majority (82.2 percent) of officers who had received training in law enforcement ethics (in the academy or after becoming an officer) agreed that such training was effective in preventing the abuse of authority. A similar majority (80.3 percent) of those who had received police training in interpersonal skills or relations believed that the training prevented the abuse of authority, and almost 75 percent of officers who had received training in human diversity, cultural differences, cultural awareness, or ethnic sensitivity reported that the training prevented the abuse of authority.

The survey asked whether officers thought that community policing increased, decreased, or had no impact on the risk of corrupt behaviour. Only 7.1 percent thought that community policing increased the risk of corruption. More than one-third of the officers thought it decreased the risk of corruption, and more than one-half believed that it had no impact. Another question was whether officers see any relationship between community policing and excessive force. Almost none believed that community policing increased the number or seriousness of incidents involving (id. 2000: 7). One-half of the officers surveyed said that community policing reduced the number of incidents involving excessive force, and 42.2 percent thought that it decreased the seriousness of incidents. Approximately one-half of the officers reported that community policing had no impact on either the number of incidents of excessive force or the seriousness of those incidents. The community policing partnership is often a complicated one. Almost all officers in the sample (96.9 percent) indicated that police officers sometimes have to explain to individuals and groups of citizens that the police are prohibited by law from using certain tactics that citizens may encourage them to use. Approximately 2 out of 10 officers, however, felt that they could use more aggressive tactics than they otherwise would if the community asked them to do so. The question of whether requests from the community sometimes lead officers to ‘cross the line’ and use tactics prohibited by law remains unanswered (id. 2000: 8). The authors concluded that notwithstanding its positive findings, the survey suggests that ‘police abuse remains a problem’ that needs to be addressed by policymakers and police professionals. Even though most police officers disapprove of the use of excessive force, a substantial minority consider it acceptable to sometimes use more force than permitted by the laws that govern them. The code of silence also remains a ‘troubling issue’ for American police, with approximately one-quarter of police officers surveyed stating that whistle blowing is not worth it, two-thirds reporting that police officers who report misconduct are likely to receive a ‘cold shoulder’ from fellow officers, and more than one-half reporting that it is not unusual for police officers to turn a ‘blind eye’ to improper conduct by other officers. ‘These findings suggest that the culture of silence that has continually plagued the reform of American policing continues’ (id. 2000: 11).

3.3 British findings
Research in Great Brittan (Westmarland 2005) revealed that most of the officers regard certain actions, such as those involving the acquisition of goods or money, as much worse than behaviour
involving illegal brutality or bending of the rules in order to protect colleagues from criminal proceedings. It further revealed that officers are relatively unwilling to report unethical behaviour by colleagues unless there is some sort of ‘acquisitive motive or outcome’ predict. The overall findings support the existence of ‘Blue Code’ and ‘Dirty Harry’ beliefs systems ‘surrounding police rule bending’.

4. Police culture revisited

Resistance however raised within scientific community against the emphasis put on police culture as explanation for police (mis)behaviour. Partly, critical remarks were made on the monolithic nature of the concept of police culture. In reality, a whole range of different police cultures could be discerned. The core elements of the culture of policing still might be universal but there is a growing body of knowledge on the police that highlights cultural segmentation over homogeneity (Paoline 2003: 206). For instance Reuss-Ianni (1983) noted that differences could be identified between so-called ‘street cop culture’ and ‘management cop culture’. In another study (Paoline and Terrill 2005: 460-462), based on responses to survey questions encompassing five major dimensions – attitudes toward citizens, supervisors, procedural guidelines, role orientation, and policing tactics – a trichotomized measure of culture was found to represent those who were positively oriented toward the traditional views of police culture (pro-culture), those who were negatively disposed toward the police culture (con-culture), and those who fell in the middle (mid-range).

Other scholars pointed at the fact that most research on police was rather critical or negative in focus. Nickels (2008: 188), for instance, state that most research has ‘tended to depict police culture in unflattering terms’. Officers are portrayed as a cynical, authoritative, and isolated group of people who have low self-esteem and feel they receive little respect and police culture is posed as an institutional pathology born of human frailty, corruptive environment, and civil neglect. Paoline states that ‘most connotations of police culture are negative’ (2003: 200). He points at the positive sides of police culture, for instance that the collectiveness of culture helps to buffer the strains that officers face on a daily basis, serves as a tool to teach new officers in learning the craft of policing, but also can be used a positive tool in reforming the police as well as regulating and preventing police misconduct. Crank (1998: 14) states that police culture is commonly referred to as a source of hidden, unpleasant police characteristics, an umbrella term for a range of negative values and practices among the police. Crank wants to shift the perspective: too much research has been undertaken from the viewpoint of the observer; it tells very little about police culture from the perspective of its participants. He proposes to look at police culture as organized around ‘grounded aesthetics’. Grounded aesthetics resemble typifications in that they both describe how meaning and common sense arises from every day experience (1998: 35). Crank looks at police ‘cultural themes’, the essential building blocks of police culture; they are the way action is wedded to value in important areas of the working environment of the police. They represent activities that tend to be widely distributed to many police departments.
Themes tend to mix together many cultural elements. They are behavioural: they occur the ordinary ‘doing’ of police work and derive their meaning from routine, ordinary police activity. But themes are also a way of thinking about that activity, the sentiment that is associated with the activity; behaviour and sentiment are linked (1998: 53).

Besides the emphasis on the daily experiences of police work and how these experiences colour police culture, Crank points at the societal and political context of policing and ‘a smell of hypocrisy’ that surrounds critical views on policing. For instance, society asks police to use force when they must, but to avoid it unless absolute necessary. But society ask officers also to deal with society’s most profound social problems and to use whatever force is necessary to shelter society from the criminal and uncivilized. This, says Crank, is a contradictory and impossible responsibility (1998: 97). That is why police is standing apart: their occupation is inherently offensive to democratic process, yet they and they alone can act as protectors of society: ‘We want them to be different from us.’ To deal with this, society must conceal what the police do. ‘The history of police was marked by a tradition of themes that served to hide the raw use of police force and surround the police with powerful themes more acceptable to a peaceful people’ (1998: 105). In a same line of reasoning, Crank accounts for the high levels of racism often found amongst American police officers, but argues this also says more of American history than of police. Slavery, institutionalized segregation in the public and private sector, systemic discrimination and overt racism are all powerful themes that have haunted the history of social relations in the US. The police have not escaped the influence of these themes. Police departments have often been a social and moral barometer of the society they inhabited. When the communities they represented carried racist predispositions, the police tended to follow suit (1998: 258). The behaviour of the police has broad support in a national climate increasingly fearful of minorities. Today, ‘war on crime’ police actions reinforce the geographic and psychological distinctions between ‘safe’ low-crime communities and dangerous classes in order to keep minorities in the districts where they live. Informal containment policies have protected the social-economic status quo. ‘The police do what we want them to do (…) We would be better off to look inside ourselves. Perhaps the police are alienated from us because they know us too well. They know that our fear of the police is nearly as strong as our desire to contain the underclass – nearly, but not quite. The police permit us to look the other way. They permit us to avoid seeing what we’ve created’ (1998: 264).

4.1 Canteen culture and war stories
Waddington also notes that ‘the notion of police subculture is frequently invoked by academic researchers to explain and condemn a broad spectrum of policing practice’ (1999: 287). He criticizes other scholars for their focus on the oral culture of police, by which the police culture is reduced to their ‘canteen culture’. He points at a body of research that shows a chasm between what officers say and what they do. However racist, prejudiced, macho or conservative the canteen talk is, on the streets the principal explanatory variables are contextual (1999: 288; see also Sun, Payne and Wu, 2008). Waddington suggests that police culture might be less ‘sub’ than is often supposed and instead
be the expression of common values, beliefs and attitudes within a police context (1999: 293), as we saw earlier in the remarks of Crank. This would also explain differences between national police cultures: the brutally oppressive actions of the South African Police cannot simply be explained by its subculture, but by the nature of the apartheid state the police served; the divergent evolution of policing in Ireland and England are not related to different police subcultures, but have to do with the colonial structure of the former as opposed to the liberal traditions of the latter. Waddington proposes a shift in research to the question why police officers invest so much effort in talking in specific ways about their work, without influencing their actual behaviour on the streets. Waddington sees an explanation in the rhetoric value: a rhetoric that gives meaning to experience and sustains occupational self-esteem. The canteen is ‘the repair shop of policing and jokes, banter and anecdotes the tools’ (1999: 295). He suggests that some sort of a police subculture indeed exists and links it to the core task of policing: exercise authority. Policing is an authoritative and conservative vocation and it is no surprise that officers regard it as a necessary one. In the same way, telling ‘war stories’ (Ford 2003: 85) is a way of celebrating what officers and their observers recognizes as the ‘real job’ – no matter how boring routine police work mostly is. Canteen subculture is in this regard a way of ‘telling it like it ain’t’ (1999: 299), for instance the heralding of crime fighting, described by Waddington as ‘collective delusion’. It is a function for sustaining the occupational self-esteem, provides ideological justification for the authority that is exercised against fellow citizens, and the means through which moral dilemmas are routinely neutralized. War stories are defined as a recounting of idealized events, entertaining humour, or police-related social commentary. They carry a message celebrating police values or techniques. They are aptly named ‘war stories’ because they often deal with the physical side of policing. War stories deal with the heroic, the extreme, and the cynically humorous. They paint a picture of policing that is often at odds with daily tedium and frequently contradict official ways. War stories, however, provide more than just entertaining fare. War stories are, for police, a medium to transfer and maintain their commonsense understanding of their world (Ford, 2003: 87). According to Waddington, what his explanation exposes is the essential fragility of what appears at first sight to be a robustly powerful social institution. Police work so hard at affirming what their experience denies because they occupy a marginal position in any society that has pretensions to liberal democracy (1999: 302).

4.2 Culture as a tool-kit
Shearing and Ericson (1991), however, take a different view of the role of stories in the socialization of police officers. They argued that rather than being socialized into, and guided by, the police culture in their work activities, police officers are active in constructing and making references to the culture as guiding their actions. For police officers, the police culture is a 'tool-kit' used in the production of a sense of order, and the constant 'telling' of the culture accomplishes for the officers a 'factual' or 'objective' existence of this culture (1991: 498). The transmission of this culture is not by a process of socialization and internalization of rules, but through a collection of stories and aphorisms which instruct officers on how to see the world and act in it. Stories prepare officers for police work by
providing a 'vehicle for analogous thinking', creating a 'vocabulary of precedents' (1991: 489) and create a way of seeing and being through the narratives and the silences that surround the stories. Thus, cultural knowledge in the form of police stories presents officers with ready-made schemes and scripts that assist individual officers in particular situations to limit their search for information, organize information in terms of established categories, constitute a sensibility out of which a range of actions can flow, and provide officers with a repertoire of reasonable accounts to legitimize their actions (1991: 500).

4.3 Police in change

Other researchers point at the changes that have occurred in policing over the past twenty-five years that could be expected to segment 'the' traditional police culture. The most frequently mentioned changes are the hire by police departments of previously excluded members of the culture (non-Whites, females, and college educated officers), and the change of organizational philosophies, for instance, the emergence of community policing (Paoline 2003: 205).

Recruitment

The modal officer of the past (White, male, working class, military experienced, and high school educated) is continually changing as the selection and recruitment of officers has diversified. Police departments are represented by more racial minorities, women, and better educated and trained officers. According to Paoline, police officer diversity is expected to affect culture in one of two ways. First, representation of racial minorities, females, and college-educated personnel, all of which bring to the policing profession different outlooks and attributes based on their past experiences, might affect the way in which officers collectively interpret the world around them. Second, personnel diversity, which infuses police departments with previously excluded members of the occupation, may also affect socialization patterns. The impact of both should result in the segmentation of a single culture, as well as possible subcultures of officers (Paoline 2003: 208). Foster (2003: 213) however concludes that despite changes in policy and recruitment, the police service still remains a largely male, white and heterosexual organisation or community, where those who are perceived to be 'different' by virtue of their race, gender or sexuality have reported significant problems in gaining acceptance, and in some cases recognition or legitimacy for their experiences. Sexual discrimination seems to be firmly institutionalised in policing (Foster 2003: 215; Rabe-Hemp 2008: 431). Racial prejudice and stereotyping have formed integral elements of the taken-for-granted assumptions in dominant white cop culture and it is unsurprising that minority ethnic officers often find themselves isolated and in some cases subjected to racialised language, behaviour and stereotypes (Foster 2003: 215; Heijes 2007: 562). While recruitment of minority ethnic and women officers has often been viewed as a potential solution to some of the problems faced by the police service, this may do little to change the organisation unless the internal environment is addressed, Foster conclude (2003: 218).
Community policing
Community policing philosophies that stress a broader role orientation and partnerships with citizens may also be working to erode many of the values of the police culture. The expectation is that police will expand their role to include other functions beyond law enforcement or crime fighting (public disputes, nuisances, and disorders - all of which have historically been regarded as ‘soft’ policing). In addition, officers in a community era are expected to increase their interactions and communication with citizens (Paoline 2003: 409). Community policing has a potential to change cultural attitudes. Neighbourhood officers developed a broader conceptual framework for the problems they encountered; they came to see crime as part of a larger constellation of social issues, often related to poverty, poor schooling and blocked opportunities and acquired a broader range of skills and approaches to their work and were less cynical about people, more willing to look beyond the immediate crisis to the larger picture and better able to comprehend situations by using a problem-solving approach (Miller 1999: 211). This kind of work detaches officers from well established occupational perspectives and creates possibilities for them to become critics as well as insiders (Fielding 1995: 11).

However, Mastrofski (2002: 106) found four ‘types of police officers’ in a study focussing on the implementation of community policing in a US police department: Professionals who demonstrated ownership, knowledge and awareness, care and attentiveness, communication skills and good order maintenance; Reactors who were enforcement orientated, reactive rather than proactive and selective about whom they helped; Tough Cops who were cynical, authoritarian and had few conflict resolution skills but saw themselves as crime fighters; and Avoiders who were reluctant to engage in any type of encounter. Depressingly, Mastrofski says, only the ‘professionals’ who formed just a fifth of the officers observed, exhibited behaviour consistent with the leadership’ ideal of how officers should deal with the public, while two in five officers showed styles distinctly at odds with the departments’ ideal.

5. The habitus and the field
In an influential article, Janet Chan (1996) articulated four major criticisms of the way police culture had been conceptualized. The first criticism concerns the failure of existing concepts of police culture to account for internal differentiation and jurisdictional differences (1996: 111). The second criticism relates to the implicit passiveness of police officers in the acculturation process. While culture may be powerful, it is nevertheless up to individuals to accommodate or resist its influence (1996: 111). The third criticism of police culture is its apparent insularity from the social, political, legal, and organizational context of policing. A theory of police culture must, therefore, situate culture in the political and social context of policing (1996: 112). The final criticism is related to the first three: an all-powerful, homogeneous and deterministic conception of the police culture insulated from the external environment leaves little scope for a cultural change. A satisfactory formulation of police culture should allow for the possibility of change as well as resistance to change (1996: 112).
Using Bourdieu's relational theory, which explains cultural practice as the result of interaction between cultural dispositions (habitus) and structural positions (field), Chan situates culture in the social and political context of police work. A ‘field’ is a social space of conflict and competition, where participants struggle to establish control over specific power and authority, and, in the course of the struggle, modify the structure of the field itself. In terms of police work on the streets, for example, the field may consist of the historical relations between certain social groups and the police, anchored in the legal powers and discretion police are authorized to exercise and the distribution of power and material resources within the community (1996: 113). Habitus, on the other hand, is a system of ‘dispositions’, which integrate past experience and enable individuals to cope with a diversity of unforeseen situations. Habitus allows for creation and innovation within the field of police work. It embodies what police officers often refer to as ‘common sense’ (1996: 114). Analyzing problems in Australia in changing the hostile police culture against Aboriginals, Chan concludes that researchers who emphasize the importance of police occupational culture considerably underestimate the power of the field, i.e. the social, economic, legal, and political sites in which policing takes place. ‘Changing police culture requires changes in the field at both management and street level decisions. These may include the restoration of land rights to Aboriginal communities in recognition of the injustices done in the past, a stronger commitment to the monitoring of ‘access and equity’ issues in policing by the government, a more adequate allocation of resources for community assistance, the enactment of statutory right to interpreters, the establishment of a more accessible and efficient complaints procedure, and increased internal and external auditing of police practices’ (Chan 1996: 130).

5.1 National Differences

Chan’s emphasis on the social and political context of policing can also be understood as a reminder that police cultures can differ amongst nations. The main body of the research on police culture and police ethics has been developed in the American context. Some comparative studies of police culture have shown similarities in aspects like the ‘code of silence’, strong internal solidarity, conflicts between ‘management cops’ and ‘street cops’ and officers’ alienation from the larger community, in different countries like Australia, the UK, China, South Africa, Germany, Israel, Egypt, Singapore, Morocco and New Zealand (Nickels and Verma, 2008: 190). But Nickels and Verma found in their study on police culture in Canada, India and Japan also that the conditions of policing differ substantially by nation. According to the authors, the police directly reproduce the state into the lives of the citizenry. As such, the political and historical forces defining the relationship between civil society and its government also tends to define to a great extent the institutional makeup and behaviour of the police. For example, in the colonial model seen in most former British colonies, like India, the police developed as the strong arm of the State responsible for suppressing the population. Accordingly, police tend to emphasize order maintenance and face public distrust. The tradition of a strong, paternalistic State has proven a barrier to building the kinds of cooperative relationships between the citizenry and the police as typically found in the post-industrial West (2008: 190).
Looking at the Dutch situation, Punch, Tieleman and Van den Berg (1999) conclude that most academic literature on police culture is out-dated and too America-centred. They subscribe to the possibility that some aspects of police work leads to similar characteristics of police culture all over the world, but there also can be found major differences. Inside a ‘universal police culture’, there can be found a lot of different national police cultures (1999: 269). For instance, a British Bobby, coming from a tradition in which officers are keepers of the peace, has a different emanation than a French gendarme, coming from a centralized para-military police force tradition. For the Netherlands, the authors claim that officers are more like peace keepers than crime fighters. The Netherlands is a small country with a high level of wealth, a social welfare state, low levels of poverty and good public services. The Dutch police guarantee recognizable elements from society, like the search for consensus, compromise, social policy and decentralized decision-making (1999: 271). The Netherlands is said to have a civilian police tailor-made for a civilian society. ‘Most of Dutch police officers could easily leave their weapon at home without any consequence’ (1999: 272). Punch, Tieleman and Van den Berg also found that changes in the environment have profound influence on traditional police culture. They refer to aspects like a more diverse police force (more women and minorities enter the force) but also developments that are in their early stage. For instance, the emerging information technology leads to a shift from the physical appearance on the street towards knowledge, information and cooperation with a whole range of governmental institutions. Also a shift in the tasks of the police can be noted towards a more service-oriented police style. Law enforcement is becoming less important and attention for nuisance, problem-solving and self-supportiveness is gaining importance (1999: 281). On the other hand however, the introduction of New Public Management performance indicators into the police service has drawn renewed attention to the so-called core tasks of policing: while privatization, multi-lateralization and responsibilization are new trends for sharing security provision, the effectiveness of law enforcement intervention has become subject of increased monitoring and reporting.

In a study including 14 countries (Austria, Canada, Croatia, Great Britain, Finland, Hungary, Japan, The Netherlands, Pakistan, Poland, Slovenia, South Africa, Sweden and the US), Klockars et al (2004) conclude that there are similarities and differences in levels of integrity, misconduct and the appreciation of violations of police integrity. Sources and solutions of problems regarding police integrity in Austria, Finland and Hungary bear little resemblance to the sources and solutions of similar problems in Croatia, Poland or Japan. But on the other hand, despite substantial differences in absolute scores, the rank order in which police officers from different countries evaluated the seriousness of the misconduct in the scenarios is ‘remarkably similar’. Departures from this relatively uniform rank order can according to the authors be explained by the general social seriousness with which those acts are regarded in the different countries.
5.2 Dimensions of policing
Chan’s approach paves the way for analyzing the issue of police ethics in the context of its interaction with the environment. While the concept of police culture had been subject to nuancing and refinement by referring to the differences that exist between police cultures, and the dynamics between education, socialization and everyday professional experiences of police officers, there has been a growing academic acknowledgement of the political, economic and social context of policing. ‘Policing cannot be seen in isolation from developments in society and government’ (Neyroud and Beckley 2001: 15). A number of these contextual factors are supposed to be of considerable importance for the nature of policing and with that, also for the ethics and morale of policing.

5.3 Policing styles and police roles
As Kleinig (1996: 24-28) notes, different ‘police roles’ exists, in which he defines ‘roles’ as more or less determined social relations that are governed by certain norms. For instance, an emphasis on the crime-fighting role of police increases the risks of fostering an us-them mentality and cynicism. The distinction between ‘crime fighting’ and an ‘interdependent’ mission for policing is an important one, with a moral dimension (Neyroud and Beckley 2001: 30). A force that is fighting part of community cannot be truly be ‘of the community’. Crime fighting, rather than an interdependent, enabling role, implies the domination of the ‘enemy’, not the ‘public service’ or ‘social peacekeeping’ role. Moral identity is important for moral choice. A police force that regards its mission as fighting sections of the community is one that will find it easier to focus on the ends of ‘victory’ rather than the means of battle. It will also be a police force that finds it difficult to ‘move away from repressive social control to moralising social control’ (Braithwaite 1989: 184). Policing in socially and economically disadvantaged communities may raise special ethical problems: the possibility that the law maintains a system of injustice and the police, in strictly enforcing the law may contribute to that injustice (Miller, Blackler and Alexandra 2006: 236).

Kleinig favours a ‘social peacekeeper’ police role. This role embraces both the crime fighting model and the social service model. The role of the police is to ensure and restore peaceful order. Communal peace is not simply a matter of some externally imposed structure, but of perceived security, of ordered liberty, actually fostering social trust and cooperation (1996: 27-28). Other scholars predict that along with the international shift to human rights as the lingua franca of liberal democracy, a ‘shift to an ethical policing style will become necessary’ (Neyroud and Beckley 2001: 216). Another issue at stake is the relationship between police and public authority, the ‘tension arising from the commitments of public servants to the policies and interests of the government on the one hand, and to the public interest on the other’ (Miller and Blackler 2005: 33). Any attempt to resolve that tension is problematic. If the public interest as interpreted by public servants overrides the directives of government, the result will be a public service unresponsive to the elected government. If the public service is denied any latitude to provide bottom-up, independent input to government, the result will be a politically motivated, slavishly public service that implements policies it knows to be unjust,
unworkable or otherwise against the public interest (idem 2005: 33). Miller, Blackler and Alexandra (2006: 46-51) propose a specific normative theory of policing as guiding principle to the future of policing. Such a normative theory will indicate what ethical goods ought to be aimed at by police. The ‘single normative end’ of policing in their view should be the protection of moral rights; those rights which are enshrined in law (understood as the basic moral norms of society) or are constitutive of an orderly society. Police ought to act principally to protect certain moral rights, those moral rights ought to be enshrined in the law, and the law ought to reflect the will of the community.

5.4 Waves in public policing

As Wood and Shearing (2007) note, there are ‘waves’ in public policing, or, as Neyroud (2003: 584) calls it, ‘a see-sawing of the definition of the role of policing’. They signal that the significant shifts in the social and cultural make up of the populations in Western countries the police served, have challenged the police to rethink how they could embrace diversity while at the same time retaining the image of police as ‘iconic representatives’ of the public interest.

The first wave of community policing can be understood as the re-imagining policing as an essentially ‘community-based’ activity; one that fostered symbolic and strategic links with everyday citizens in the face of increasing social diversity and cultural heterogeneity (Wood and Shearing 2007: 39). It involved a symbolic shift in the conception of police, from an organization centred on the application of force to one focused on service. The public were now imagined as ‘clients’ with diverse needs and expectations.

A second wave of policing was the conception of policing as solving problems, emerging from the recognition that policing did not care too much about reducing crime levels. Rather than seeing themselves as ‘law enforcers’, the police should re-imagine themselves as ‘problem-solvers’. Law enforcement was simply one among a variety of means they could deploy in managing these risks (Wood and Shearing 2007: 43).

However, economic imperatives prompted yet another re-imagining of policing into policing as a business, in which problem-orientated policing was reconfigured as an approach that promoted the more effective use of police service. Alongside with this change, a new image of citizens and communities arrived as active and responsible participants in security provision, and risk-orientation emerged as a central concept in crime prevention. The police officer was being re-imagined once again: this time as a partnership facilitator (Wood and Shearing 2007: 47).

A fourth wave can be seen in the emergence of policing as restorative justice. The restorative justice approach is based on a critique of state-based justice as alienating and frustrating for victims because the very structure of the process is based on a conception of the state as victim, rather than the individuals who have suffered a particular harm. Restorative justice aligns new instrumental and symbolic dimensions in that it reorients the police and other institutions of criminal justice towards risk
management while at the same time articulating a new communitarian vision of collective life and collective responsibilities (Wood and Shearing 2007: 49).

A fifth wave is policing as fixing broken windows, in which we can find a blending of risk-orientated thinking with a communitarian vision of collective life, but at the same time, it seeks to bring the police, and its coercive capacity, back in. A common variant of the ‘broken window’ approach is zero tolerance policing which focuses more heavily on hard-edged policing and law enforcement with an emphasis on producing results. Zero tolerance policing brings in coercive capacity as a central means of managing risks (Wood and Shearing 2007: 53).

A last wave can be seen in the emerging of policing as intelligence work, or intelligence-led policing. Intelligence-led policing re-imagines how the police can be ‘smarter’ in their unique authority and capacities, by making use of information and communication technologies in more scientific, evidence-led ways. It involves effectively sourcing, assembling and analyzing intelligence about criminals and their activities better to disrupt their offending, by targeting enforcement and patrol where it can be expected to yield highest dividends (Wood and Shearing 2007: 57). The running of informants and the use of undercover investigation methods has however been standard practice for decades if not longer, and this has evoked pressing debates about ethical standards (Marx 1995).

Each ‘wave’ in to policing has its own challenges in terms of ethics. As described earlier, the ‘crime fighting’ approach runs the risk of a cynical us-them attitude and will focus easier on the ends of ‘victory’ rather than on the means of battle. As Zedner (2003: 178-179) states, it is important to view security as a pursuit rather than an attainable goal, and the values that we wish to preserve as integral to defining that end. This places particular importance on the need for regulatory agencies capable of rendering transparent the ethical dilemmas of policing. The changing ‘police environment’ for policing has in the Dutch context been described as ‘changing the soul of Dutch police’ (Das, Huberts and Van Steden 2007: 530). Crime, terrorism and general public fears have caught front-line police officers in a ‘crossfire’ between liberal ideals and burning security issues. This has resulted in tendencies of centralization, penalization and responsibilization. The ‘hyper politicization’ of safety and security may well bring out lines of thinking that are less apprehensive about a community basis for policing. For reasons of ‘effectiveness’ in fighting crime and terrorism, a more ‘hierarchical model’ of command and control revives with orientations towards defending national security and bigger distances between population and police. This means, the continuation of Dutch policing as pragmatic, social and friendly is ‘under pressure of centralization and penalization’.

### 5.5 Risk orientation

Neyroud and Beckley point at the ethical challenges that go with the emphasis on risk orientation (2001: 15). This new concept of ‘policing risks’ includes the development of actuarial tools like risk assessment, the profiling of high-risk groups, the identification of high-risk locations, and potentially,
with DNA technology, the prediction of offending behaviour. Policing is becoming not just a process of communicating risk but is increasingly expected to manage dangerousness and protect the public. ‘This new role brings with it substantial burdens, new ethical dilemmas and new risks for public policing’ (Neyroud and Beckley 2001: 15). The focus on surveillance for risk management means that knowledge of the persons or the organization as ‘risk’ is emphasized more than the subject’s moral culpability or responsibility for a particular act of wrongdoing. ‘Everyone is presumed guilty until the risk profile proves otherwise’ (Haggerty and Ericson 1997: 42). Zedner (2003: 169) points at the ‘zones of high security’ like airports, which are turned into ‘domains of generalised suspicion’ in which people become member of a population who, by its very presence in the place, is suspect. And in a significant degree, the security arrangements once thought necessary only in zones of high security have ‘spilled over’ to ordinary life and ordinary places. The risk is that the greatest losses of liberty and privacy are suffered by a minority within the population; their loss of liberty is commonly justified in the name of greater collective security. Decisions about social ordering or social sorting tend to be tilted in favour of dominant classes, as Kleinig (2000: 49) argues. ‘There is a strong likelihood that the individuals who are most likely to be burdened with responsibility will be the least able to carry this burden.’

5.6 New technologies

As regards the influence of new technologies, this shifts the nature and potential of surveillance and ultimately changes the nature of ‘trust’. Trust relations now more rely on abstract systems based on technology. Public policing is still traditional and largely based on geographic communities. It relies on the formal legitimacy of local or national community consent rather than the more individualized and disparate requirements of the new communities of risk. The implications for privacy are immense, the problems of trust and accountability substantial (Neyroud and Beckley 2001: 15). As the ‘Future Group’ (2007) on European JHA-policies state, one implication of the ‘digital tsunami’ is that data monitoring and analysis will become much more automated. Increasingly machines are able not just to analyse records of transactions, but also to analyse visual information as well. Current systems can already identify individuals by their gait or flag up particular types of image, e.g. unattended luggage or a person lying on the ground, apparently injured. Next generation systems are likely to be able to watch for, find and follow even more tightly defined objects, behaviour patterns or events. These developments mean that routine data monitoring and analysis will increasingly be handled by machines; the system will then flag up exceptions (unusual behaviour and anomalies) for human investigation. According to the Future Group, emerging technologies are likely to push this trend forward in three main areas. First, rather than just monitoring a given data stream, these networked systems will start to respond to it intelligently. For example, if a suspicious object is detected on one video feed, the system will examine the object by zooming in on it with other nearby cameras or it might search for images of that object captured earlier on other cameras. Second, these systems will work across multiple data streams and multiple types of data stream. For example, if someone in an airport starts making a series of unusual mobile phone calls, the system might monitor the video
streams of the areas where that person is more sensitively than it would normally. Or it might check passenger travel information to see if that person or someone related to them is due to arrive or depart in the next couple of hours. Finally, the interaction between these systems and humans will become more sophisticated. The system will know the current physical location of the staff it could alert and whether they are available. It will also have automated escalation procedures if alerts are not acted on or if their volume or type is likely to exceed the capacity of the staff to which they would normally be directed. It seems obvious that these ‘automatic detention of unusual behaviour and anomalies’ can have strong ethical implications. As Shearing (2005: 62) argued, a specific problem with the swift adoption of new technologies by the police, is that the main arena for technological development is the military, and if its there police forces look for ready-made solutions to their problems, military mind-sets and objectives will become embedded in policing. One way in which this can be manifest is in the embedding of military metaphors and conceptions. Policing will become increasingly organized around identifying and fighting enemies. ‘This means that that the people they target will be seen less and less as fellow citizens and more and more as people who exists outside of citizenship: enemies.’ An example of the way military technologies change the thinking and semantics of policing may be found in the proposition for an European Border Surveillance System (European Commission 2008) which has as its aim to reach ‘Total Situational Awareness’. “Nodal policing” will hence turn the citizen-subject (community policing) into a citizen-object (intelligence-led-policing) (Ackermans 2007).

5.7 Managerialism
Also the influence of new public management, or ‘managerialism’, effects policing. Judging police performance is a complex matter, because of the absence of a clear purpose and clear expectations about what police services should deliver. New public management emphasises the rhetoric of control at the expense of discretion (Neyroud and Beckley 2001: 94). Neyroud and Beckley think that a performance culture will not be supportive of efforts towards human rights. The differential rewards for complying with ethical versus performance expectations can be expected to influence the behaviour of police officers and managers (2001: 118). As Fitzgerald (2002: 141) concluded in researching the performance indicators for British police, ‘performance monitoring must not be about the setting of targets for goal achievement, but about monitoring police practice against professional and ethical standards. A greater emphasis is needed on achieving professional standards and less emphasis on hitting numerical targets.’ Recent Dutch research into a regional police force however nuanced the assumption that performance management may have a negative or perverting influence on ethical behaviour. The outcomes suggest that implementing performance measurement has a decreasing effect on the occurrence of integrity violations within an organization. A prerequisite however is that the implementation of businesslike developments should carefully take ethical aspects in account (Kolthoff 2007). Managerialism combined with the emphasis on evidence-based policing is also considered highly relevant for ethical policing. For if ‘what works’ is the right way to undertake policing – and the yardstick against which the funding of public policing will be judged nationally – then logically, by implication, that which does not work, or more significantly, cannot be proved to work is
5.8 Counterterrorism

Of course, also criminal related developments in broader society can have their impacts on the ethics of policing, for instance with the threat of terrorism. The history of the ‘Troubles’ in Northern Ireland shows that combating terrorism can have a profound effect on the ethical standards of policing. As Matassa and Newburn (2003: 494) note, because of the nature of the threats posed, and sometimes the sophistication of the terrorists themselves, there is an inherent pressure towards ever-increasing powers. Terrorist activities tend to elicit a strong reaction on the part of the state and this has often involved the passage of new emergency legislation, generally providing for the extension of the powers available to the police and or security services. Even though such measures are often presented as being ‘temporarily’, the reality is that over time there is a long-term process of ‘normalisation’ in which the gap between special and normal policing powers narrows or even disappears. The emergency situation in Northern Ireland blurred the line between ‘normal’ and ‘counter-insurgency’ policing. Counter-insurgency policing became institutionalized, overshadowing efforts to employ traditional methods. Indeed, emphasis on the former tended to undermine the latter. British security forces in Northern Ireland employed a myriad of counter-insurgency tactics, including internment without trial, the abolition of trial by jury, the progressive elimination of common law safeguards, the use of brutal methods of interrogation, abuse of army and police powers of arrest, stop and search, the use of supergrasses to obtain convictions and the adoption of a shoot-to-kill policy (Matassa and Newburn 2003: 485). But the influence of counter-terrorism policies can also be noted on a smaller scale. Community policing, for instance, which advocates a strategy of ‘winning hearts and minds’, can get under pressure to be valued only as a function of intelligence gathering on ‘suspected communities’ (Neyroud and Beckley 2001: 30-31). Lyons (2002: 531) warns for a push of community policing in a ‘para-military direction’, in which the ‘war on terror’ can have a ‘disparate and destructive’ impact on troubled communities. ‘To the degree that the response to terrorism encourages us to police in ways that diminish the civil, political or economical liberties, we can expect the burden of this will not be evenly distributed and will support more divisive politics at a time when we desperately need more cooperation.’

5.9 Plural policing

According to Wood and Shearing, a central issue in the shift in ‘waves of policing’ is the acknowledgement that the police are just one ‘node’ in the security field. Transformations in policing are not simply driven by the strategic and normative aspirations of police managers and the authorities. Police leaders are cognizant that they operate in a world of ‘nodal contests’. As a consequence they have become increasingly concerned with developing strategies that will enable
them to effectively jockey for positions to ensure that public police institutions continue to play a central role in the governance of security (2007: 60). As Bayley and Shearing (1996) analyzed, the monopoly of public policing has been broken down, under pressure from the growth of private security (its growth far outstrips public police in countries like the US and the UK) and the growth of citizen policing – neighbourhood watches, crime prevention associations – and a range of regulatory agencies. Loader (2000: 324) describes five dimension of plural policing: direct provision and supervision of policing by institutions of national and local government; private policing forms secured through government; transnational police arrangements taking place above government; markets in policing and security services unfolding beyond government; and to policing activities engaged in by citizens below government. ‘We inhabit a world of plural, networked policing.’ As Wood and Shearing (2007) argue, governments not only seek to govern indirectly through mobilizing the knowledge, capacity and resources of other institutions, groupings and individuals (‘Third-party policing’) in the delivery of security. Enrolled actors align in the direction given by a centre with their own objectives, and in doing so change the directions; third parties are likely to be engaged in enrolling the public police in promoting their objectives and agenda’s. ‘What one has in practice is not a single model of governance, but a complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexists’ (2007: 21).

What precisely the ethical effects are of this shift towards ‘plural policing’ remains to be seen. Shearing (2005: 62-63) for instance suggests that accountability and integrity could be conceptualized in other ways by private companies than by public police. Where public police think of accountability in terms of personal integrity and the world made up of ‘good and bad apples’, the business community are less likely to construct accountability in terms of individual morality. Whether public police can succeed in ‘enrolling’ other parties in an ethical direction as defined by public police, is also a question that remains to be seen. Neyroud and Beckley, for instance, (2001: 30) imagine the ‘enabling police force’ as one of the possible futures of policing. Public police collaborates with other forms of policing, in which it seeks to combine the ethics and equity of public policing with the dynamics of the market and community based provisions. It should provide a core of basic services and manages and collaborates with a series of locally provided private and community patrol forces through ‘intelligent regulation’.

### 5.10 International policing

Another relevant and important issue in the ethical framework of policing is the internationalization of policing. The internationalization of policing reflects the wider transformation away from the nation state to a more complex and shifting ‘new world order’. The increasingly globalized, international nature of policing and crime prevention extends policing outside the existing framework of democratic control and accountability. As such, this argues for the emergence of new institutional frameworks and standards in policing, as legitimacy and authority, linked to democratic accountability are ‘crucial to any kind concept of ethical policing’ (Neyroud and Beckley 2001: 14). As the authors emphasize,
accountability is not in first an administrative tool, but a moral principle (2001: 145). Problems with accountability do not only rise in relationship to parliamentary and social control, but also in the principal-agent relationships between governments and their police agencies (Müller-Wille 2006: 101).

In academic literature there is growing body of critique on the ‘democratic deficit’ in European police cooperation, whether it is about counter-terrorism policies (Den Boer, Hillebrand and Nölke 2008: 119), Europol (Den Boer and Bruggeman 2007: 84-85) or the extension and thickening of informal professional police networks (Loader 2000: 327; Bigo 2000). A ‘transnational solidarity’ between police officers founded on the shared peculiarities of the job may be giving rise to new (hybrid) working practices and dispositions amongst officers moved by the common threat of the transnational criminal Other and possessing a shared ‘feel for the game’ (Loader 2002: 132). These police elites have become part of an opaque, thinly accountable policy network increasingly organized around an ideology of European security (Loader 2002: 133).

Of course, international policing stretches far beyond the cooperation under the umbrella of the European Union. It can be argued that, whereas accountability and legitimacy of police cooperation are already problematic within the political structures of the European Union, they are likely to be even more problematic when international policing is taken place beyond any formal political and legal structure. For instance, the so-called ‘Future Group’ of the European Union, advocates tightening links with the Union’s neighbouring States and with its strategic partners – especially the United States and Russia. By 2014 the European Union should make up its mind with regard to the political objective to realise a ‘Euro-Atlantic area of cooperation in the field of freedom, security and justice with the United States’.

Furthermore, as Home Affairs issues are increasingly supposed to be interlinked with the Union’s external relations in the political as well as technical dimensions, ‘a major challenge for the internal security of the European area’ arises (Council of the European Union 2008: 16). The increasingly blurring borders between ‘external’ and ‘internal’ security, cooperation between police services and military organizations, and the cooperation between police forces from countries with a different history and different perspective on ethical issues like investigative powers, human rights concerns, accountability and policing cultures can be seen as enormous challenges to the future of ethical policing (Den Boer 2008). Potentially problematic areas can be conceptualized in the ‘quid pro quo’ mechanisms underlying international cooperation, information exchange with countries known to use methods which liberal agencies normally regard as wrongful, and compromising domestic standards of constitutionalism, legality and accountability, resulting in a blurring of ethics, democratic control and accountability.
6. Intermediary conclusion on ethics and policing

The underlying values in policing show a mixed picture. Different ethical codes for policing sum up a range of values that should be guiding for the ethics of policing. Research into the opinions of police officers show that these values indeed make up a substantial part of the organizational and individual values of police. At the same time, collisions can be noted, as the formal ethical requirements are neglected or violated in police practices. Explanations for police deviance have been situated in police culture, which would contain some particularities that promote misbehaviour, like internal loyalty, the Blue wall of silence, an us-them mentality and a one-sided composition of police forces. The concept of police culture as an explanation for police behaviour and misbehaviour is however disputed. Research has show that there is no such thing as one police culture; it is better to conceptualize police culture as fragmented police cultures. Further, scholars have pointed to the fact that police culture is less ‘sub’ than often presumed. In fact, police culture(s) reflect the dominant societal values. Besides that, it is augmented that forms of police deviance can and must be interpreted as logical reactions towards the societal and professional circumstances of policing; police (mis)behaviour can be better explained as situational and pragmatically determined, than as a function of cultural or personal characteristics. Generally speaking, police officers are fulfilling their job with a profound sense of morality: protecting the citizens by cleaning the streets from the bad guys. This morality can be understood as a strength and a weakness; it can lead to heroic and ethical behaviour and it can be at the same time the reason for police deviance like noble cause corruption. The societal and moral complicity of officers and their mutual sense of loyalty are tools that help them dealing with the daily tensions and moral ambiguities of their work; at the same time it can lead to police misbehaviour in which the ends justify the means and officers understand themselves as moral agents, elevated above the ordinary rules that relate to societal behaviour.

Other scholars focussed more on the – changing – societal and political context of policing. Policing is said to be subject to different waves of policing styles and policing roles, which influence the underlying ethical values of policing. New concepts, like risk orientation, find their way into the daily art of policing. The influence of new technologies is profound and touches upon the de soul and substance of policing, as do recent developments like the threat of international terrorism and the way police are directed to counter that threat. Further, the ‘public’ police have to re-invent themselves as one security player in a field where other actors are flourishing, like private security firms and a range of regulatory agencies. Finally, the influence can be seen from international policing. A ‘transnational solidarity’ between police officers founded on the shared structural peculiarities of the job can be noticed. This may be giving rise to new (hybrid) working practices and dispositions among officers moved by the common threat of the transnational criminal Other and possessing a shared ‘feel for the game’. As such, this argues for the emergence of new institutional frameworks and standards in policing, as legitimacy and authority, linked to democratic accountability are ‘crucial to any kind concept of ethical policing’ (Neyroud and Beckley 2001: 14).
PART TWO: ETHICS AND MILITARY

“In what was taken as an indirect swipe at Israel’s actions in the Gaza, Spanish Defence Minister Carme Chacon has announced a military ethical code of conduct to prevent the Spanish army from misusing force, press reports said Wednesday. The code of conduct based on the Universal Declaration of Human Rights and international humanitarian law was seen as trying to prevent action such as that by the United States in Guantanamo, Abu Ghrabib and by Israel in Gaza. It contained “two principles of tragic actuality,” the obligation to differentiate between military and civilian targets and the prohibition of “certain weapons and tactics that are repugnant to the modern conscience,” Chacon said. The minister mentioned cluster bombs, which Israel has used in Gaza. The code also prohibits abuse of prisoners and obliges soldiers to protect women and children from prostitution or sexual abuse in war or peacekeeping operations. Soldiers have the right not to obey orders contrary to ethical conduct.”

1. Introduction

Throughout the history of society, armies have killed human beings in the name of justice and morality. Strikingly, each side to any deadly conflict maintains that (1) they are right; (2) their adversaries are wrong; and (3) their own cause (conceived in terms of justice) will prevail, so long as they fight with commitment (Calhoun 2001: 41). When leaders wage war, they invariably label their adversaries as ‘evil’ and their own causes as ‘just’, and these labels are interpreted by soldiers and civilians alike in absolute, not relative terms. Wars are waged by leaders who claim that all people are subject to the same standards of morality, standards violated by their enemies. Soldiers kill at the behest of their leaders when they have been provided with an interpretation according to which the actions that they are to perform are morally justified. Morality and ethics therefore play an important, but contested role in the context of the military. While the killing of other people normally is forbidden and morally condemned in society, in the context of war killing the enemy is morally permissible, and under certain circumstances even required. During wartime, even the killing of innocent citizens can be construed as morally permissible ‘collateral damage’ (Coulhan 2001: 43). For ‘realists’, war is unavoidable, given human nature. According to realists, making moral judgments about war is about as sensible as morally condemning droughts and floods or rabid dogs. But a more dominant perspective – at least in the intellectual community - in the Western World is the view that there has to be sound moral justifications for engaging in war. ‘Just War Theory’ (Walzer 1978) tries to provide an ethical reasoning for the use of military violence. Just War Theory has developed around two related but distinct ideas: Jus ad bellum - what is required to justify going to war - and Jus in bello - the limits on the use of force within war.

The principle of Jus ad bellum has been translated in different requirements.

1 ‘Spain adopts military code of conduct in veiled criticism of Israel’, DPA, 7 January 2009
1. A just war must be publicly declared
2. A war justly waged must have a reasonable prospect for success
3. The cause of a war must be proportional, sufficiently grave to warrant the extreme measure of war
4. War is justly waged as a last resort
5. A just war must be waged for the just cause
6. A just war must be waged by a legitimate authority

The principle of *Jus in bello* has also been translated in different requirements:

1. A war justly fought must deploy only means proportional to the cause
2. In a war justly fought, non-combatants are immune for attack
3. In a war justly fought, prisoners of war are treated as non-combatants

Within Just War Tradition, much attention has been directed toward the ‘jus in bello’ conditions. That is understandable, because for military personnel, once war has been waged, they accept their political leader’s judgement of the war as ‘just’. This tendency is reinforced by the fact that it is the professional duty of military personnel to execute war when called upon to do so by their commander-in-chief. Debates have therefore revolved around specific interpretations of the ‘jus in bello’ requirements, for instance, the interpretation of the ‘Doctrine of Double Effect’, which specifies that bad consequences such as civilian deaths are permissible during wartime, even if foreseen, so long as they are unintended. But combatants must take some care to avoid harming civilians, and this requires more than simply not intending to harm them. Military action involves ‘a positive commitment to save civilian lives’ (Steven 2004: 235). Others debated fiercely the principle of ‘Moral Equality of Combatants’. This principle asserts that all combatants, ‘just’ and ‘unjust’ alike, have the same rights, immunities, and liabilities. It asserts that a combatant’s moral status is unaffected by whether the war in which he fights is ‘just’ or ‘unjust’ (McMahan 2007: 79). The ‘Moral Equality of Combatants’ derives from the very logic of community; there are circumstances under which it would be unjust to judge an individual member of a community, acting on behalf of or on the orders of that community, as if he acted solely on her own behalf. Going to war on the orders of one’s government would be one of those circumstances (Zupan 2007: 44). Being under orders, trusting in his superiors, focusing on the mission at hand are such a part of the ordinary experience of being a soldier that ‘knowing’ his war to be unjust turns out to be something he literally cannot do. The moral responsibility for ‘jus ad bellum’ falls on the shoulders of the state apparatus. There are times when people go along with a certain project even if they think it may be wrong; they may feel it is stupid or even that it is immoral. Yet the circumstances may be so complex or unclear, that they trust in the collective wisdom of those who support the project (Zupan 2007: 47).

However, other scholars have criticized the focus on the ‘jus in bello’ requirements, because the defining factors of ‘jus ad bellum’ are believed to be more essential; if there is no ‘jus ad bellum’, then
there is also no ‘jus in bello’ (McMahan 2005: 5). Besides that, the requirements of ‘jus ad bellum’ have been fiercely criticised. As Zupan (2007: 42) states, the requirement of ‘jus ad bellum’ that war is waged by a ‘proper authority’ means that any war would be just as long as it was declared by a proper authority, usually thought of in terms of a sovereign state. In the end, all assessments of proportionality in waging war turn, in actual practice, upon the interpretation of the commander-in-chief (Calhoun 2001: 48). Each leader will simply reinterpret the requirements of ‘just ad bellum’ as satisfied in precisely those cases when he wishes to wage war. In other words, what appears to be an independent tenet of ‘jus ad bellum’ reduces to legitimate authority, since only the commander-in-chief is granted the right to wage war, having himself decided that deadly force is the last resort. Therefore, according to Calhoun, Just War theory itself provides no answer to the question: what is a just cause? The answer is left to the discretion of the leader, the legitimate authority, in question. In reality, nations actually engage in wars whenever leaders claim that duty calls (Calhoun 2001: 52). ‘Just war theory provides leaders of all stripes with the means for devising positive interpretations of their own destructive and deadly missions,’ Caulhon concludes. According to Challans (2007: 152), Just War Theory is not an ethical useful concept because people can get anything out of the traditional theory that they have put into it. Challans points at the Iraq War and the war on terrorism, which has been found to be both just and unjust by proponents of Just War Theory. Others launched different, but also fundamental critics towards the ethics of Just War theory. As Peters (1996) states, ‘ethics in war allow us to disguise psychologically the requirement to butcher other human beings, masking the blunt killing behind concepts such as ‘Just War’, higher causes, and approved behaviours. Ethics in war on the part of a Western society do not so much protect the objects of our violence as they shield us from the verity of our actions.’ Military ethics, in the words of Peters, are ceremonial in the religious sense: they ratify and codify the darkness, implying a comforting order in the chaos and void.

2. Military values

Whereas the principles of Just War theory can be understood as a way to bring ethics into war, other scholars looked more into the virtues that are said to be fundamental to the military profession. Traditional virtues in the military profession are concepts like honour, courage, discipline and loyalty (Moelker and Olsthoorn 2007: 257; Westhusing 2003). The Code of conduct of The Royal Netherlands Army mirrors some of these traditional values:

As a serviceman/woman or civilian employee I make an important contribution to the defence of our country and to peace and safety in the world. In doing so, I adhere to the following code of conduct:

1. I try to do my best and am prepared to learn from my mistakes.
2. Both my attitude and my behaviour show that I am proud to work for the Royal Netherlands Army.
3. As a member of a team, I need my colleagues and they need me. For this reason I also feel responsible for their well-being and, if necessary, I call them to account for their actions.
4. I am responsible for the correct use of the equipment and funds entrusted to me and of the services offered to me.

5. In all my actions I consider the safety of myself and my surroundings. For this reason, I avoid drugs and limit my alcohol intake.

6. I respect human rights and adhere to the rules laid down in the law of war. I treat everyone equally and with respect, and wherever possible offer aid to fellow humans in need.

7. I carry out my assigned tasks professionally, even in difficult circumstances or in the event of danger to my own life.

8. I never abuse the power entrusted to me. I shall use force if ordered to, but never more than is necessary for completing my tasks. Anyone, certainly my opponent, may be sure that I am resolute and persistent.

The lists of virtues the Army claims to value vary from country to country, but have considerable overlap (Robinson 2007):

The United States Army lists its ‘Army Values’ as:

- Loyalty
- Duty
- Respect
- Selfless Service
- Honour
- Integrity
- Personal Courage

The ‘Core Values’ of the British Army are:

- Selfless Commitment
- Courage
- Discipline
- Integrity
- Loyalty
- Respect for Others

While those of the Canadian Forces are

- Duty
- Loyalty
- Integrity
- Courage

In Europe, the OSCE has established a ‘Code of Conduct on Politico-Military Aspects of Security’. It formulated norms on the role of armed forces in democratic societies. Under the Code, armed forces should be fully integrated into civil society and guided by democratically elected authorities, which must also approve defense expenditures. Forces must be submitted to the political control of constitutionally established authorities at all times, including during peacetime and in war. These authorities are to be vested with democratic legitimacy and under legal responsibilities. Individual service members are to be instructed in the international humanitarian law of conflict. Further, the Code states that the armed forces cannot be used ‘to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity.’ With regard to the rights and duties of
individual service members, it was agreed that they should be politically neutral, instructed in international humanitarian law of conflict, and accountable for their actions. At the same time, their civil rights must be protected (Joseph 2003:50). The similarities between the different codes mentioned above suggests that there is a common core of military virtues on which a universal moral code might be constructed (Robinson 2007).

2.1 Higher moral standard

Another question discussed in the scientific forum is if military professionals are held to a higher moral standard than ordinary citizens. Is it true that part of the ‘background noise’ of professional military life are these higher expectations and a belief that military work is somehow shot through with a special moral status, special moral problems and special moral demands (Ficarrotta 1997: 59)? Some scholars have reasoned that there are certain demands placed on the character and behaviour of military professionals that flow directly from the military function itself. For instance, military people must be scrupulously honest with each other when there is some military issue at hand. They must be selfless when it comes to the demands of military work. They must be courageous when there is some military task to be performed. But must the military professional be ‘good’ through and through? Or is the ‘ugly truth’ (Ficarrotta 1997: 63) that history is full of examples of extremely effective military professionals who were very bad people? Empirical facts show that military cadets have higher ethical standards than ordinary students (Preach and Beach 1998). Dutch research (Verweij, Hofhuis and Soeters 2007) shows that military personnel have a fairly modest knowledge of the Codes of Conduct; however, military personnel primarily adhere to the Code of Conduct on the basis of personal values and to a lesser extent on the basis of loyalty to the armed forces. Knowledge of the Code of Conduct does not influence the moral judgement of military personnel at all. Further, the research shows that military personnel are capable of high levels of moral reasoning and judgement. ‘Dutch officers and officer-cadets are aware of the moral implications of their work and, at least in theory, are able to deal with it adequately,’ the researchers concluded. On the other hand, there were on many occasions ‘moral crises’ in the Army, ranging from sexual harassment, outbreaks of violence, political extremism to breakdowns in order and discipline (Brinsfield 1998: 30; Staal, Borghouts and Meyer 2006). And more recently, at least in the American context, question marks have been placed by the lack of respect for international law, constitutional principles, the military becoming a mere tool of power abusing politicians and of allowing religion and conservatism to have an unhealthy influence on moral decision-making in the military (Shannon 2007: 315-316; Challans 2007).

Other scholars point at the danger in teaching people that they must upheld the highest moral standards. There is always a danger that members of those institutions will come to regard themselves as morally superior to those outside the military (Robinson 2007: 30). Perversely, anything they do then becomes moral in their eyes, because they are ‘good’ and so whatever they do must be good. In short, one can argue that this means ethics education must avoid the spirit of elitism. A common verse among military officers is that moral standards in society are in decline and the military has the
responsibility of being morally superior to the general public. Robinson quotes Andrew Bacevich's book “The New American Militarism”: ‘In a 2003 survey of [American] military personnel, ‘two-thirds [of those polled] said they think military members have higher moral standards than the nation they serve (...) Once in the military, many said, members are wrapped in a culture that values honour and morality.’ Robinson embraces the view that the aim of ethics education must be to ensure that the ethics of soldiers coincide as closely as possible with the society they serve, ensuring that soldiers continue to view themselves as citizens, not as members of some special caste: soldiers as citizens in uniform.

2.2 Virtue ethics

Some argue that the best way to teach military ethics is by way of virtue ethics (Moelker and Olsthoorn 2007: 257). A virtue is described as a trait of character, not to be understood as an inherited or god-given quality, but as something that can be acquired, mainly through training and practice. With its emphasis on character building, virtue ethics is thought to provide a better basis for military ethics than its main contenders, rule-based deontological ethics and utilitarian ethics, stressing self-interest. According to Moelker and Olsthoorn, rule-based ethics, by most accounts, aims at nothing more than the ethical minimum, while virtue ethics asks for much more, including the kind of supererogatory acts the military depends on. In addition, developing virtues is seen by some as the best way to prevent misconduct by military personnel, being superior to rules or codes of conduct imposed from above; the main argument offered is that these solutions are impotent when no one is around and that they lack the flexibility often thought to be needed in today's world (Moelker and Olsthoorn 2007: 257). Others, however, question the concept of virtue ethics. According to Brinsfield (1998), virtue ethics does not meet the relevance and reality needs of soldiers who are charged with winning the nation's wars. Further, it is ‘not wise’ to lose touch with the traditions of the profession in an effort to be purely ‘neutral’ in approaching matters of moral behaviour. Brinsfield refers to a concept of ‘spiritual fitness’ in the Army: the ability of the individual to believe in the importance, necessity, and just nature of the mission; to have faith in the reliability of leaders, in the dependability of fellow soldiers, and in the training and equipment furnished for the operation; and to be prepared to encounter and cope with extreme danger, devastation, and even death with confidence, dedication, and courage. ‘Spiritual fitness transcends moral fitness because it prepares the individual to deal with ultimate questions such as the meaning and value of life and not merely questions of proper behaviour. Spiritual strength for many soldiers is supported by their religious convictions; for others who may not be religious, it may be an expression of their loyalty to the nation, to the unit, and to their fellow soldiers’ (Brinsfield 1998).

Other critics point at the possibility that the emphasis on character might have the effect of causing military leaders to believe that all unethical behaviour is the product of failures of character (Robinson 2007: 31). Many times such failures are the product of deficiencies in institutions or practices. ‘The focus on character may prevent leaders from taking a critical look at the institutions they lead and thereby ensure that morally corrupting rules, structures, and systems remain.’ Teaching soldiers that
they must be brave, loyal, and so forth, does not tell them what to do when there are conflicts between the requirements of various virtues. Virtue ethics needs to go beyond mere rote learning of lists of virtues in an attempt to teach soldiers to reason and understand exactly what the virtues mean and how to resolve conflicts between them.

Another criticism however centres on the argument that times have changed fundamentally. Since the focus of most Western armed forces, as well as the justification of most wars, in recent years, has been humanitarian intervention and peacekeeping operations, it makes little sense to teach soldiers only ‘military’ ethics. The latter requires a different set of virtues. Moelker and Olsthoorn (2007: 257), in defence of the virtues approach, however recognize the importance of changes in the military profession, compromising a shift from traditional tasks to new, more complex tasks. ‘It seems most militaries cling to fairly traditional virtues and values, such as honour, courage, discipline and loyalty, yet these may no longer suffice. For one thing, they contain little that regulates the conduct of military personnel towards those they are to protect, nor do they seem to take into account the new constraints military personnel face today, imposed by public opinion, increased moral sensitivity, or extensive media coverage. Much depends on whether the actual virtues military personnel subscribe to are the right ones for a particular job and today the proper virtues are not necessarily solely the more martial ones.’

3. The new Military

What are these new circumstances, the new challenges, the new tasks the military professional has to deal with? One of course is combating terrorism and asymmetric warfare. The moral condemnation of terrorism as such is founded upon a central tenet of the ‘war ethic’ - the principle that war allows only the killing of enemy soldiers, whereas intentional killing of non-combatants remains murder: killing the innocent (Zohar 2004: 734). Authors held that the conditions of fighting terrorism and asymmetric conflicts are essentially different from the conditions that are assumed to hold in the classical military paradigms (Kasher and Yadlin 2005: 7), because the ‘major roles’ are played by persons who are not in military uniform. However, other scholars point at the fact that the bright lines between military and civilian combatants were blurred decades ago with tactics used by guerrillas (Perry 2005: 46). But most scholars agree that forms of asymmetric warfare will be the most likely conflicts Western Armies will be involved in for the foreseeable future. Warfare is asymmetric when the belligerents are greatly mismatched in military prowess, in terms of resources, technology, or both. There are two types of asymmetric warfare of recent concern. One type is the struggle against non-state terrorist groups, represented currently by the ‘war on terrorism’, and the other is war against so-called rogue states, examples being the 1991 and 2003 wars against Iraq (Lee 2004: 248).

In the context of ‘Just War Theory’ problem will arise with principles like ‘discrimination’, ‘double effect’ and ‘double intention’; principles aimed at protecting civilian’s lives in a battle. According to Lee,
terrorists do not themselves recognize the principle of discrimination, so those fighting terrorism may relax or eliminate its structures on their own behaviour. Second, terrorists deliberately attack civilians, so the direct mission of the military forces fighting terrorism is to protect civilians from attack; consequently, this mission should have priority over efforts to protect civilians on the other side. Third, terrorists rely for their protection on hiding among civilians, much more so than conventional uniformed forces generally do, so they cannot be effectively fought unless the forces fighting them are allowed to put civilians as significant risk (Lee 2004: 248).

As for the war on ‘rogue-states’ is concerned, questions arise on the use of high-tech weapons against the enemy combatants. The use of precision guided munitions, by which a belligerent can engage in aerial bombardment from a great distance with remarkable accuracy, has certain advantages in terms of the principle of discrimination: ‘collateral damage’ can be minimalized. But this ‘moral advantage’ of precision guided munitions can be seductive. It can lead combatants away from an appreciation of their obligations under the principle of discrimination by leading them to believe that the technology itself can carry the full moral load (Lee 2004: 249). Combatants may come to believe that use of the technology itself ensures that they are fighting morally. Other scholars even state that the rise of technologies that distance the killer from the killed have caused a ‘perversion’ in the logic of military ethics, by impersonalizing warfare (Peters 1996). The ‘Highway of Death’ in Iraq can serve as an example. ‘Our bombing campaign that prepared the battlefield for the ground attack buried countless Iraqi conscripts alive in sandy trenches and bunkers, while killing and wounding tens of thousands more in less dramatic fashion. The conscripts by and large did not want to be there, but feared their own leaders and military gendarmerie, and bore little or no direct responsibility for Iraqi excesses in Kuwait City. We killed those who did not have the courage to desert. Yet killing them in their thousands was “legitimate” and “untroubling”,’ Peters wrote. ‘What is unacceptable from the man is welcome from the machine.’ If the soldier shoots a family, he is a war criminal. If a pilot misses his target and wipes out a family, he has simply had an unsuccessful mission. The focus is not on the result, but on the distance between the actor and the object of his actions, on the alienation between subject and object. Since the pilot ‘could not have known’ and assumedly did not will the result of his actions, he bears no guilt. The machine failed, and the machine is guilty (Peters 1996). Others (Cooke 2004: 11) reason that the possession of military capabilities to engage in uses of military force without significant risk will, at a minimum, tempt political leaders to use the military instrument of power in ways in which, in the past, they might not have. They might have instead relied on diplomatic or on economic means to try to influence events.

3.1 Drawing the foul

According to Sterker (2004: 27-28), a new tactic adopted by some conventionally overmatched groups is the deliberate manipulation of the moral scruples of the stronger side and of the wider world by forcing, or attempting to force, violations in the rules of war. The tactic of ‘drawing the foul’ involves a conventionally weaker side’s attempt to neutralize the technological and/or numerical advantage of its
enemy by shaping the conditions of combat so that the enemy cannot act without violating the rules of jus in bello. If the enemy proceeds and violates the rules of war, the accompanying global outrage and disgust of the enemy’s own people (and perhaps, soldiers), may preclude comparable future assaults or require retreats as effectively as would have a conventional victory by the weaker side. ‘Drawing the foul’ enables the weaker side to change the dynamic from a game the stronger side could not lose, to one it cannot afford to play, or it can only lose, by winning. It is not an application of conventional military thinking to protect bunkers and command posts with handcuffed tourists, to snipe on enemy patrols with the intention of provoking reprisal massacres in nearby villages, nor to send out little boys armed with slingshots against APCs and tanks. From the standpoint of traditional military tactics, these avenues are counter-intuitive and stupid, and from a just war perspective, they are immoral. Yet these acts have been deliberately undertaken by the conventionally weaker side in Iraq, Kosovo, and the Palestinian territories (Sterker 2004: 28). Scenarios of these sorts should according to Sterker be incorporated into troops’ training regimens. Anti-guerrilla operations may require police-style tactics: systematic, troop-intensive house to house searches (with care taken not to antagonize civilians and compensate them for damage), the use of informants, the imposition of curfews, etc. Ultimately, the question may be asked: is this war worth winning? The question of justice once again becomes a political and robustly moral one, a question of Jus ad bellum, rather than one linked strictly to the morality of certain tactics. ‘Most likely, if there is no way to fight a war justly, the war itself is unjust’ (Sterker 2004: 38).

4. The Responsibility to Protect

Another major new task of the military profession lies in humanitarian interventions and peace enforcing or peace keeping missions. The term ‘humanitarian intervention’ is commonly understood as the use of military force by a state or group of states, in the territory of another state, in order to halt or avert the large-scale and severe abuse of human beings (Heinze 2005: 168). Something of a ‘watershed moment’ (Pattison 2008: 262) for humanitarian intervention was the report by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, The Responsibility to Protect (R2P). The report marked for some the end of the Peace of Westphalia in which international stability was ‘purchased at the price of human rights’, with the realization that human beings would be sacrificed, but it was the only alternative for international peace (Cook 2004: 5). The report argues that we should replace the notion of sovereignty as control according to which a state has freedom to do what it wants to its own people, with the notion of sovereignty as responsibility, according to which a state has the responsibility to uphold its citizens’ basic human rights. This responsibility primarily lies with the state, but if a state is unable or unwilling to uphold its citizens’ basic human rights, such as in cases of genocide, war crimes, ethnic cleansing, and crimes against humanity, its sovereignty is temporarily suspended. In such cases, the responsibility to protect these citizens transfers to the international community, which has the ‘responsibility to react’ robustly to the crisis. This may involve undertaking humanitarian intervention. What is striking about the R2P is that the notion of a
responsibility to protect suggests that humanitarian intervention is, in certain circumstances, morally obligatory. That is, it shifts away from the view that humanitarian intervention is only morally permissible - a right - towards the view that it is a responsibility that falls on the international community - a duty. In circumstances of the mass violation of basic human rights, such as in Rwanda in 1994 and Darfur since 2003, the international community has the right to intervene and a responsibility to do so, and is morally culpable if it fails to fulfil this responsibility. However, the term ‘international community’ is vague. Is it, for instance, the UN, the North Atlantic Treaty Organisation (NATO), a regional organisation (such as the African Union (AU), a state, group of states, or someone else?

Further, in what circumstances precisely is humanitarian intervention legitimate? Virtually all writers are in agreement that humanitarian intervention ought to only take place in ‘extreme cases’ that is, when people are threatened with ‘massacre, genocide or ethnic cleansing on a large scale’, or in the case of ‘conscious-shocking crimes’, ‘supreme humanitarian emergencies’ or ‘massive human rights problems’ (Heinze 2005: 172). This is morally intuitive because people do not want to risk killing and maiming innocent people unless it is likely that they will rescue more people than they kill or otherwise harm. Most literature on humanitarian intervention agrees that armed conflict can still be morally permissible, even if it kills innocent people, if every precaution necessary it taken to ensure that ‘collateral damage’ is minimized and that innocent civilians are not wantonly killed or otherwise used as a disposable means to achieving the goal. But then new questions arise: can humanitarian interventions take place after a large-scale atrocity is committed? The most immediate consequence of such an intervention would be the death and destruction that accompanies military invasion, while no harm was foreseeable prevented. The other question is if pre-emptive intervention is allowed: in anticipation of a long-term threat that may or may not materialize at some point in the future (Heinze 2005: 177). Some argue that humanitarian intervention and pre-emption are two sides of one coin. Both types of military engagement challenge the presumed privilege of national sovereignty and impose substantial burdens and moral obligations upon some larger, supervenient entity called ‘the international community’. (Lucas 2003: 124).

But at the same time, authors conclude that there is a ‘deep mismatch’ (Cook 2004: 8) between the international legal order as it now exists and the humanitarian needs around the world that need to be addressed. Some of the uses of force that probably are going to be advocated, which are arguably necessary, will fit poorly, if at all, in these settled frameworks of international law and ethics. Relating to pre-emptive strikes in the case of terrorism, Cook concludes that the rules of international conduct are being rewritten for a new rule. The rule is apparently that every sovereign state may, based on its own judgment as to the nature and extent of threat, use force to eliminate capability which they believe to be a threat against them, without the need to justify it before any international tribunal (Cook 2004: 14). Scholars like Lucas and Tesón (2006), on the other hand, have tried to determine criteria for ‘Jus ad pacem’, ‘Jus ad interventionem’ and ‘Jus in pace’, analogue to the Just War Theory, in order to
formulate a set of ethical guidelines for humanitarian intervention and peace keeping/enforcing operations.

4.1 A new internationalism?

The concept of humanitarian intervention however has run into some fierce criticism. Janssen (2004: 124-126), for instance, argues that there are some ‘tacit assumptions’ in the pleas for humanitarian intervention. The National Security Strategy of the United States, for instance, in which criteria are laid down for humanitarian, pre-emptive operations, leaves the decision on regime change to the discretion of the president. ‘If this is to be a convincing solution for the decision-making problem, then one must be of the opinion that the US president will not be guided by egoistic national interests, that he will not be swayed by the undue influence of lobbies, that he will balance opposing views impartially and without bias, and that his intelligence sources are as accurate as possible.’ The second tacit assumption is that the United States is able to perform a regime change with due regard for the rights of the people of the target country. The moral and legal obligation of the regime-changing nations is to ensure that the target country does not slide into chaos, and to help the people on the path of recovery. The third tacit assumption is that the United States will not abuse regime change for purposes that are not related to security and human rights. The authors of the NSS warn all nations to refrain from using pre-emption as a pretext for aggression. They do not, however, specify how the United States is prevented from abusing regime change for hegemonic, economic or other unjust purposes. ‘Here it seems that the authors of the NSS are asserting a certain form of American exceptionalism,’ Janssen states. Only if one accepts that the United States is a virtuous, freedom-loving power that is the champion of human rights and liberal democracy in the world, than it might seem justified to expect that the US administrations will refrain from abusing a prerogative that allows them to initiate regime changes that are forbidden to any other nation. ‘The three tacit assumptions seem rather strong and idealistic about the reality of American foreign policy. It seems that these assumptions cater more to an overly positive image of the United States than being a consistent argument in favour of a right to forcible regime change’ (Janssen 2004: 126).

According to Burke (2005: 74) the ‘new internationalism’ as advocated by Tony Blair and others, constitutes a sweeping effort to combine preventive war and unilateral humanitarian enforcement into a new normative framework for international intervention. ‘If they succeed, the implications for international society and global security will be very disturbing indeed.’ Burke finds the conditions on humanitarian intervention as articulated by Blair ‘notoriously vague about how far the doctrine stretched’ - with ‘heavy hints’ that it went beyond actions against massive and continuing violations of human rights to ‘dealing with dictators’ and spreading the ‘values of liberty’ and ‘open society’. The dangers are according to Burke threefold: they are ultimately seeking to create a norm of prevention applied selectively to states deemed potential dangers; they endorse unilateral action, at least as a last resort; and, if such a norm were indeed to become accepted by NATO or the UN Security Council, it is likely to undermine the Charter and the non-proliferation regime even more than unilateral actions.
such as the invasion of Iraq, which are at least hotly disputed (Burke 2005: 77). Countries as Britain and the United States are recast as ‘superheroes’, Burke states, with all the absence of moral ambiguity such a metaphor implies. ‘The war against Iraq is instructive here. The dominant coalition members, the United States and Britain, spent enormous energy putting a fraudulent case for war to the global community and their own publics, while the British, Spanish, and Australian governments were opposed by significant proportions of their own parties, parliaments, and national communities. The poverty of dialogue and accountability offered by coalitions is palpable here’ (2005: 81).

5. Peacekeeping

The evolution of humanitarian intervention, peacekeeping and peace enforcing raises a host of ‘confusing issues’, some of which are ethical (Van Baarda 2003). Firstly, there exists moral confusion concerning the ill-defined value system of ‘the’ international community which the peacekeeper is expected to represent. The value systems that peacekeeping forces represent are not synonymous with the nationalistic value systems of the warring parties. To be able to represent these principles, peacekeepers ought to have an understanding of those value systems. What is more, they should have a thorough understanding of how these can be adhered to under operational, that is adverse circumstances. Many peacekeepers however, come from countries which are undemocratic and where the neglect of human rights is common (Van Baarda 2003). To ask of these peacekeepers to uphold and respect human rights and humanitarian values, is to ask them to uphold value systems which are alien to them.

Secondly, peacekeepers are expected to remain neutral and impartial. They are expected to retain that neutrality and impartiality both as individual soldiers and as a peacekeeping force as a whole. Reports from peacekeepers on the ground, however, indicate that they witness horrendous crimes. Sometimes they are in a position to catch the perpetrators red handed. Common decency and morality dictates them to prevent the crime on the spot, yet they are under orders not to interfere because of the neutral posture of the peacekeeping force. This has given rise to moral confusion, excruciating questions of conscience and, at times, the decision to disobey orders. Military may cast away everything they believed in to be right, honourable and just. In other words, military may loose their moral integrity in such events.

Thirdly, peacekeeping missions have, mainly since the early nineties, received mandates that overlap with those of humanitarian organisations. In turn, this has blurred the differences in the core business of both. As a result, moral dilemmas typical of humanitarian organisations have now been experienced by peacekeepers. One example concerns the emotive issue how long one should tolerate the abuse of food aid by the warring parties for the sake of the intended beneficiaries.
In peacekeeping, just as in actual combat, there exists, fourthly, a possibility that the moral values upheld by the armed forces may conflict with each other. As we have seen, a potential conflict exists between on the one hand neutrality and on the other hand considerations of justice, i.e. upholding humanitarian law. In other cases one can observe the tension which is also known to actual combat, between force protection on the one hand and execution of the mission on the other.

Fifth, moral confusion may arise because the laws of war, the mandate as well as the orders received by peacekeepers are less than clear. The applicable norms are outdated, or were not drafted for the case at hand. More crucially, their obligations towards the civilian population remain ill-defined. To what extent are lightly armed peacekeepers obliged to commit themselves to the safety of the local population? Sixth, peacekeepers can experience moral uncertainties that are comparable to soldiers of the warring parties who fight an enemy. For peacekeepers too, the fatigue, stress, frustration about war crimes witnessed, corruption, theft and robbery by the local population can cause peacekeepers to lose their moral direction and commit serious crimes, including rape and torture (Van Baarda 2003).

5.1 Peacekeeper ethos

In order for peacekeepers to be effective, they need to subscribe to, and be motivated by a ‘peacekeeper ethos’ (Tripodi 2006). This raises however new ethical issues for the military (Blocq 2006: 202). Suppose a soldier witnesses the rape of a woman while on patrol. Should the peacekeeper use force to stop the abuse when he or she knows that forceful interference is likely to result in the death of the woman? Should the peacekeeper use force when such force jeopardizes the mission or local stability? What about the peacekeeper’s own life? What if the government of the peacekeeper has explicitly pronounced that it does not want any casualties? In this ‘sea of normative questions’, the peacekeeper is in need of ethical direction. Rules of engagement can give a partly answer, but leave much room for interpretation and questions as they are of a discretionary nature and a ‘amalgamation’ of political, legal, and military-operational requirements. Besides that, a multinational peacekeeping force might face internal frictions as a result of differing international legal obligations. Not all states have signed and ratified the same treaties and interpret international law in a similar way (Blocq 2006: 207-208). And not all states have the same interests. For example, how important is the consideration of potentially upsetting your state’s coalition partner? What if one is faced with an abhorrent action that is objectively wrong but to intervene in it could lead to political repercussions or even the disintegration of a coalition? How does the broader context, the ‘messy moral reality of the real world’, affect the moral landscape for the individual involved? (Wetham 2008: 307).

Hence peacekeepers need ethical guidance to meet their moral responsibilities vis-à-vis local civilians, their national government, their society, the military, their buddies, and themselves. Principles such as obedience, discipline, honesty and loyalty - which receive most attention in military training - is not going to suffice. Peacekeeping operations are different from armed conflicts, and therefore deserve a
different set of rules. In the absence of a law or ethical code for peacekeeping operations, military commanders need to define an approach to prepare individual soldiers for the morally confusing work that they are to face in peacekeeping. The contents and the method of military instruction need to be adapted to the mission of peacekeepers. ‘Peacekeeping new style’ calls for soldiers who not only know but also understand human rights and its foundations - the goal of peacekeeping and identify with human rights, in order to prevent both disuse and abuse of force (Blocq 2006: 209).

Others propose a short answer to the new realities that do not fit nicely into the mental construct of what ‘war’ should be: get used to it! (Frantzen 2003). Since the Gulf War of the nineteen’s, civil war-like conflicts in which the clear-cut distinction between civilians and combatants is hard to find have been the norm. Somalia, Rwanda, Bosnia, Kosovo and the ongoing and declared ‘war’ against terrorism, all bear the same message: this distinction has broken down. Standard military doctrine puts all such messy situations in the box of the ‘special case’: the exception from the norm. It is according to Frantzen however time to realise that these kinds of wars are likely to be the norm, not the exceptional cases. This in turn calls for a change in the mentality and training of soldiers. ‘We have to change the way we are used to thinking about war and the use of force.’ The doctrine of using force overwhelmingly to achieve quick and decisive victory has to give way to a doctrine of conditioned, regulated and measured application of force and patience. To regulate the use of force is not only an ethical necessity, it is also a strategic imperative. When faced with opponents operating within civil society, the answer is not more resources, more firepower and more use of force. Legitimacy will suffer if force is used overwhelmingly, causing ‘collateral’ damage. If one accepts that ‘winning hearts and minds’ is essential to conflicts like this, the battle over legitimacy simply cannot be lost. Hurting or killing civilians is a sure way of losing legitimacy and losing the war. Civilians will be pushed over to the opponent’s side, or to the side which can satisfy their number one concern: security. Rather than constituting a danger to the civilians, military forces must provide security (Frantzen 2003).

When faced with messy conflicts, conflicts that are being fought inside the civil society rather than apart from it, the role of soldiers becomes less heroic. There is little value in killing civilians or fighting badly organised armed gangs or thugs, or armed youngsters taking a weekend joy ride to see some action. It does not seem right from the traditional viewpoint of what soldiers should do. When the military are deployed to conflicts like this, they are in fact performing the function of the police: providing law and order. It does require the military to blend their military ethos with the ethos of the police. Both the military and the police share the need for legitimacy when using coercive power and violence. Both the threat of and actual use of force have to operate within the borders of legitimate conduct. ‘Thus, the answer to the case is simple: get used to it and fast!’ (Frantzen 2003).
6. New military values?

The military profession deals with matters of life and death and sanctions the use of violence which is not permissible in other situations. Traditional virtues of the military are duty, honour, obedience and loyalty. Times have changed, however, and changes in military tasks require a new focus on the ethical values central to the military professional. Terrorism, asymmetric warfare, peacekeeping and peace enforcing will be central parts of the new military reality. The ‘weaker forces’ will seek to neutralize the superior technology of their enemies by using unconventional means. Soldiers may have no declared adversary, or their enemy on one day might be their friend the next. Furthermore there is the influence of the media; its omnipresence means that the smallest action is liable to be reported. Some say we live in the era of the ‘strategic corporal’: immoral behaviour by even the lowest ranking soldier can have a strategic effect, as witnessed by the impact of the images of Abu Ghraib prison (Robinson 2007: 25). Moreover, through the media, soldiers have access to points of view sometimes different from their own, and this can lead them to doubt the legitimacy of their actions and their understanding of them. In addition, the need for a common body of knowledge about how to fight ethically in today’s complex environment is reinforced by the growing sociological diversity of most armed forces. Besides that, soldiers, like other citizens, have a political view and through emancipation and education they have become reflective and critical professionals. To prevent them from subordinating their duty to their political preferences, a military action must not be too politically partisan or too influenced by international moral opinion or law, which can be open to misinterpretation and can lead to excesses (NN 2007: 109-111).

The political context shows an erosion of the old concept of national sovereignty and non-intervention, but the fledging political and ethical norms for ‘humanitarian interventions’ remains contested. It is acknowledged that it is extremely difficult to gain widespread and precise agreement on the circumstances warranting an exception to the non-intervention norm: genocide, ethnic cleansing, massive abuse/suffering and refugees creating instability to neighbouring states. Besides the daily ethical dilemma’s and stress accompanying peace operations, the military professionals have to be sensitive to other ethical considerations in their operational environment: awareness of how contact with various indigenous groups may effect political and economic relationships in the host country; the requirement to be impartial and fair in dealings with all parties, some of whom may not be too worthy of admiration; the stress of peace operations (where there may be a high degree of risk, but no definable enemy) and how stress may affect conduct; the unique strain of working under officers from other nations whose ethical standards may be different; honest involvement with the press; and the need to convey information while being sensitive to that part of a story which may not be able to be shared to protect sources or for operational security reasons; an awareness of the different agendas that may be operating among members of the peace operations community - political leaders, various military contingents, liaison officers, NGOs, contractors, the parties to the conflict, etc. These often less than subtle differences may entail ethical dilemmas as different groups advocate different actions for different reasons. ‘All of these unique aspects of peace operations place a larger than normal
burden on military members and thus make more difficult the task of, at all times, conducting oneself in accordance with the highest ethical standards’ (Forster 1996). Also the command and control have to be tailored to new situations. In this respect the commanders at all levels in the organisation must be given the task and authority that belong to such an operation. In other words: decentralisation of management (command and control) and delegation of the necessary authority are of vital importance to the organisation's effective operation. In operational terms it may be said that the commanders no longer determine the ‘how’ but rather the ‘what’ of an operation. In doing so they leave the ‘how’ to their sub-commanders to establish. In this context military speak of ‘mission-specific command and control’. Whereas previously the commander decided exactly what was to happen and how the operation was to progress, who was to do what, where, when and how, nowadays he/she merely indicates what is to be done and what is the ultimate objective (Verweij, Cloîn, Tanercan 2000). This autonomy requires perfectly clear orders that subordinates understand completely and that each echelon in the chain of command can adapt appropriately. This is only possible in a spirit of mutual confidence and cohesion underpinned by shared values (NN 2007: 109). Further, human rights are said to deserve a central standing in the training and operations of the new military professionals. International law and military doctrine demands soldiers to think, speak up, and, depending on the situation, disobey, when they have information that is unknown to the commander, if they anticipate operational catastrophe, and in case of manifestly unlawful or unethical orders (Blocq 2006: 209).

7. Intermediary conclusions on ethics and military

Traditionally, the military have a special position in society. The essence of their profession is the capacity and legitimacy to use (lethal) force; a practice that under ordinary circumstances would be rejected by society as unethical behaviour, even more when this use of force kills or injures innocent citizens. Scholars have tried to formulate ethical justifications for the legitimate use of violence, resulting in a list of requirements that can be situated in the school of ‘Just War Theory’. Critics however point at the highly subjective dimensions of the requirements formulated in Just War Theory and the highly political nature of the interpretation of the requirements, which make them not suitable for an ethical justification of the use of military force. Other scholars have tried to formulate ethical criteria that military should obey during an armed conflict. Recent developments have a profound impact on the ethical context of the military. A number of trends can be discerned that seems to be significant for the future ethics of war and the value systems of the military (Rodin 2006: 242). The nature of armed conflicts has changed. Asymmetrical warfare will be the new face of armed conflicts. On the hand this can be seen in the war on terrorism, coming with it important questions on the limits of the use of force, the civil and political rights of citizens and suspects and the relationship with the population. On the other hand the new face of war can be seen in the emergence of armed conflicts around so called rogue states, where the borders between combatants and non-combatants are fluid and the military are confronted with opponents that use unconventional operational methods and tactics; sometimes deliberate aimed at provoking an overreaction from the other side.
The doctrine of the ‘Responsibility to Protect’ (R2P) can be understood as the prioritization of human rights above the old doctrine of state sovereignty. If states are not willing, or not able to protect the fundamental rights of their citizens, the international community has a duty to intervene. This doctrine however is also contested, because it is believed to leave to much room for political misuse and represents a biased assumption that Western states are the real champions of human rights and operate without economical or political interests other than the concern for human rights. The humanitarian interventions that can be the result of the doctrine of the responsibility to protect raise new requirements for the military. The operations of military personnel in their role as peace enforcer or peace keeper in instable conditions looks a lot like their operations in other asymmetrical conflict zones and situations. This raises the question whether the traditional military values – duty, honour, obedience and loyalty – will suffice these new conflicts. Besides, the complicated en sensitive political context of humanitarian intervention can provoke new ethical dilemmas for military professionals. This military-new-style is expected to have other values and competions at their disposal: a peacekeeper ethos, a profound knowledge and appreciation of human rights as leading principle and a fine tuned diplomatic antenna for the social, cultural, economical and political context one is operating within. Different scholars argue that the military experience a lack of training, education, support and direction to hold its own in the ‘sea of normative questions’ surrounding them.
PART THREE: ETHICS AND INTELLIGENCE

1. Introduction

Intelligence ethics is an ‘emerging field’ which aims to create a theory of ‘just intelligence’ not necessarily by drawing upon the classical philosophical literature, but by establishing principles for resolving the many ethical problems which confront the intelligence community (O’Connor 2008). As a former case officer of the CIA, Melissa Boyle Mahle said in the New York Times of 28th January 2006, at the occasion of the first expert meeting on ‘ethical spying’: ‘As an intelligence officer, you are confronted with ethical dilemmas every day.’ Topics during the meeting were the recent controversies over interrogation techniques bordering on torture and the alleged skewing of pre-war intelligence on Iraq, how many civilian deaths can be justified in a CIA Predator missile strike to kill a known terrorist, or what legal assurances a National Security Agency eavesdropper should demand before singling out the phone calls of an American who was linked to Al Qaeda. But the meeting got criticised by other intelligence professionals. ‘It doesn’t make much sense to me,’ said Duane R. Clarridge, who retired in 1988 after 33 years as a CIA operations officer. ‘Depending on where you’re coming from, the whole business of espionage is unethical. Intelligence ethics is an oxymoron. It’s not an issue. It never was and never will be, not if you want a real spy service. Spies operate under false names, lie about their jobs, and bribe or blackmail foreigners to betray their countries. If you don’t want to do that, just have a State Department.’

So is ethical intelligence an oxymoron? Are there no values, no ethical boundaries, and no moral thoughts on intelligence? Or are there maybe implicit values in intelligence, or is there maybe a renewed case for grounding an ethics for intelligence? In the post 9-11 world, intelligence services are being called on to become the ‘first line of defence’ against the threat of international terrorism. Others talk about ‘taking the gloves off’, or about the necessity for intelligence services to follow a more aggressive approach to intelligence collection; intelligence services have to become hunters rather than gatherers (Jones 2007). It is believed that ‘intelligence of the twenty-first century’ will be characterised by what is termed as an offensive hunt strategy, anticipatory actions and more intrusive intelligence collection. Not that many years earlier, the discussion was on a quite different track. Experts discussed the possibilities of collecting information without the use of secret, clandestine or ‘messy’ sources. Secrecy was thought to be a thing of the past and with it the need for counterintelligence. It was believed that intelligence services could be repositioned as some sort of ‘neutral providers’ of analyses to a wider audience (Bellaby 2006). However, a trend towards the new increase in the importance of intelligence services could be noticed before the 9-11 attacks. A new
category of intelligence collection expanded after the end of the Cold War, directed not at other states, but at an increasing number of different targets: non-state and quasi-state entities, including terrorist organisations, wars within states rather than between them, and the so-called rogue states, outside the pale as far as the main club of states was concerned. After intelligence budgets had been reduced as part of the peace dividend at the end of the Cold War, they were already being restored to cope not only with terrorism but also with the requirements of the 1990s for support of multi-lateral and international peace enforcement and humanitarian operations, and for intelligence on WMD proliferation, sanctions evasion, drug trafficking and the other emerging targets of the decade. Governments were already adapting themselves to what seemed an increasingly unstable world, and to the information revolution within it both in the information available and in governments’ ability to collect and process it. Intelligence as a whole was growing again and was no longer quite such a deniable activity (Herman 2004: 347).

The events of September 11 and what followed radically furthered this position. As in the Cold War, intelligence’s main target has become once again a major and widely shared threat – except that it is according to political leaders now actual, and not potential. Events have had two related effects (Herman 2004: 347). One is to re-emphasise the importance of covert collection and the secrecy needed to protect it. In the years after the Cold War ended commentators could argue that in an increasingly open world intelligence’s emphasis would shift away from collection and towards analysis: there would be more emphasis on ‘intelligence-as-information’, drawing on more open source material, and less on ‘intelligence-as-secrets’. Expected was that intelligence would become rather less mysterious and ‘special’, and eventually rather more like a normal information service such as government statistics; more open and unspectacular, and attracting less media curiosity and hype. This now seems very dated. Intelligence is back and with it its secretness and intrusiveness.

The other effect is the growing concern that in taking the gloves off, intelligence agencies may go too far and betray the trust the public places in them (Pfaff and Tiel 2004: 2). Given the prisoner abuse at Abu Ghraib and Guantanamo Bay, the practice of secret rendition and the disappearance of the new category of ‘unlawful enemy combatants’ in black spots in states where secret services are believed to engage in torture practices, there is an increased impetus to make a clear statement about what is morally acceptable by intelligence agencies (Bellaby 2006). Of course, the reports on the false accusations against the Iraq regime that served as a legitimisation for the invasion of Iraq further fed doubts on the operations of intelligence services. Another actual feature is the growing visibility of the effects of intelligence operations. The public sees transatlantic flights cancelled for fear they have been targeted for attack; concrete bollards appear outside public buildings to deter vehicle bombs; armoured vehicles surround airports to counter a possible surface to air missile attack; and armed police storms houses in residential areas looking for a chemical explosive device. The common factor behind these examples of counter-terrorist action is that they rest on pre-emptive intelligence that may or may not have been accurate, but was according to the authorities in each case sufficiently well sourced that it could not be ignored. The intelligence forced the security authorities to act, to act
quickly, and to act publicly. Such cases were followed by media stories questioning the quality of the intelligence behind the warnings, with commentators directly challenging the veracity of official accounts, or claiming that the threat was being talked up for political motives or questioning the morality of methods alleged to have been used to obtain the intelligence. The importance of anticipatory action thus forces the agencies and their methods more into the open (Omand 2008: 598).

2. Harm ethics

But why should there be a ‘clear statement’ on what is morally acceptable for intelligence agencies? According to Bellaby (2006) intelligence collection involves actions that should be considered in principle to be objectionable because they cause unacceptable ‘harm’, in that they violate an individual’s ‘vital interests’. As Quinnan (2007: 2), a former British defense strategist and former Permanent Under-Secretary at the British Ministry of Defense, stated: intelligence need a distinctive ethical consideration, more than do other governmental activities like diplomacy, bureaucratic administration or military procurement, because its effective practice seems unavoidably to entail doing some things that are plainly and seriously contrary to the moral rules accepted as governing most human activity. Bellaby concludes there is something about intelligence collection that makes it unacceptable in everyday society. Bellaby uses the concept of ‘vital interest’ as the preconditions that must be satisfied first in order for individuals to achieve their personal conception of the good life. If these interests fall below a threshold level than the person is ‘lost’ since they will be unable to live in such a ‘truly human’ way. Therefore, ‘harm’ is the setting back, thwarting, damaging or the violation of an individual’s vital interests. Bellaby sees physical integrity, mental integrity, autonomy, liberty, sense of self-worth and privacy as those interests which are vital. By examining examples of bugging, blackmail and torture by intelligence agencies, Bellaby argues that these all are harmful acts. Bellaby does not argue for a complete prohibition on intelligence. He argues however that for intelligence to be ethical the first step must be to understand the harm that it could cause. By doing this it is then possible to decide if the harm that it can cause is justified given the circumstances at the time. In some circumstances this harm might be justified and others it might not. But by understanding harm as ‘spheres of interlocking vital interests’ it is possible to argue for an ethical framework that clearly outlines the effect intelligence collection can have and in doing fully understand what is, or is not, ‘wrong’ with it.

Other authors agree that it is imperative for intelligence agencies to review their ethics in times when there is much talk of ‘taking the gloves off’. As Pfaff (2006) states, it makes no sense, in defense of justice to do things that are unjust. When agents of a government which professes to champion justice ignore its demands, they undermine the very enterprise they claim to undertake. ‘Such “bungee jumping off the moral high ground” is nonsensical and self-defeating and needs to be resisted.’ Pfaff notes the central ethical paradox in intelligence, where intelligence professionals, just like military and police professionals, must sometimes do things that are morally prohibited outside the professional
context. Intelligence professionals must sometimes lie, cheat, steal, and harm others in order to fulfill their role as spies. Is 'ethical espionage' therefore an oxymoron? No, says Pfaff. Just as there are moral boundaries on the kinds of activities military and police professionals are morally permitted to engage in, so are there boundaries for intelligence professionals. Intelligence professionals must sometimes deceive and harm in order to accomplish their tasks. But intelligence professionals, like military ones, must always take care not to act in such a way that disregards the notion that individual human life and dignity are valuable for their own sake and that people should be treated as an end in themselves and not merely a means. On occasion, Pfaff states, intelligence professionals do in fact do things that are morally repugnant even in the professional context. In the case of intelligence gathering, ‘extreme forms of torture, betraying an informant, even in order to serve otherwise legitimate goals serves as good examples’ for this amoral behaviour. According to Pfaff, some of this disregard for morality can be dismissed as character flaws of individual agents, but much of it can be traced back to ‘misunderstandings’ regarding the nature of professional ethics. Beneath this dispute is a fundamental discussion on the (im)possibilities of an ethical foreign policy, the interests of the state and concepts of national security.

2.1 Realism

A ‘realist’ position holds, according to Pfaff, that ethics has no place in international affairs. The highest duty of statesmen, and by extension the intelligence professional whose activities support the statesmen, is to ensure national survival. Thus anything that gives the nation an advantage is therefore necessary to survival and thus supersedes any obligation there might be between nations. This is, according to Pfaff, how words like ‘national survival’ come to really mean ‘national security’ which comes to mean ‘national interest’. In this view any advantage can be pursued against any target - ally or enemy - regardless of the moral harm done. If we place the end of national security as the highest end, there would be no acts that would be intrinsically wrong, regardless of the harm caused. This ‘realist’ position has been quite influential in the intelligence community for a long time. Pfaff quotes a report to President Eisenhower in 1954, urging the US to employ ‘more ruthless methods’ than its enemies in order to prevent the spread of communism. Even though the report conceded this was a ‘repugnant philosophy’ that violated the American concept of fair play, the authors of the report nonetheless felt these measures were warranted given the seriousness and immediacy of the threat.

At the heart of these kinds of a posteriori arguments is the notion that bad things sometimes need to happen because the consequences (or end) is good. This idea is usually associated with utilitarianism, a type of teleological ethics. From a teleological point of view, it is the end result, long-term utility, or time (telos) that matters. Society and the survival of all are more important than the needs and interests of any one individual or small group.

Jones (2007), however, states that realism is not the same as non-ethical. Realism is a legitimate ethical perspective that equates moral reasoning with self-interest, prudence and raison d’état (Jones 2007). In this view, individuals consent to a relationship with the government as citizens of a particular
state. In return for giving up some of their natural freedoms, citizens expect the state to protect them and pursue their interests. In effect, this contract creates an ethical responsibility for the state to provide national security. Realism is therefore distinct from a nihilist perspective; it does not hold that morality is incompatible with the practice of international politics; instead it argues that acting in the national interest is itself a moral principle. From a realist perspective, covert intelligence is not only desirable, but ethically necessary to fulfill the inherent duties of responsible government. To achieve the morally justifiable duty of national security, government's have the responsibility to determine potential and existing threats through the medium of intelligence gathering. Therefore, governments have a duty to determine what threats lie on the horizons for their citizens, a duty which offers a moral justification, or even stronger, a moral requirement for intelligence-gathering. To fail to engage in intelligence-gathering would be to shirk a moral duty lying at the core of a government's responsibility, for without timely information as to a potential enemy's capability and intentions, civic defense is impossible (Pfaff en Tiel 2004: 4). This means that nothing is ostensibly off-limits for states pursuing legitimate information goals abroad. This moral argument supports the potential for a more creative and aggressive approach to intelligence collection that has become an important position in the post-September 11 security debate.

Although generally accepted within the intelligence community, the realist mentality is according to Jones problematic because few people wholeheartedly subscribe to the view that any activity or conduct is acceptable in pursuance of an objective. A moral minimum that extends beyond the national interest exists, even if knowing where exactly to draw the line can be blurred. Realism advocates that these standards be lowered to accommodate the perceived national purpose. There is always the worry that this will result in a moral slippery slope where once lowered, it becomes simpler and even routine thereby reducing ethical resistance to repugnant activities. Having no hard limits on international political behaviour also fosters a sense of insecurity and distrust in diplomatic relations, which is not conducive to promoting security goals, particularly in countering the asymmetric threat of terrorism. Jones thinks the realist perspective could be improved if the moral obligation to the political community was broadened to represent a coalition of friendly states working together to counter mutual security threats. However, this is made difficult by the realist maxim that 'there are no friendly secret services, only the secret services of friendly states.'

Pfaff (2006) criticises the realist view because there is no meaningful place to draw the line. There are few, if any actions, policies, rules, or institutions that would be morally prohibited either because such claims are meaningless, too subjective, or too vague. 'It does no good to establish moral criteria if any kind of action may be permitted given a particular set of circumstances.' Pfaff states that one may plausibly argue that there is in fact no such thing as morality. One may also plausibly argue that the national interest is the highest good and there are no limits on the kinds of things that can be done in its pursuit. But for this to be plausible, someone who holds this view must reject the idea that human life, and any rights we may want to associate with it, are valuable in and of themselves. Thus, the problem with these views of ethics, according to Pfaff, is that reasonable people cannot hold them and
hold that human life and liberty are fundamentally valuable for their own sake. Yet holding at least some of these things valuable is fundamental to any form of government reasonable people would consent to. ‘So in pursuit of the defense of these values, it makes no sense to violate them. To do so is to make the claim that it is not human life that is valuable, but rather particular lives, by virtue of their membership of a particular state. It is arbitrary, however, to make such a claim given that such membership is an accident of birth.’ If this were the foundation of our moral approach, Pfaff says, then we would be right back to the ‘anything goes’ morality we presumably oppose in our defense of the values of a democratic state.

Also Erskine (2004: 364) sees two problems with the assumption that a realist approach to intelligence is the antithesis of an ethical approach. First, it fails to recognise the diversity of approaches placed in the category of ‘political realism’. Twentieth-century scholars of international relations such as Hans Morgenthau adopt it as a term of self-description, and proponents of a more ‘scientific’ approach to international politics, such as Kenneth Waltz, redefine it for their own use. Each of these ‘unlikely bedfellows’ has a very different understanding of the role of ethics in international politics. Some lend legitimacy to the ‘caricature’ of realism as committed to an amoral international realm. Very many do not. The second shortcoming according to Erskine of equating realism with moral scepticism is that doing so neglects an important and distinctive ethical approach to international politics - one that sees moral reasoning as compatible with self-interest, prudence and raison d’état. This is an understanding of moral reasoning that allows one to justify courses of action with reference to the good of the political community, rather than by aspiring to a more cosmopolitan stance that would grant equal moral weight to all actors, whether friend or foe, ally or adversary. Erskine states that a realist approach to intelligence, or acting in the national interest, is itself complying with a moral principle. For the citizens’ safety, sovereigns need to get intelligence of enemy plans. Despite the lack of restraint that this position allows vis-à-vis action directed at those beyond the borders of the state, the sovereign’s relations with the external world are, nevertheless, morally grounded: these relations arise from the sovereign’s moral obligations to his subjects. This not only supports more aggressive forms of intelligence collection - ‘hunting not gathering’ - but also provides a moral justification for covert action. Many aspects of this realist approach to intelligence collection seem very near to common positions about intelligence policy and practice.

### 2.2 Idealism

A deontological approach is based on the works of idealist philosophers, such as Immanuel Kant who stated that ‘moral conduct means acting within a constraining framework of principles that are independent of consequential considerations’ (Jones 2007). This means that if an action is judged to be morally unacceptable, it cannot be used in the pursuit of any end no matter what the possible circumstance. Morality is regarded as an absolute - ‘thou shalt not kill’ is not an aspiration, but an unchanging maxim without exception, even for self-defence. Kant believed in the concept of ‘categorical imperatives’ that had to remain absolute since human beings had a natural inclination to
make excuses for failing to adhere to moral principles. To be classified as a morally acceptable action in Kantian philosophy the principle guiding the action must be universal and any rational actors must be treated as having value as ends in themselves, thus respecting the principle of human dignity. In essence, idealism is deeply rooted in people’s consideration of what it means to behave morally because at its core is the ‘Golden Rule’ that everybody is taught as children, to behave towards others as they themselves expect to be treated (Jones 2007).

Many of the methods routinely used by intelligence officers in covert gathering operations such as deception, theft, trespass and the manipulation of human sources are thus morally condemned by Kant’s ‘categorical imperatives’. For example, it is impossible to universalize a maxim of deception without contradiction because if everyone deceives, both truth and deception lose meaning. Likewise, the manipulation or coercion of a controlled human source would be condemned because it uses a human actor as a tool towards a political end. For the purpose of intelligence collection, the application of a deontological approach would mean that many currently used collection methods would be considered ethically unacceptable and could not be condoned by reference to the information they produce. This fits in well with Kant’s obvious disdain for espionage which he deemed ‘intrinsically despicable’ since it ‘exploits only the dishonesty of others’. It is clear that from an ethical absolutist perspective the current practice of intelligence gathering would need to be much changed, if not completely renounced. There is no room for flexibility, no wiggle room. Only overt sources clearly do not pose any ethical constraints. Although there are certainly many sources of useful open and clean information available and agencies should make good use of them, the prospect of achieving the required degree of intelligence from tightly closed societies or terrorist cells is limited. ‘In effect, a deontological approach would enforce a radical change to the intelligence community that would hamper its effectiveness by prohibiting many of the activities that intelligence gathering is generally understood to encompass’ (Jones 2007).

Erskine (2004: 371) also finds that as some actions associated with intelligence gathering are morally unacceptable means to the pursuit of any end (regardless of how noble), the deontologist cannot condone methods of intelligence collection with reference to the knowledge that they produce. Torturing a paramilitary leader to extract information about the location of a bomb that will kill hundreds of people, or engaging in deception to infiltrate a foreign intelligence agency, not only cannot be justified from a deontological perspective, but such actions are morally prohibited. Principle, according to this approach, is more important than calculation. One must act only in such a way that the principle guiding one’s action might coherently become universal law (and thereby be valid for all other agents); and, one must treat other rational actors as having value as ends in themselves, rather than solely as means to an end. Many activities presently associated with the gathering of intelligence - particularly human intelligence collection - simply fail to meet either criterion. Deception, for instance, is a fundamental aspect of intelligence. Importantly, Kant does not assume coercion or deception to be morally wrong simply because of their alleged harmful affects, but primarily because they cannot form principles that could be universalised. Actions that fail this latter test are morally prohibited.
2.3 Consequentialism

A third way of ethical reasoning on intelligence is consequentialism (Jones 2007). Like the realist perspective, consequentialism is more concerned with ends than means, judging actions by the value of their consequences. However, consequentialism also takes ‘a page from idealism’ in considering the detrimental impact of actions that cause harm. In this system ‘right’ actions produce the best overall outcome based on an ethical balance sheet. This ‘moral accounting’ makes it possible to consider the overall benefit gained from intelligence collection (in promoting security and international stability for example) to outweigh the morally questionable methods used to obtain it. A consequentialist aspires to a world in which good enjoys the greatest balance over bad (Erskine 2004: 366). These benefits can foster either national or international goals. For example, particular intelligence collection methods could get the green light if their ends promoted the idealist goal of international peace or a realist concern for fewer casualties on their own side. Act-consequentialism can be used to justify harsh and extreme collection methods such as torture or coercion, as morally acceptable so long as they maximize good ends. However, it does not advocate an ‘anything goes’ philosophy on all, or even most occasions. Acceptability is contingent on the ends outweighing the means. A clear example of consequentialist ethics would be the decision to torture a prisoner to gain knowledge about an imminent terrorist operation. In this model, the moral damage of torture is outweighed by the beneficial knowledge that could prevent a terrorist operation that would harm innocents.

In theory, the idea that morally questionable means can be ethically pardoned if they achieve beneficial ends is attractive. However, as Jones states, this model is particularly problematic to put into practice. For one, determining the relative moral weight of negative drawbacks and positive outcomes is all but impossible because it assumes that there is a universal understanding of good. Clearly, the definition of a ‘good’ outcome depends on who it is for - is it good for the military? Good for the government? Or good for the world? Presumably ‘good’ on a global scale would be considered most relevant, but this is also notoriously difficult to define. Also, it is worth considering the caution that intelligence knowledge is used to help shape policy; but policy outcomes cannot be used to justify how this information is collected before the fact. In effect, how can an intelligence professional be certain that the information gained from using torture will indeed be beneficial enough (to anyone) to outweigh the act before the act is completed?

Erskine (2004: 366) analyses that positive effects of intelligence knowledge can, of course, be variously conceived. These benefits might be defined in terms of international peace or national security, reduced ‘enemy’ civilian casualties in war or none of a nation’s soldiers coming home in body bags. In other words, one might envisage positive effects of intelligence collection from a global perspective or from the point of view of a particular state. The ethical realist approach can be seen to be structurally parallel to consequentialism in the sense that the morally right action is the one that maximises the good. However, while the realist position advocates maximising the good of a particular political community, the consequentialist position outlined here is based on impartial consideration of
the interests of others – including those beyond one’s own political community. In exploring whether the gathering of intelligence is an ethical activity, a consequentialist is centrally concerned with whether it make for a better world or a worse one. This provides a stringent test for determining the moral acceptability of intelligence gathering. Consequentialism therefore does not require recognition of some activities - such as torture or killing the ‘innocent’ - as intrinsically wrong. Rather, these activities can be deemed morally acceptable if they maximise the good. In other words, if one adopts a consequentialist approach, a good end can justify even extreme means. Although a consequentialist approach might seem to be as permissive as the ethical realist approach to intelligence collection, it is not. For a consequentialist, the acceptability of any means of intelligence collection is necessarily contingent upon the benefits of knowledge outweighing the costs of collection on a global scale. Such a calculation is onerous, and many accounts of the resulting balance would be highly critical of methods of intelligence collection much less extreme than torture.

Erskine (2004: 367) sees however three problems with relying on a consequentialist approach to lend moral legitimacy to intelligence collection. First, balancing the good outcomes made possible by intelligence knowledge against the detriment of certain activities involved in acquiring it requires one to define both that which is good and that which is detrimental, and to assign relative moral weight to each point along a spectrum between the two categories. This is at least a challenging endeavour. Did intelligence knowledge pertaining to Iraq’s weapons of mass destruction ensured that the United Kingdom behaved in a more informed and responsible manner? Moreover, even if one could establish when such criteria were met, there remains the prior problem of identifying which outcomes would have to be realised to contribute to ‘a better world’. Tensions between notions of the ‘global good’ championed by capitalism and communism, ‘the West’ and ‘fundamentalist Islam’, and multi-national corporations and anti-globalisation movements demonstrate the difficulty of doing so. In short, it is fine to claim that the overall good achieved as a result of intelligence knowledge outweighs the possible detriment of the way that it was collected, but if one cannot agree on what constitutes that which is good or that which is detrimental, then this cannot take us very far.

Second, even if people could agree on what constitutes both the good outcomes that intelligence knowledge can achieve and the harmful activities that these outcomes would have to outweigh, a consequentialist analysis allows one to assign moral significance to indirect, unintended and even unforeseen outcomes of actions. For instance, a plethora of indirect harms might not be so easily outweighed by a claim to a (contested) global good. If an ethical balance sheet is to satisfy a careful consequentialist audit, it must register such harms as debits.

Finally, if one attempts to employ a ‘global ethical balance sheet’, one must rely on projections of whether intelligence information would outweigh in utility the harm of the means by which it was gathered. It is hard even with hindsight to measure the reality and scale of the possible benefits in any concrete way and to bring them into common calculus with the costs. Much intelligence effort is directed towards insurance against events whose probability, importance and cost cannot themselves
be measured. Simply put, ascertaining whether a positive outcome will result from bugging the embassy of an ally or torturing a suspected member of a paramilitary organisation is extremely difficult. Moreover, any attempt to make accurate projections about the international benefits of intelligence knowledge is further impeded by the reality that the impact of intelligence knowledge ultimately depends on how the knowledge is analysed, disseminated and employed - and by whom. Indeed, the actors facing particular ethical decisions regarding acceptable means of collecting intelligence are often not those who then decide how intelligence knowledge will be used. Intelligence knowledge helps to shape policy; policy outcomes cannot be used to justify how this information is collected before the fact. Erskine (2004: 367) points further at the ‘fragmentation of responsibility’ that can result from intelligence operations carried out by different ‘moral agents’. The act of gathering information might be seen as divorced from any harmful consequences of the way that the resulting knowledge is exploited. Intelligence collection and the exploitation of the resulting knowledge - including covert action that relies on this knowledge - might represent discrete activities. The consequences of these activities cannot, however, be so neatly disaggregated.

2.4 Discretion

Another reason for the wish to develop an ethical framework for intelligence is that formal accountability and transparency in the intelligence field is limited. States tend to be unwilling to submit to legal scrutiny, judicial review, or international supervision and control on national security issues. Informal controls that focus on the norms and values of intelligence professionals must fill the gap (Gendron 2005: 426). Informal approaches to accountability and oversight are concerned with the attitudes and beliefs of political leaders, the public, and the press as safeguards against the abuse of power by intelligence services. According to Gendron, democratic societies should aspire to ‘the best not the worst of human values’ in their attempts to provide security, individual liberty, and the rule of law. This aspiration should be made explicit, and the ethical framework which gives it expression and articulates acceptable standards of conduct may be safely broadcast, even if the details of effective intelligence work may not. The individuals who make and manage the decision process on whom the nation depends, and the measures to win public support and trust for the work that intelligence services do, should focus on demonstrating their integrity and that of the institutionalized ethic which guides them. Quoting Richard Betts, Gendron points at the fact that ‘at the end of the day, the strongest defence against intelligence mistakes will come less from any structural or procedural framework, than from the good sense, good character and good mental habits of senior intelligence officials.’ Shpiro (2007) also points at the fact that there are times when laws governing intelligence activities are not enough to guide or limit the activities of the individual intelligence officer. According to Shpiro, this is especially true of the case officer, who often works alone or in small groups, abroad, and at times without immediate access to his or her superiors. Intelligence officers often face factual problems and emotional dilemmas. Laws and regulations sometime provide solutions to problems but rarely answer to emotional dilemmas. This is where intelligence ethics come in. These ethics provide a set of behavioural guidelines, based on certain beliefs and views regarding the role of intelligence in
society and the interaction between citizen and intelligence officer. ‘Ethics begin where written laws and regulations end, and provide a set of recommendations to guide the activities of intelligence officers’ (Shpiro 2007: 2).

Ultimately, Gendron stipulates, informal influences and mechanisms must be relied upon to counter any tendency by intelligence agencies to circumvent formal controls and abuse their power. Deciding on proper conduct is a subjective decision. Intelligence professionals are not immune to the dilemmas that moral issues pose, and in making difficult decisions, they should be guided by the values and mores of the society they serve. To that end, liberal democratic norms and principles, which include political neutrality, objectivity, and individual and collective moral responsibility, should be embedded in the professional culture of intelligence services. Gendron (2005: 399) further points at the need to keep the support of citizens for the intelligence work. Citizens expect that intelligence sector activities will protect and support liberal democracy rather than undermine it. Intelligence professionals must be accountable, act in the public interest, and in conformance with a society’s moral values. Lacking a direct means to confirm that this is so, the public tends to suspect that what is secret must be perverse. In a democratic and pluralistic society, intelligence work is legitimized by public consent, and is morally justifiable only if it conforms to the moral criteria that reflect a society’s accepted values. Clarifying the moral boundaries is therefore important. Moral criteria need to be made explicit in order to generate public trust and support. ‘The public expects its intelligence warriors to act in a manner that is effective in countering the threats, yet also conforms to and sustains rather than undermines democratic values and principles. An explicit and publicly acknowledged ethical framework that provides a practical guide to intelligence decision makers could go some way to restoring much of the moral legitimacy of secret intelligence collection’ (Gendron 2005: 341).

Olson (2006) further underlines the importance of public discussion on the ethical rules governing intelligence. Too often, Olson states, what constitutes acceptable moral behaviour in any given operational situation has been left to the judgement of individual intelligence officers, their supervisors or senior officials. ‘This has been a recipe for confusion, abuse and cover up,’ Olson says. ‘No profession, particularly one that can hide behind a veil of secrecy, should police itself. The people should have a voice in how intelligence operates and what the moral limits are.’ (Olson 2006: ix-x) Further, a lack of ethical guidelines and rules can damage the effectiveness of intelligence operations, because operatives don’t know when the lines are crossed, but can be held accountable for it afterwards. ‘This is not a formula that encourages risk-taking by intelligence practitioners, and the end result is that the overall effectiveness of the war on terror suffers’ (2006: x).

So the moral obligation states have to protect their citizens can serve as the ethical legitimation for intelligence operations. Intelligence can have the potential for detecting national security threats at forehand which opens up the possibility of timely counter measures. So, according to Pfaff and Tiel (2004: 15) we should dispense with the idea that somehow the work of the intelligence professional is not compatible with the dictates of morality. At the same time, both authors reminds us of the danger
embedded in this line of thought: since the road to hell is paved with good intentions and lines do get crossed, it becomes imperative to establish moral boundaries, so intelligence professionals can execute their duties in clear conscience. ‘This is not only good for the professional; it is good for the profession, and given the profession’s importance, to the nation as well.’ Due to the fact that many intelligence operations may rest on questionable morality – steal, lie, cheat, blackmail – it is imperative to draw some ethical lines. An ethical framework seems necessary as a guide for the multiple and difficult questions that arise in the intelligence community. Such an ‘ethical guide’ can be understood as a democratic obligation: the fundamental values of free societies are in the end the limits that intelligence operatives have to obey. This argument for an ethical guide is underlined by the fact that formal accountability and transparency are limited in the intelligence community. A convincing and authoritative ethical framework has the potential of defining essential ethical guidelines that also can act as safeguard for the enduring public support of intelligence and security services. But what could be the contours of such an ethical framework for intelligence?

3. Ethical Intelligence framework

For the formulation of an ethical framework for intelligence, some authors have sought advice and inspiration from the Just War Theory that is guiding the military ethical thinking. In the words of Gendron (2004: 417): a Just War approach to foreign intelligence collection would acknowledge the necessity of using covert and intrusive methods in exceptional circumstances, but limit those occasions whenever possible on grounds that they are corrosive of democratic ideals and principles and, in the longer term, may undermine, rather than enhance, national security. Conditions would be applied not only to the use of secret intelligence but to the nature of the means of collection and to the conduct of intelligence professionals. ‘Failure to meet the conditions would invalidate the justification for covert collection.’ A first condition should be that the need to ‘know’ be not merely speculative or a matter of curiosity, but deemed necessary to identify, clarify, prevent, or counter real and certain threats to national security. In other words: Just Cause. The claim must be real and not spurious, and capable of being demonstrated as such within oversight procedures. The aim should be to limit the use of the most intrusive collection means to those situations where, as a necessary and last resort, no alternative is possible, either because open sources are not available, or are likely to prove insufficient, unreliable, or incapable of producing what is required within the necessary time frame.

However, one must have in mind that much intelligence gathering is aimed at determining the nature of a threat before any act of aggression has been committed. To do this, intelligence professionals often cast a wide net, sometimes directed at people and nations which do not and never will represent any kind of threat (Pfaff 2006). But, as Pfaff warns, just as wide net fishing destroys does a lot more harm than good (most of a catch is often thrown back as waste) so to do intelligence gathering activities run the risk of doing a lot more moral harm than good. So for intelligence gathering activities in peacetime to be justifiable, there needs to be an analogous ‘act of aggression’ that would give the
nation that seeks to obtain these secrets, in some sense, a ‘right’ to them. According to Pfaff, when a nation or non-state group withholds information that is important to the security of another nation, it is knowingly, if not intentionally putting that nation’s citizens at risk. This, in effect, is an ‘act of aggression’ and thus they subject themselves to intelligence operations of other nations. Thus what gives a nation a right to this information is that if it did not possess it, its national security would be severely compromised and its citizens would be at placed at great risk.

Once critical gaps in knowledge have been identified and an overriding security need exists in the deployment of intelligence methods, the most appropriate means to do so must be decided on. According to Gendron (2004: 422-424), the following factors have to be taken in account.

**Threats**
Both the gravity and the immediacy in relation to threats to national interests and security will determine whether covert collection activity is justified and what means should be used. The definition of a grave threat, although varying from one society to another, always includes the potential for widespread loss of life.

**Target Security Awareness**
The target’s security awareness will be a factor in the means used to collect intelligence. The more the target is deemed to be a consenting player in the ‘intelligence game’ and to possess quality information of significant value, the more covert collection methods are justified. The security awareness of the target may make it necessary to use covert and sophisticated intelligence-gathering means. Ultimately, human sources may be needed to penetrate the security barrier and obtain useful intelligence.

**Risk**
The exposure of covert collection activities can jeopardize the reputation of an agency and deprive it of ministerial and public support. Apart from political repercussions, a risk to the life of an agent or the ‘discovery and capture’ of a technical device may also exist. The risk of discovery reinforces the bias against unnecessarily intrusive methods, but the risk of failing to avert a threat tends in the opposite direction.

**Costs**
Costs must be proportional to the potential benefits. Since resources are limited, i.e., surveillance capacity or intelligence professionals with the right language skills or agent handling experience may not be available, they must be allocated where they are likely to be most effective and where the potential benefit is greatest.
Availability of Intelligence

The availability and reliability of open sources of information will influence the decision to collect intelligence covertly and the nature of the means used, but the assessment of the threat will be the determinant.

Opportunities and Capabilities

Intelligence collection capability depends on resources and opportunities. Technical equipment, skilled intelligence professionals, well-placed sources, and even fortuitous circumstances, may allow access to a target or target premises at any particular time. ‘Intelligence is an art form, not a science’, Gendron says.

Technological Developments

The opportunities for surveillance offered by new technologies can shape intelligence collection decisions purely on grounds of existing availability and capacity. Modern surveillance and data processing equipment allow large-scale monitoring that may afford opportunities hitherto not available, at low or no extra cost. Such developments can reinforce ethical preferences if they allow greater discrimination between targets and innocent bystanders, but conversely may, by the very fact that they are available and can be deployed quickly and easily, have the opposite effect.

Probability of Success

Installing a deep-plant listening device in a building is pointless if the identified target is not in residence or unlikely to visit. The probability of success will normally be taken into account on pure efficiency grounds, but if a threat is grave and imminent, or the risk, however slight, unacceptable, covert collection decisions may be made, irrespective of cost, proportionality, or collateral damage to innocent bystanders. Even a low probability of success may be accepted as justifiable in some extreme circumstances.

Discrimination

Clearly, practical as well as moral arguments are possible for ensuring that covert collection activities focus on the target and measures are taken to avoid including innocent bystanders or causing collateral damage. Not the least of these is the success and security of current and future collection efforts, and the need to avoid complaints under human rights legislation that can lead to the loss of the collection agency’s reputation and public support.

3.1 Targets

Other scholars tried to specify intelligence operation within an ethical framework. Pfaff and Tiel, for instance, developed thoughts about who can be legitimately targeted by intelligence officials. The feature that will make persons subject to espionage operations is that they possess or are likely to possess secrets that threaten national security. However, that is not always clear in the beginning. So
Preliminary intelligence gathering must be permissible against persons who may turn out to be wholly innocent of possessing any vital information. Intelligence agencies must possess means to determine who are the likely sources of critical information beyond the obvious candidates like foreign military personnel, foreign intelligence officers, foreign government personnel, etc. Pfaff and Tiel apply some principles that can inform the intelligence world on the legitimacy of targeting subjects: the degree of consent to participate in the world of national secrecy on all levels of a country’s self-defense structures together with the quality of information possessed proportionately permit increasingly invasive means of attempting to acquire that information by foreign powers. Thus, there is a direct link between the legitimacy of the kind of target and the legitimacy of the means employed against him (Pfaff and Tiel 2004: 6).

Pfaff (2006) introduces the concept of ‘shared expectations’. By holding secrets, especially secrets which affect the well being of people in other nations, nations wilfully engage in a form of low level conflict. When states engage in conflict with other states, it would be irrational for them to expect that other states not take actions to protect their interests. Thus what justifies a shared expectation is that it is rational for the members of that profession to hold them. In practice, however, there are some problems. For it is not under all circumstances clear who belong to ‘the game’. Therefore Pfaff and Tiel conclude that, for instance, citizens can be legitimate targets of an intelligence operation, as long as this is necessary to fulfil the goal of preliminary intelligence gathering: identifying the real sources of information. The same goes for persons discovered to be aware of critical information but unaware of its value or his value in the world of national security. So these persons are according to Pfaff and Tiel legitimate targets of intelligence-gathering, though neither has consented to ‘play the game’ beyond his status as a citizen. Hence, the kinds of activities that may be employed against them are ‘proportionately greater in limitation’. Other categories of potential intelligence subjects can be the object of more intrusive operations: the spouse of a defense worker whom is having conversations with her husband that involve classified information. Her listening, and her husband’s fault in revealing elements of his work to her, are two acts of consent that put her into the ‘game’. Both she and her husband are legitimate targets of intelligence gathering of a fairly invasive kind, including the possibility of gathering information useful for blackmail. In other words, information may be gleaned that involves not only their knowledge in the game itself, but involves keeping them as players in the game. Thus, deception, incentives for recruitment, and potentially blackmail for deeds they have actually committed may be used against them. It would be impermissible, however, to manufacture evidence to blackmail or extort her, since this exceeds the degree to which she has consented to participate in the intelligence-world (2004: 7).

The next category of legitimate targets of intelligence gathering is someone discovered to be aware of critical information and aware of its value or his value in the world of defense-secrecy, and happily aware that you are targeting him as a source, because he is disposed toward releasing the information to you. This is the case of a potential intelligence officer, someone who for whatever reason (whether noble or not) is consenting to reveal information to you. A further category of legitimate targets of
intelligence gathering is someone discovered to be aware of critical information and aware of its value or his value in the world of defense-secrecy, and an actual participant in the intelligence world as intelligence professional. This person is subject to the most invasive forms of intelligence gathering, since he is most fully a ‘player’ in the game and by joining an intelligence agency has fully consented to its rigors. He may be deceived, incited to recruitment, or blackmailed over things that he has done, as well as blackmailed for reasons that are manufactured against him (2004: 10).

3.2 Methods
Methods used for intelligence gathering can also be restricted following ethical rules. Scholars have tried to draw the lines. Intelligence professionals are free to deceive and steal from anyone who is a legitimate target. Problematic however is the position of ‘innocent’ bystanders who can be harmed by intelligence operations: family, friends, and employers. Some scholars differentiate between peace and war time. In wartime, more is allowed. In wartime, the amount of risk that intelligence professionals must take is limited in the same way it is for soldiers. Soldiers are not required to take so much risk that their mission will fail or that it necessarily precludes their ability to conduct further missions. This means it will be permissible for soldiers, as well as intelligence professionals, to engage in activities in wartime in which non-combatants may knowingly, though not intentionally harmed (Pfaff 2006). In peacetime, however, the calculation of risk changes. One is not permitted to engage in intelligence gathering activities if innocents will knowingly be harmed, as one is in war. Thus for the intelligence professional, certain permissions which exist in wartime will not be present in peacetime. This means if infiltrating an organization that is not a legitimate target means putting the people in that organization at risk, then it is not permissible. This does not mean intelligence professionals will not be permitted to take any risks in this regard. But if in conducting such activities the agent knowingly sets innocent people up as a target for the other side then that activity is not permitted. Thus while the agent in peacetime may be able to conduct such activities but not in a way that he knowingly puts civilians at risk. Involving someone in the ‘game’ without their knowledge, especially when that puts them at risk violates the limitations imposed by reasonable shared expectations and good faith and thus must be avoided.

Thus, while intelligence professionals are permitted to engage in deception and stealing in order to fulfil their roles, they must take great care when these activities involve innocent people, people who have no reason to expect to be targets or subjects of such activities. Thus when such operations involve innocents, they should be avoided and other means of gaining this information should be pursued. If this is not possible, and the information is vital, then limitations imposed by the doctrine of double effect must be observed (Pfaff 2006). The doctrine of double effect results from the recognition that there is a moral difference between the consequences of our actions that we intend and those we do not intend, but still foresee. Thus, according to this doctrine, it is permissible to perform a good act that has bad consequences, if certain other conditions hold. Those conditions are: 1) the bad effect is unintended, 2) the bad effect is proportional to the desired objective 3) the bad effect is not a direct
means to the good effect and 4) actions are taken to minimize the foreseeable bad effects, even if it means accepting an increased risk to intelligence professionals. A same line of reasoning can be followed for intelligence ‘tradecraft’ like blackmail, extortion and betrayal. It follow from this line of reasoning that an important actual question is whether there is a ‘war on terrorism’ going on, or not. If the threat of terrorism is treated like a war-situation then the ethical limits of intelligence operations are far more lower than is in peace time, i.e. when combating terrorism is mainly understand as an law enforcement project combating criminals.

3.3 Torture

It is a well-established fact that information gained under the duress of torture is rarely reliable. Its practical benefits are so few and its assault on people’s moral sense is so great that torture is almost universally condemned (Pfaff 2006). But Pfaff emphasizes the word ‘almost’. Israel, for instance, has openly embraced torture as a means to get information from suspected terrorists. The FBI and the CIA in its efforts to extract information about terrorist activities are reported to be using torture and drugs. Questions about torture are ‘pushing the boundaries of any moral approach’, as Pfaff mentions, so it is important to be clear about what question are being asked. Sometimes the question is what should be a matter of moral principle and sometimes the question is if there are circumstances in which it can be justified to violate these principles. Pfaff’s ethical approach is based on the idea that all human life has an inherent value that all people are rationally obligated to respect.

The next question then is, is it ever permissible to disregard this foundational belief? In Just War Theory, the doctrine of Supreme Emergency has been developed for addressing this question. Sometimes the evil the enemy represents is so great, almost anything is justified to prevent their victory. Two conditions must hold: 1) the threat must be grave. It must represent the enslavement or genocide of a people, or some other like catastrophe and 2) the threat must be immediate, that is defeat must be imminent - which implies that the morally legitimate means at one’s disposal to fight the threat are insufficient. When these conditions are met, only then may one disregard fundamental moral claims in favour of claims of necessity. The question then is if the threat of modern terrorism is grave and immediate? According to Pfaff, the terrorists, at this point at least, do not represent the ‘utter catastrophe to civilization’ that Supreme Emergency requires. But this could change in the case terrorist groups get weapons of mass destruction. Then it would be wrong, even callous to uphold a moral principle, even a well-founded one, at the expense of innocent people’s lives. To the extent the use of the weapons of mass destruction represent a grave threat to civilization, it is permissible to disregard moral norms to prevent their use.

Other scholars however question the ‘moral taboo’ on torture. As Steinhoff (2006: 341) asks: If it is permissible to kill a defenceless enemy combatant in order to avoid own casualties, why should it not be permissible to torture a defenceless terrorist in order to avoid own casualties? Is torture really that more ‘bad’ than killing? Others refer to the ‘ticking bomb’-argument or the ‘Dirty Harry’-dilemma to
ground an ethical justification for torture. In the Dirty Harry case, a kidnapper brings about a situation where a person is tortured or will continue to be tortured until death (being slowly suffocated in a small hole). According to Steinhoff (2006: 342) it is only just and fair that any harm (Dirty Harry torturing the kidnapper to reveal the hiding place of the kidnapped girl) befalls the person responsible for the situation - the kidnapper. Moreover, the choice is made even easier by the fact that being tortured for a small period of time is better than being tortured until death. ‘Harry made the right decision’ (2006: 342). According to Steinhoff, being a member of a terrorist group that collectively undertake aggressive acts or intentionally pose a threat to innocent people makes one liable to severe countermeasures, because liberal democracy ‘is about the liberty of the innocent’ (2006: 344). ‘This is why there is no particular problem in liberalism to kill aggressors or to deprive them of their liberty if this is the only way to protect innocent people from these aggressors.’ The core value of the liberal state then is the protection of the liberty and the rights of innocent individuals against aggressors. To keep Dirty Harry in the situation described from torturing the kidnapper, therefore, would run against the liberal state’s own raison d’être. The state would help the aggressor, not the victim; it would help the aggressor’s tyranny over the innocent and therefore actually ‘abet the relationship it hates the most’. So there can be situations where torture is an instrumentally adequate and the only means to avert a certain danger from certain morally protected interests and where the protected interests substantially outweigh the infringed ones. Therefore, if the odds are high enough, torture can be not only excused but morally justified (Steinhoff 2006: 345).

However, Steinhoff adds that ‘ticking bomb cases’ are very rare cases. Steinhoff assumes that all the torture that happened or happens in Abu Ghraib, Afghanistan and Guantanamo simply has nothing to do with ticking bombs or hostages who are about to die. The same holds for the overwhelming majority of all other cases of torture. Pfaff (2006) points at the impossible situations a victim of torture can be put in if he simply doesn’t have the information his interrogators suspect him of having. There is nothing he can say to prove he does not have the information. For the torturer the only thing the subject can give to get the torture to stop is the information the torturer is looking for. But the victim of the torture, or anyone else for that matter, cannot prove a negative. There is nothing he can say, if he does not in fact possess the sought for information, to make the torturer stop. That’s why information gained under this kind of duress is extraordinarily unreliable.

Other scholars have attacked the ‘ticking bomb’ scenario as one in which all the premises in the argument are contentious from an empirical point of view. The assumption that the terrorist captured is ‘almost certainly’ the terrorist holding the information is problematic; torture is not guaranteed to work, and the assumption that torture will make terrorists collaborate is both oversimplistic and over-optimistic; and there is very little evidence suggesting that torture obtains the results within a short time period (Bufacchi and Arrigo 2006: 358). More important to these scholars, however, is that in country after country where alleged national security threats have resulted in the torture of domestic enemies - including Algeria, South Africa, Chile, Argentina, Uruguay, El Salvador, Guatemala, Ireland - human rights researchers have shown the failures of various programs of social
repair. Criminal trials, truth commissions, reparations to victims, and community mourning rituals have all proved inadequate. Part of the difficulty of social repair is the high proportion of innocents who are tortured. Therefore, Bufacchi and Arrigo claim that the ‘moral calculus’ of the ticking-bomb argument should weigh (1) the evil of the murders of innocent victims of the bomb against (2) the corruption of key social institutions, the evil of torture of many innocents mistakenly tortured, and the ruination of many torturers. The guilty terrorist himself might even be omitted from the equation as a minor item. ‘It was easy to compare harm to the terrorist to harm to his intended victims. But a much grander moral theory than the ticking-bomb argument is needed to weigh damages to some innocent individuals against damages to key democratic institutions and other innocent individuals’ (2006: 367).

Parallel on the debate on torture, a debate is launched on the practice of ‘targeted killing’, for instance the U.S. Predator strike on an Al-Qaeda operative in Yemen during 2002. Publicists condemned these practices on moral grounds (assassination is politically-motivated murder and therefore beyond the conventions of war and morality; assassination violates the principles of liberal government like due process; assassinations are contrary to international law) and pragmatic grounds (assassination attempts have a high failure rate and the results are simply unpredictable; it would exacerbate the conflict; at worst, it would result in assassination’s return as a tool of policy in international affairs). Other, however, claim that targeted killing is legitimate and ethical acceptable (Patterson and Casale 2005: 642) if two conditions are met. The first is an obvious declaration of intent. According to the authors, the U.S. for instance has made it clear that it wants to incarcerate and/or eliminate certain individuals for their participation in the 11 September 2001 attacks. This list is well-known and those individuals are in hiding. By their actions they have declared themselves to be enemy combatants at war with the United States and in doing so, they have made themselves targets for an appropriate response. Second, targeted killing is designed to respond to foreign combatants. Targeted killing is appropriate in a foreign context when the enemy combatant is in hiding, on the run, or in territory that refuses to surrender that agent. Working with foreign law enforcement agencies, especially at the local level, is often incredibly difficult because they may be sympathetic to the mission of terrorists or feel that acting against terrorists will bring retribution on their families. ‘Attacking individual terrorists and their networks rather than going to war against entire states or regions is proportionate to the task,’ Patterson and Casale conclude (2005: 646).

The case of proportionality is also argued for by Peters (1996) which is a profound advocate of targeted killing as an ethical more favourable option than other options. Instead of ‘slaughter the commanded masses’, the ‘real thugs’ – dictators, terrorists, warlords, drug lords – should be the object of assassinations. ‘Objectively viewed, our position is perverse and cruel when we allow great criminals to escape punishment while attacking their subject populations, infrastructure, or simply their military establishments (...) Our ‘ethical’ national behaviour reminds me of those feudal squabbles in which minor nobles duelled by killing and raping each other's serfs and burning unoffending villages (...) We have become not only losers, but random murderers, willing to kill several hundred Somalis in a single day, but unwilling to kill the chief assassin, willing to uproot the coca fields of struggling
peasants, but without the stomach to retaliate meaningfully against the drug lords who savage our children and our society (...) This will be seen as a license to kill. But the purpose of a military is to kill, and if you cannot stomach that, you should not have a military. The only operative question is whom the military should kill.'

3.4 Economic Espionage

As Pfaff (2006) stated, the moral justification for the practices of the intelligence profession, particularly where such practice involves committing acts that would be immoral outside the professional context, is that such acts must aim at promoting national security, not simply national interests, and especially not simply the interests of some nationals. However, recently it has become fashionable for intelligence agencies to conduct operations that support the welfare of corporations presumably with the intent of preserving or enhancing, by extension, the standard of living in their country. Pfaff finds such developments ‘worrying’ in the context of the ethical debate. For him, intelligence agencies engaging in activities which specifically promote the welfare of organizations - whether they are governmental organizations, non-governmental organizations, or corporations - which do not directly enhance national security, have crossed the line. This also precludes corporations from hiring intelligence professionals to do their ‘dirty’ work for them. Unless narrowly pursuing the requirements of national security, it is wrong to steal industrial secrets or otherwise pursue unfair advantage over one’s competition, Pfaff states. There is only one exception: it is permissible to use any intelligence asset or method to prevent competition from other nations from gaining an unfair advantage. However, the line is crossed when such information is used to take unfair advantage. Others also state that economic espionage should not be the task of intelligence agencies. With a hint to the overthrow of Guatemala’s president Arbenz in 1954 by the CIA in close cooperation with the United Fruit Company, former CIA official Perry (1993) called these kind of actions ‘outrageous’. The coup d’état corrupted the US national interests to serve the narrow objectives of a particular company. Perry also pointed at the risks that intelligence is circulated into business circles, quoting a CIA-agent saying he was prepared to give his life for his country, but not for a company. Perry urged US business not to lobby for CIA help in doing business. ‘Espionage puts at risk the rights and well-being of too many people to allow it to be done in the interest of giving a company an edge in the global marketplace.’

3.5 Speaking truth to power

Ethical issues may also rise at the policy level of intelligence work, after the intelligence gathering has done and analysts have done an assessment of the material. One of the primary ethical issues with analysis is whether policy makers need to be told the ‘truth’, a ‘half-truth’, some ‘shaded truth’, or whatever it is that justifies their predetermined policy (O’Connor 2008). What should an intelligence analyst do if he or she told the truth and the policy makers rejected it? Quit, or keep trying to get them to listen until you’re forced to quit? According to Herman (2004: 345), it is essential to crediting intelligence with a professional ethos of truthfulness. But O’Connor reminds us that politicians have
ways of speaking ‘power to truth’ just as analysts have ways of speaking ‘truth to power’. Caught up in this kind of dilemma, the analyst normally does one of two things: they take the truth to other policymakers (going over the heads of people in their chain of command); or they ‘compromise’ with the analytic product and get as many other analysts as possible to sign off on it. Such bureaucratic games are played incessantly, and it’s always going to be that way while people in the ‘trenches’ know more than the people in power. Effectiveness of intelligence depends not only upon ‘intelligence telling truth to power’ but in policymakers listening to and acting upon that intelligence. Many ‘intelligence failures’ are attributable to those in power not listening to the truth (Gendron 2005: 421). But intelligence failures can also have ‘internal’ origins. Intelligence work is prone to mishaps, failures and catastrophes. Every intelligence service strives to keep such scandals secret from the media and public. The usual argument for keeping such affairs secret is that their exposure may adversely affect intelligence sources and methods. But according to Shpiro (2007: 3-4) that is the price of democracy that a service must be prepared to pay for failing to prevent the problem in the first place. According to him, the ‘most basic principle of intelligence ethics’ in Israel is telling the truth inside the organization. This element may seem almost self-explanatory, even banal, but the history of intelligence teaches otherwise. ‘The world of intelligence has been full of expert liars, and indeed, telling the truth is often considered the least desirable option,’ Shpiro states. Agents and case officers, working under false identities over long periods of time, develop different perceptions of the ‘truth’ or ‘truths’ in plural. But the truth, or true and full reporting, is the core of effective intelligence work (2007: 2).

Accountability is seen by some authors as a prerequisite to prevent the misuse of intelligence by the state, or even the abuse of state power. History has shown that power corrupts, and that authority can be misused, reversed and directed against the people (Müller-Wille 2005: 101). Accountability and oversight mechanisms are also necessary to ensure that the intelligence services themselves do not pose a problem, i.e. abuse their powers and infringe civil liberties arbitrarily. Moreover, a quality control of the intelligence products is necessary, since intelligence is used to support decision-making on vital issues, some of which may even have lethal consequences. But accountability must also counter the ‘hypocritical concept’ (Müller-Wille 2005: 103) often referred to as ‘plausible denial’. According to this, it may sometimes be in the interest of the state that responsible leaders are not informed about all activities, so that necessary operations can be conducted without the official consent of the democratically elected government. As a result of this, Müller-Wille states, leaders, and in the last resort the government, would lose control over the agencies and not be able to take the responsibility they have been elected to shoulder. Thus, politicians are responsible for making sure agencies do not withhold information, and the services must not allow politicians to protect themselves from information on controversial issues (2005: 103). Accountability, then, can also be understood as a protection of the agency’s integrity. It can help them to resist political pressure to ‘cook’ reports and to adapt the conclusions of assessments. ‘To fulfil their task, intelligence agencies must support decision-making with precise information, not with assessments tailored to fit the
preconceptions of policy-makers.’ This includes bad news, contradictory views or the acknowledgement that no credible evidence has been found to back opportune opinions. Oversight can support the agencies’ independence and help them to negate the ‘killing the messenger syndrome’ (Müller-Wille 2005: 104). Of course the government may disregard intelligence. In a democracy political decisions must be taken by politicians, not by the bureaucracy. It is up to the policy-makers to what extent they choose to rely on, and be influenced by, intelligence.

The crucial point, however, is that they can be held accountable if they chose to ignore correct intelligence. Intelligence that is inaccurate or has been ‘sexed up’ disconnects decision-makers from their political responsibility, as the liability is transferred to those producing and providing faulty intelligence. It is far more difficult for parliament and the public to blame the government and hold it accountable for decisions based on flawed intelligence. Too little oversight gives the services and their employees too much discretion. They can then use the means and powers conferred on them as they see fit, be it in what they consider to be in the interest of their masters or, in the worst case, in their own interest. Parliament cannot examine whether the executive’s decisions are backed up by the content of the intelligence if it does not have access to it. In that case, intelligence becomes the government’s unbeatable ‘trump card’ that parliament cannot call (Müller-Wille 2005: 105). Oversight bodies with full access to all documentation of the services and the right to summon any member of the agency for questioning could, however, prevent the executive from ordering desired results from intelligence analysis and from ‘sexing up’ intelligence reports. This form of review forestalls the executive from using the intelligence apparatus for their personal political purposes. On the agency’s side, a working ethic that appreciates oversight is needed. The combination of secrecy, which gives intelligence agencies the capacity to hide disobedience, and a powerful ethic within the agencies, which denies the supremacy of law under particular circumstances, will amount to discretion to ignore the law and in the long term undermine the democratic system itself (2005: 106). Since it is difficult to legislate and influence, let alone determine, the dominant ideology within intelligence agencies through formal rules or institutional arrangements, it is all the more important to consider the positive attitude of candidates towards monitoring when directors and senior officials are nominated.

According to Quinlan (2005: 11) there is however ‘a wider paradigm’ at stake in the use of intelligence, beyond the questions of whether the intelligence product is culpably distorted (whether by provider or recipient) to fit policy preference, or its limitations and uncertainties brushed aside in order to justify or at least not impede decisions desired on other grounds - issues such as those which the Butler Committee and its counterpart in the United States examined over the 2003 invasion of Iraq. There are moral issues also about the use of secret intelligence that touch seriously upon the rights of individuals. It would normally be wrong for public authorities to use to the disadvantage of individuals information which those individuals had no opportunity to test or rebut, and of which they might even be wholly unaware. Yet the product of intelligence is occasionally used in such ways, for example to trigger intrusion into normal privacy, to refuse or limit public employment through processes like vetting, or more recently and controversially in decisions to restrict liberty or withdraw right of
residence or arrest people. Moreover, such actions by government may often rest upon judgements of probability, not upon proof of the standard that court proceedings in criminal justice customarily require. Quinlan says the ‘bar ought to be set high’ (2005: 12) in these situations, and demands a careful weighing that takes in account the limitations and uncertainties of secret intelligence as well as the disagreeable, and ultimately even corrupting, subtractions which its use in such circumstances entails from the customary and proper standards of open democratic societies, and in the long term from the valuable wider respect in which such societies seek to be held.

4. Virtues

Till now we looked at the general ethical justification for intelligence operations and the ethical boundaries that apply to intelligence operations under different circumstances. A central element is the statement that intelligence sometimes requires proceedings that under normal conditions would be seen as morally not acceptable. Next to it an inherent tension can be noticed between the basic rules of liberal democracies and the sometimes inevitable ‘dirty work’ done by intelligence officers. Further, we looked into the potential for oversight on intelligence operations to guarantee their quality, to prevent the political abuse of intelligence and keep intelligence operations within legal and ethical boundaries. We highlighted the necessity of an ethical framework, partly coming from the analysis that intelligence services will be operating in the frontlines of the battle to counter a range of modern threats, with a wide margin of discretion in directing and executing operations. One important element however is lacking: what exactly are the ethical values intelligence officers confess to? And how are intelligence officers appreciating the ethical dimensions of their jobs?

For as far as the moral level of intelligence officers as ‘moral agents’ is concerned, the paradox cannot be ignored that some values are highly appreciated (discretion, loyalty, tenacity) and simultaneously the same intelligence officers are expected to be master in how to lie, deceive, steal, plunder, and perform a number of other ‘dirty acts’, which requires a certain degree of personal ruthlessness (O’Connor 2008). The paradox is encapsulated in the phrase ‘intelligence is a dirty affair done by gentlemen’ (Gendron 2005: 408). Agents are recruited in a variety of ways (money, blackmail, excitement), and sometimes deception itself is used in recruitment (the false flag technique). The opinions of intelligence officers are seldom displayed and mostly in an anecdotic form. Jones (2007) quotes an intelligence officer who was questioned following involvement in the illegal covert operation codenamed Chaos. When asked if he had questioned the legitimacy of the operation he responded,

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2 Operation CHAOS was the code name for a domestic espionage project conducted by the Central Intelligence Agency. The program’s goal was to unmask possible foreign influences on the student antiwar movement. When President Nixon came to office in 1969, all of the existing domestic surveillance activities were consolidated into Operation CHAOS. Operation CHAOS first used CIA stations abroad to report on antiwar activities of United States citizens traveling abroad, employing methods such as physical surveillance and electronic eavesdropping, utilizing “liaison services” in maintaining such surveillance. In 1969, the operation began developing its own network of informants for the purposes of infiltrating various foreign antiwar groups located in foreign countries that might have ties to domestic groups. Eventually, CIA officers expanded the program to include other leftist or
‘the one thing we were concerned about was this: will this course of action work; will we reach the objective that we desire to reach? As far as legality is concerned, morals or ethics, it was never raised by myself or anyone else. I think this suggests that in government we are amoral.’ Presumably on entering government service this official, like most reasonable individuals, valued a concept of ethical behaviour recognizable in liberal democracies, nonetheless he came to believe that the appropriate conduct of an intelligence officer was not concerned with such matters, Jones concludes. But intelligence professionals are ‘moral agents’ which refers to those actors whose possession of certain capabilities for deliberation and action mean that we can expect them to respond to moral guidelines and by extension, hold them accountable for their conduct (Erskine 2004).

Intelligence officials certainly would have the capacity to make decisions based on ethical considerations and it is generally true that the people expect them to. The aptly named Nuremburg defence, or ‘just following orders’, is no longer deemed acceptable because individuals are expected to take a certain moral responsibility for their own actions. However, how can one expect intelligence officers to remain capable as moral agents when society requires them to overshadow normal societal mores with a set of professional ethics that allows them to conscionably ‘break the rules’? The routine exposure to exemptions from traditional moral absolutes must numb the natural gut response that makes most reasonable humans question the morality of decisions before acting. Besides, if the objective is to determine an effective model for ethical intelligence, it must be considered that ultimately an organization is only as ethical as the people who work there (Jones 2007; Erskine 2004). Established rules and standards are meaningless if they are not upheld and routinely enforced. It is interesting to note, according to Jones, that major roles in the management of the CIA have primarily been held by officers whose careers were spent in clandestine activities. It has been suggested that the ‘years of hardening in the ugly business of source control and penetration of foreign capital had surely taken their toll’ and were a contributing factor to the process of compartmentalizing ethically questionable activities such as operation Chaos and human drug experimentation. This example illustrates that neither a government or an intelligence agency can afford to be complacent about the development of a working environment in which concerns for reaching a desired objective replace morally right actions. Clearly, intelligence professionals are not impervious to the problems that moral issues pose and in making difficult decisions they should be guided by the current societal values and mores. This illustrates the importance of discussing and defining the boundaries of ethical intelligence so that morally contentious decisions and actions can be appropriately reviewed by oversight bodies (Jones 2007).

Another significant area of ethical concern has to do with the obstruction of justice in sheltering criminals used as agents, as in, for example, the post-war recruitment by U.S. intelligence of a number of Nazi war criminals to engage in espionage and covert operations against the Soviet Union. Perry (2006: 63) quoted an ex CIA-operative as explaining: it was a visceral business of using any bastard
counter-cultural groups with no discernible connection to Vietnam, such as groups operating within the womens liberation movement. At its finality, Operation CHAOS contained files on 7,200 Americans, and a computer index totaling 300,000 civilians and approximately 1,000 groups.
as long as he was anti-Communist and the eagerness or desire to enlist collaborators meant that sure, you didn't look at their credentials too closely. US intelligence did indeed know about the war-crimes 'credentials' of many of its post-war recruits, as did the British, French and Soviets, who also employed suspected and proven war criminals in intelligence roles (2006: 64). This practice became however risky to US intelligence as well, when ex-Nazis threatened to publicize US covert operations in which they had participated unless the US helped them to escape abroad to avoid prosecution for their wartime atrocities (2006: 65). The CIA later involved similarly 'shady characters' in plots to assassinate various foreign leaders. Underworld figures like Sam Giancana and Santos Trafficante were approached to kill Fidel Castro. In hindsight at least, Perry says, it seems obvious that espionage and covert actions relying upon criminals as intelligence ‘assets’ bear a strong burden of moral justification, chiefly since the victims of their crimes cannot be assumed to give tacit consent to their shelter from prosecution, but also because they can pose a threat to the societies in which they are secretly sheltered. Furthermore, in cases where perpetrators of mass murder (or even ‘ordinary’ murder) have sought refuge in intelligence work, it is difficult to see how the practice could be justified at all, even under the pressures that CIA officers felt in the early post-war years to quickly develop an underground network in the event of war with the Soviet Union (Perry 2006: 69).

4.1 Professional Code of ethics

In codes of ethics, one is giving its word to a higher power or collectivity that they will hold themselves accountable to virtues or standards that are normally above ordinary morality. Codes remind the professionals of their ‘higher calling’. O'Connor (2008) thinks that for most people, the keeping of one's promise is the hard part, as this requires three things: (1) an unusually high degree of self-monitoring; (2) a high degree of other-monitoring (watching out for 'bad apples' that might corrupt the collectivity); and (3) what philosophers have always called the elusive Good Samaritan phenomenon (not even thinking about taking any kind of reward, even praise, for good deeds). These are ‘tall orders’, and when an organization tries to enforce its code of ethics by being more down-to-earth and ‘regulatory’ (in policies and procedure manuals), the usual result is an emphasis upon (2) at the expense of (1) and (3). The usual result is a better ‘snitch’ system whenever administrators begin to take Codes of Ethics as the foundation for policies and procedures. O'Connor differentiates between forms of policy procedures: (1) Restrictive policies - these tend to be big rule books that specify as many situations as possible and contain severe restrictions on officer judgment; (2) Discouragement policies - these tend to only list the most extreme and critical situations an officer will face; and (3) Judgmental policies - these tend to only give general guidance that is generic to all circumstances. However, as O'Connor notes, research in administrative science strongly indicates that the mere existence of policies and procedures does not automatically lead to compliance with those policies and procedures and specialized work groups develop within organizations which tend to create their own sets of ‘expectations’, norms, and a work ethos which can best be characterized as quasi-professional policies and procedures. Specific for the situation of intelligence officials is that systems of self-monitoring are very important; workers are expected to turn themselves in at the slightest hint of
compromise (foreign contacts, foreign travel, criminal conduct, drug and alcohol issues, improper security practices, computer misuse).

Gendron (2005) thinks that the abuses at the Abu Ghraib Prison in Iraq did not reflect the prevailing moral standards of the American people, but the lack of transparency and the absence of a professional ethic inside the military and intelligence. According to her, part of the problem arises because public office confers power: the power 'to do things' which would not be regarded as moral or lawful for private citizens. This discontinuity between private and public morality arises because public officials make decisions on the basis of principles which are embedded in the design and moral features of the institutions they serve. According to Gendron, individuals often cite this as a reason for failing to exercise individual responsibility and morality. ‘Nowhere is this discontinuity between public and private morality greater than in the intelligence business where the nature of the work demands unique skills, and professional standards may require practitioners to lie and deceive or perform a variety of acts which in any other context would be illegal’ (2005: 408). Such tradecraft may be justifiable, but the assumption that the nature of the work is mitigated by the moral rectitude of practitioners is credible only if the public believes that explicit ethical principles guide the work of intelligence professionals, both individually and collectively. If not, public confidence and support may be found wanting.

Formal ethical codes, or codes of conduct tailored to intelligence services, are rare. Remarkably, intelligence codes of conduct doesn’t seem to exist for intelligence and secret services from European countries, or are at least not public available. The CIA does have a code of conduct originated from 1982, holding values like discipline, loyalty, integrity, confidentiality, and postemployment restrictions. Further, the CIA has formulated its core values: service, integrity and excellence. Intelligence code of conduct have the potential of feeding public knowledge and information; free debate on the discrepancies between ends and means, the limits and challenges of intelligence, and its moral consequences can be understood as an education process that can inform and assist social legitimacy so important for intelligence.

4.2 Empirical data

There is almost no public research available in which intelligence professionals themselves reflect on the ethical dimensions of their work. There is of course the ‘four-pronged test' to determine if ethical lines are crossed, that regularly can be witnessed in stories on intelligence. The first is a legal test: Is it legal. The second is a gut test: How does it feel? The third is the media test: How would you be able to explain it on the front page of the newspaper? And the fourth test is the mom test: How would you explain it your mom what you are doing? If you can pass all those tests, you’re doing all right as an intelligence officer. Besides this, one can find in scientific literature some reflections on the ethical standards intelligence officers should be adhering to. According to Shpiro (2007: 2), five elements of intelligence ethics can be differentiated: telling the truth; protecting your sources internally as well as
externally; resisting internal cover-ups; respect for religions; individual moral character states. Regarding the individual moral character, Shpiro states that intelligence officers - in Israel - have always been expected to have a higher moral standard than the average citizen. In the early years of the Israeli state, this arose out of a perception that intelligence personnel were among the social elite and expected to behave impeccably in their personal life. But despite that strict ethical code, many intelligence officers experienced personal crises and scandals. However, those were usually hushed up in order not to spoil the general image. In more recent years ethics of moral standards have changed, mirroring deep changes in the wider Israeli society. Intelligence officers are no longer expected to be model family members and paragons of society, but at least to avoid scandalous divorces and noisy interpersonal affairs (2007: 6).

Former deputy director James Barry from the CIA’s Centre for the Study for Intelligence once wrote that people would support a covert action if (1) the action is approved by the president, after due deliberation within the Executive Branch, and with the knowledge and concurrence of appropriate members of the Congress; (2) the intentions and objectives are clearly spelled out, reasonable, and just; (3) other means of achieving the objectives would not be effective; (4) there is a reasonable probability of success; and (5) the methods envisioned are commensurate with the objectives (Barry 1993: 378). Further, Barry states, it is reasonable to presume that the American people would approve of methods that minimize injury (physical, economic, or psychological) to innocent people, that are proportionate to the threat, and under firm US control. And those who advocate or approve such covert actions bear the additional burden of demonstrating why they must be conducted secretly.

The only available research on the value orientations of intelligence officials is embedded in a publication by Kent Pekel (2005) on the CIA. Four broad issues addressed by members of the CIA - issues of ideology, dissent, failure, and management – were seen as important challenges to the integrity as an organization, and as critical determinants of the ability to navigate the potential minefield of ethics. There was agreement among the participants that approaching this subject exclusively from the standpoint of training and education was not enough, that regardless of how good the curriculum and the instructors might be, an organization cannot simply inoculate people with ‘good ethics’ in the classroom and then send them out into an organizational environment that will profoundly shape the way they think and act in doing their work (2005: 85). It was found that the word ‘ethics’ often invoked thoughts of compulsory annual briefings in the Agency auditorium, while ‘integrity’ more clearly connoted commitment without coercion to deeply held priorities and values. Integrity also carries the idea that this commitment to values is maintained even when it goes against one’s self-interest to do so. In this sense, being ethical implies doing the right thing; having integrity implies doing the right thing even when it hurts. Many of the official interviewed felt that the CIA had largely taken this passive approach to organizational integrity. While informal conversations about issues of ethics occurred frequently throughout the Agency among friends and immediate colleagues, and while some parts of the CIA had developed codes of ethics and had run successful ethics education seminars, in general most felt that the issue either had not been addressed or had been addressed only within the
framework of legal compliance. Some suggested that this has been due to the mission-driven character of the CIA, which has necessitated an intense focus on external events rather than on internal organizational dynamics (2005: 86). Others thought the rigorous selection process that people go through before they join the CIA has generally guaranteed that Agency employees possess strong moral backgrounds, and has thus made a formal focus on integrity unnecessary. Perhaps most important, Pekel found, an ethics strategy founded primarily on legal compliance ignores the fact that what is neither illegal nor against the rules may still be ethically problematic. The following eight themes were mentioned repeatedly during the interview sessions and could be seen as an eight-point definition of organizational integrity for the CIA:

1. Belief in and awareness of the moral purpose of the Agency mission
2. Always speaking truth to power, both within the Agency and with the policymakers they serve
3. Doing your homework - knowing when you have enough information to make a decision and explaining with clarity and honesty what you cannot do or do not know
4. Willingness to be held accountable for what you do, write, and say
5. Taking calculated risks in obtaining and analyzing information
6. Responsible use of the public’s money and honour
7. Giving all employees an equal chance to achieve and be rewarded for excellence
8. Accepting and learning from failure as a means of continually improving who you are

Four broad challenges emerged during the research:

**Cloudy Moral Purpose**

During the Cold War, there was universal clarity about the ideals and commitments to which the CIA was dedicated. Awareness of and commitment to shared values were the driving forces behind the CIA’s operating culture. As the dust has settled from the fall of communism, threats to the United States still remain. But for many of the interviewed, these new threats lack the obvious moral dimension presented by the expansionist ideology of the Soviet Union, and are thus less compelling motivators for doing a difficult job with integrity. As one case officer said: “Now the only thing that matters is: Is it good for the United States?” Others suggested that this cloudier sense of moral purpose may in the future also have ethical implications. They worried that, if the case officers of tomorrow are less clear about the goals to which their profession is dedicated, they will be more likely to become ‘soiled’ by the ‘dirty’ aspects of their craft.

**Encouraging Dissent and Accepting Bad News**

The interviews conducted suggest that the CIA’s record on encouraging dissent and accepting bad news has been mixed. A career officer told that, ‘There has never been a time when I felt I couldn’t speak up,’ while another said that those who do speak up challenge the most prized value: loyalty. They are considered ‘wave makers’ who are ‘not on the team’ or ‘in revolt’. A senior manager who spent his career in the CIA related the story of a time when he reported a colleague for unethical
conducted with a ‘floozy’ and was criticized by Headquarters for not being ‘one of the boys’. Dissent and discussion are, or should be according to Pekel, the life blood of intelligence agencies. ‘Speaking truth to power’ depends upon a vigorous effort to find the truth, and high quality analysis is as much the product of open intellectual discourse as it is of diligent research. While none of the employees suggested that there has been a conscious attempt to stifle debate within the organization, a significant number did raise concerns about the unintended effects of the ‘constant need to please the customer’ on the free flow of ideas. Their primary concern on this point was that the current emphasis on producing analysis that speaks with one voice and reflects consensus increasingly leads to ‘group think’ and a watered-down analytic product.

**Misdefining Failure and the Fear of Taking Risks**

The CIA has long had a ‘can-do’ approach to its mission, characterized in particular by a refusal to accept failure as an end result even in the most difficult of situations. Every employee interviewed was proud of this tradition. A significant number of them, however, also suggested that this unwillingness to tolerate failure has a negative side as well. They argued that when people fear they will be blamed for anything short of an optimal outcome, pressure is created to do whatever it takes to achieve that outcome, including cutting ethical corners and covering up mistakes. By contrast, if it is understood and accepted that failure often results not from dereliction of duty or lack of effort, there is less chance that people will feel the need to compromise their integrity when things go badly.

**Promotion and Performance Appraisal**

Almost without exception, the agents agreed that it is in the area of promotion and performance appraisal that management most ‘walks the talk’ on ethics and integrity. Are people actually rewarded for integrity, or chiefly for effectiveness more narrowly defined, such as the ability to get a job done quickly and without flaps? The best managers do both, and Pekel heard numerous stories of such people at the CIA. But many also described a long tradition at the Agency of promoting people who have demonstrated effectiveness at the expense of integrity. A related failure that was mentioned was to enforce adequate consequences for conduct lacking in integrity. They referred to a tradition of avoiding the task of holding people accountable for breaches of integrity, of ‘passing the trash’, rather than forcing a change in behaviour or separation from the organization. They pointed out that often there were good intentions behind this tradition: the Agency sought to protect its own and also had to weigh the troubling security implications of firing a disgruntled employee. Despite these good intentions, however, when managers failed to take action in such cases the wrong message was sent to employees about the organization’s real commitment to integrity (2005: 91).
5. Challenges

The question relevant is which value assumptions and ethical consequences are contained in the internal/external security continuum. What is the link between security and ethics on the internal/external continuum and how is it changing? For lack of empirical data regarding the ethical beliefs and ethical practices of intelligence officers and intelligence services – especially in the European context – it is foremost a matter of educated guessing into the possible consequences in this intelligence setting. However, the literature offers some suggestions about the possible dimensions of the changes the intelligence community is currently witnessing and its possible consequences.

5.1 International cooperation

Intelligence agencies have always cooperated internationally. The CIA, for instance, had liaisons with some 400 foreign intelligence, security and police organisations. By comparison, the Russian FSB (the internal security part of the old KGB) was similarly claiming to have around 80 missions representing the special services of 56 countries working permanently in Moscow, and formal agreements with 40 foreign partners in 33 countries. Up to UNSCOM’s withdrawal in 1998, up to 20 nations are said to have passed information to it on Iraqi sanctions busting and weapons development. But September 11 brought a great boost to this ‘internationalisation’ (Herman 2004: 349). The United States developed a set of new or deeper counterterrorist relationships, and Britain followed suit. The Blair-Putin statement after their meeting of 20-21 December 2001 confirmed that ‘co-operation on intelligence matters has been unprecedently close’ and announced an Anglo-Russian agreement to set up a new ‘joint group to share intelligence’. The Security Service, necessarily the most domestically oriented of the British agencies, had over 100 links with foreign intelligence and security services in 2002.

This internationalisation has not been completely centred on the US hub or the English-speaking communities. The European Union for its part developed its ‘anti-terrorist roadmap’ for European action, including common measures for improving databases on individuals, making more information available from public electronic communications, and the establishment of a new group of heads of security and intelligence agencies to meet regularly. According to Herman, this is all a ‘considerable shift’. Despite all its bilateral and multi-lateral foreign liaisons, intelligence was previously regarded as still an essentially separate, eremitic national activity. It is now becoming an increasingly important international network in its own right, in the world of ever-growing intergovernmental co-operation.

The effect on its ethical balance sheet is twofold. It narrows the area to which the security dilemma applies; yet simultaneously sharpens the dilemma where it does (Herman 2004: 350). Recent events are emphasising the importance of professional qualities throughout its whole process of collection, evaluation, assessment and distribution. At a national level, both the CIA and British agencies seem to have acted as governments’ conscience over Iraq (2004: 350). Professional standards are back on the
agenda. This importance of standards spreads well beyond the English-speaking communities and applies to intelligence’s internationalisation. The era of increased intergovernmental co-operation increases the need not only for intelligence exchanges, but also for professionalism in handling it. Exchanges of information for international action are of only limited value without some corresponding international growth of depoliticisation and the pursuit of truthfulness in producing and interpreting them (Herman 2004: 350). But the other side is that more international co-operation on terrorism means consorting with ‘politically dubious foreign bedfellows’. Espionage may involve normally reprehensible activities or associations. Nevertheless on collection against this class of target the events of the last two years have tipped the balance further against substantial ethical restraints. If the wartime metaphor fits counter-terrorism, it implies relatively few moral restrictions on information gathering on its targets. Gendron (2005: 430) warns for the ethical dilemma’s liberal states face when material from liaisons is used where there is a likelihood that it has been extracted by torture or other coercive means. And since the product of coercion also tends to be unreliable, ‘neither morality nor efficiency may be well served by sharing intelligence with rogue regimes’.

Treating the information received with scepticism and ensuring that it is not used without corroboration might meet the efficiency requirement, but morally the potentially adverse human consequences and the terms of any liaison quid pro quo would provide both necessary and sufficient grounds for rejecting such material and attempting to find alternative sources, even if that entails acceptance of greater risks. Quanlan (2007: 10) does not see easy solutions to these kinds of dilemmas. What should be the moral evaluation of continuing intelligence cooperation and information exchange with countries known to use methods which liberal agencies regard as wrongful? If they come into possession of particular information that is operationally important for the protection of their people they cannot expunge it from their minds or artificially pretend not to know it even if they believe or suspect it to have been wrongfully acquired; but a systematic and ongoing relationship - to sustain which, moreover, they may be expected to divulge information about individuals as well as to receive it - is a different matter. ‘It is not easy to find a ready answer to this problem, which is the more awkward in that it may sometimes in practice be precisely from countries where the risk of brutal interrogation may be high that information about terrorism is most needed.’

International cooperation has also its effects on national standards of accountability (Born and Leigh 2005). Bilateral cooperation normally involves the sharing of intelligence information and analysis on topics of mutual interest. Such bilateral relations can only be maintained and continued if both parties fully and strictly respect the basic agreement underlying their intelligence sharing: that the origin and details of intelligence provided by the partner service will be protected according to its classification and will not be passed on to third parties. Indeed, cooperation with foreign agencies is a practical necessity, for example, in combating terrorism. Yet this also bears the risk of at best compromising domestic standards of constitutionalism, legality and propriety through unregulated cooperation and, at worst, consciously using cooperative arrangements to circumvent domestic controls on the obtaining of information or for protection of privacy. It is therefore essential that international cooperation of
intelligence services should be properly authorised and subject to minimum safeguards (Born and Leigh 2005: 66). Born and Leigh underline that cooperation with foreign agencies should only take place in accordance with arrangements approved by democratically accountable politicians, in order to hold the principle of accountability. One of the dangers they see is cooperation with foreign intelligence services whose practices infringe non-derogable human rights. Another danger lies in giving information on national citizens to foreign security services.

Müller-Wille (2006: 101) uses the concept of ‘international governance’ to describe the difficulties that European governments face in holding their agencies accountable in the European field. The issue of how this relatively new form of governance makes the system of accountabilities more complex and blurs it has been on the agenda for some time. It is not only a matter of moving the decision-making further away from the electorate. When national and international bodies begin to share responsibilities, accountability relationships also become more opaque. The additional level of governance sometimes clouds the ‘principal-agent’ relationship. In other words, it is not always evident who an EU agency and European intelligence officials are, or should be, accountable to, and in what way.

Clough (2004) points at some other issues in the transnationalization of intelligence. There are great differences in the intelligence capabilities of states now working together. The Kosovo campaign provides an example of a military alliance in conflict, where national commanders had access to different levels of intelligence based on their national sources. Even at the tactical level, and with intelligence that should be shared, the technical issue of interoperability often prevented this. U.S. systems are becoming increasingly advanced in comparison to many other member states. This gulf between the ‘haves’ and ‘have-nots’ will possibly increase until some nations are no longer capable of effective combined operations with the United States. Interestingly, Clough says, the French reputation for careful analysis of potential targets must be seen in light of the fact that France controls the continent’s only other military satellite imagery system. Paris’s occasional vetoing of targets could therefore be seen not as merely a ‘Gaullist distrust’ of the US, but rather as the ‘only effective independent voice’ (2004: 604).

Clough foresees numerous ‘drivers’ that are likely to increase the depth and breadth of international cooperation in strategic intelligence. The basic factor is that of perceived threat. The relationship then balances on the resources required to provide intelligence on that threat, countered against the potential risks inherent in cooperation. But, if sufficient risk exists, cooperation can overcome any constraint. Particular advantages can be gained from burden sharing, on the basis of either a regional or subject matter specialization, or on the sharing of resources. In both cases, the combined effort should be greater than the sum of its parts. An example of capability specialization can be found within the UK-US. special relationship, where the U.S. controls the high technology, particularly the satellite-based intelligence assets, while the UK retains a much stronger
tradition in human intelligence. A further strong benefit of cooperation comes from having a ‘second opinion’. Much of the intelligence business, particularly in the area of analysis, is based on individuals - their personalities, experiences, and theories. Thus, sharing ideas and concepts with someone from a different nation, but with the same responsibilities, will almost always be advantageous, either to reinforce theories or to avoid narrow thinking (2004: 605).

But one area of particular sensitivity is the issue of ‘friends-on-friends’. This expression is used to describe intelligence collection against very specific targets in allied nations - an activity that needs the highest level of political approval to countenance and that would cause extraordinary embarrassment if disclosed. But certain targets may be suitable, particularly in the commercial, rather than government, sector, such as the export of arms or components that may be employed in the development of WMD. Herman (2004: 352) likewise pointed at the risk that the need for more international collaboration could be hampered when the ‘old’ practice of spying on ‘friends’ is continued - significant intelligence is still collected to defend or advance purely national interests; for example, helping governments to get the best deal they can in the welter of trade, economic, financial and other negotiations that make up international society's daily substance. Some of this intelligence is produced by means which the targets would consider to be intrusive. Can this targeting really be squared with the governments' simultaneously seeking closer intelligence collaboration in common causes (Herman 2004: 352)?

Recent revelations about the electronic bugging of the office of United Nations (UN) Secretary General Kofi Annan in order to determine how UN members were likely to vote on a Security Council resolution concerned with intervention in Iraq were probably too far for some to accept. Others would claim that a state’s failure to use all available means to inform itself about events which could impact its domestic and foreign policy and threaten the lives of its citizens would be equally unethical. The global interdependence of states increases their vulnerability to covert actions undertaken by foreign powers intent upon protecting their own interests. States spy on each other even when they are on good terms, as was revealed by the Echelon system of communications surveillance in 1998 (Gendron 2005: 411). Gendron also points at an infiltration operation carried out by the United Kingdom’s domestic Security Service against the Pakistan High Commission in London in order to gather valuable intelligence for the war on terrorism. Later allegations held that this spying operation against an ostensibly friendly ally was not authorized by the Home Secretary. The attempt to place listening devices in the building, and surreptitiously obtain, through an agent, material relating to visa applications, came unravelled when the agent lost his nerve and revealed all. If the reports are correct, the UK and US would appear to have had very little confidence in the willingness or ability of the Pakistanis to identify, investigate, or share intelligence on potential Islamic radicals based in Britain. It was therefore decided, as a matter of necessity, to obtain intelligence deemed vital to national security by other means (2005: 412)

According to Clough, another ‘specific drawback’ of enhanced international cooperation is the potential of ‘circular reporting’. For example, three nations might have separate cooperative agreements, each
relationship not declared to the other party. A snippet of data may be passed in a full circle, and thus, when received by the originating nation, may be considered corroboration for what might have been only a tentative assumption in the first place. In practice, the number of parties and relationships will be greater, and therefore the problem more complex (Clough 2004: 606). Besides that, there is the profound risk of wider political influences that may be used to influence intelligence relationships. For example, bilateral agreements can be subverted to conduct deception or to affect the policies of the other nation. For example, the US uses its close relationship with Israel for intelligence within the Middle East. This reliance is used by Israel to supply the U.S. with what some allege to be the ‘most sinister view possible’ of the Palestine organizations and other threats, which could in theory result in a lack of balance in Washington’s policies (2004: 607).

5.2 A new paradigm?

Herman (2004) proposes a ‘new paradigm’. Intelligence’s place has been determined historically by ideas of national sovereignty, threats and interstate competition. Despite alliances and exchanges, one state’s gain in knowledge has been seen basically as another’s defeat in information protection. Yet September 11 and the counter-terrorist campaign link with other events of recent years to produce a mood for new ideas. Intelligence could be seen no longer as primarily an element in states’ competition with others, but as a means of co-operation for shared objectives against common targets: a legitimised activity, with some recognised international standards similar to those of other professions, such as law enforcement. According to Herman, ‘it is time for an international rather than a national view of security’. A revision of the mental framework for intelligence might be part of some much larger process of that kind. Intelligence has to fit into the ethics of an increasingly co-operative system of states, perhaps with bigger changes in thinking than have previously seemed possible (2004: 355). Gendron (2005: 409) is also among the authors that support a broader definition of national security issues. ‘Nations cannot be expected to sacrifice their vital interests for the welfare of the international community, but they can be expected to set aside traditional sovereign state concerns with balance of power and raison d’état, and identify their interests with broader cooperative security and humanitarian aims.’

Liberal democratic states should engage in a form of contractualism when they seek to justify their actions and secure for themselves wider support from within the represented community and from others who share a common set of values. Not only are states justified in using their power to protect their own interests, but they must be willing and prepared to use it to advance the interests of others or risk losing their ability to act ethically. The moral obligation to the political community could be broadened to represent a coalition of friendly states working together to counter mutual security threats. In a similar line of reasoning, Steele (2004; see also Herman 1996: 368) has argued for multilateral intelligence cooperation in the context of peacekeeping and humanitarian intervention. However, as Jones (2007) asks, is this possible within the realist maxim that ‘there are no friendly secret services, only the secret services of friendly states’?
6. Intermediary conclusions on ethics and intelligence

Intelligence and ethics, as we analysed it, is not necessarily an oxymoron, but neither are they easy bed fellows. Is intelligence a dirty job done by gentlemen? Can there be a *Just Ad Intelligentia* and a *Just In Intelligentia*, parallel to the Just War Theory? This paper is not the place to make any final comments on the possibilities of ethical intelligence. What seems clear, however, is that intelligence has its own paradigm, its own practices, its own culture, its own goals. The ethical justification for intelligence operations, with their potential immoral characteristics, can be found in the moral obligation of states to timely anticipate threats to the national security and their citizens. Within intelligence operations, scholars have tried to formulate the ethical boundaries of intelligence operations, as an expression of the fundamental values and norms intelligence officers have to protect. Recent developments can challenge this ethical framework. Intelligence and security services have got more powers and a widened mandate for countering the threat of international terrorism, with some ethical questionable consequences as, for instance, the return of torture as an intelligence tool. Besides the confrontation with terrorism, intelligence services have to prepare themselves to counter more diffuse threats that they were used to counter during the Cold War: failing states, transnational criminal networks, international gangs and civil wars.

This ‘new insurveyability’ could, according to several authors, lead to a more international orientation of intelligence services instead of the one-dimensional focus on national security issues that was the dominant perspective. New forms of international cooperation however raise new ethical questions: the cooperation with countries that violate human rights; the question of accountability and transparency, and the relationship between the intelligence community and the political powers that be. Due to a lack of empirical data on the ethical beliefs and practices of intelligence officers and services it is foremost a matter of speculation whether new values and ethical dilemmas are born in the wake of the changing substance and environment of intelligence. However, some aspects can be distilled from scientific literature that are believed to influence the development of the ethical framework of intelligence and with it potentially influence the other security professionals working in the internal-external security continuum.

1. Intelligence services have a widened mandate and more powers, but also a more prominent role in combating terrorism.
2. Culture, procedures and modes of operations, tactics and strategies of the intelligence community will be more than before penetrate the practices and value systems of other security organizations engaged in combating terrorism.
3. Due to this, the chance is that a culture of secrecy will be enhanced, accountability and transparency will be more problematic and a pro-active or pre-emptive logic will be enhanced in operational culture and styles.

4. International cooperation is growing, and as a consequence important questions emerge on the limits of intelligence cooperation in the light of human right abuses, international accountability and transparency, the definition of ‘national security’, the fragmentation of responsibilities and the question of ‘speaking truth to power’.
PART FOUR: CONCLUDING REMARKS

1. Introduction

As we stated at the beginning of this paper, security and insecurity are social, cultural and political concepts. The security threat to Europe, once confined to the logic of a bipolar arms race, became in the recent years more ubiquitous, and the need to guard against security threats turned increasingly inward. Security agencies traditionally responsible for assuring security from external dangers (primarily the military) began to develop means and mechanisms for seeking out threats inside Europe, thus overlapping with the traditional dominion of internal security agencies. The attacks on 9-11 in the United States, together with those in Madrid in 2004 and London in 2005, intensified and accelerated this process. However, while external security authorities increasingly seek to locate threats in the internal security sphere, traditional internal authorities such as the police, increasingly seek security threats beyond borders: transnational organized crime networks, terrorist networks, etc. This way, a security continuum linking and imbricating internal and external security concerns has emerged. Internal and external security challenges lie on a continuum of security practices.

The question relevant for this part of the INEX-project is which value assumptions and ethical consequences are contained in the internal/external security continuum. What is the link between security and ethics on the internal/external continuum? Europe’s security has historically revolved around the presumption of a distinct set of European values that are forming the foundation of European identity. Manners (2002: 240-241; 2008) for instance, observe that the EU’s normative difference comes from its historical context. The EU was created in a post-war historical environment which reviled the nationalisms that had led to war and genocide. Peace and liberty were thus defining features of west European politics in the immediate post-war period. The norms of democracy, rule of law and human rights grew later when it was important to distinguish democratic Western Europe from communist Eastern Europe. These then became defining features of transition from communist rule in the immediate post-cold war period as the Copenhagen criteria demonstrate. The principles of democracy, rule of law, social justice and respect for human rights were first made explicit in the 1973 Copenhagen declaration on European identity, although the centrality of many of these norms was only constitutionalized in the TEU. Citing different scholars, Manning argues that a strong commitment to human rights is one of the principal characteristics of the European Union. Further, according to Manners, The EU external relations are more informed by the universal declaration of human rights than most other actors in world politics.

Defending Europe is identical to defending these values. Europe’s external borders are therefore not simply physical barriers, but also demarcations between ‘ethical zones’ where certain regimes of
social, political, legal and moral rights are distinctly valid and where others are not. The borders also represent the limit that differentiates what security practices may be implemented, which tools and means of policing and criminology, diplomatic protocol and military modes of operation are both legitimate and functional. However, the internal/external security continuum reflects an encroaching ambiguity of the ‘inside-ness’ and ‘outside-ness’ of security practices. Both the concepts and the definitions, and the actual practices by which Europe traditionally differentiates between itself and the threats which it confronts are less distinct.

The concept of ‘Normative Power Europe’, or Europe as a ‘force for good’ in the world has therefore been criticised by different authors. Starting from a realist perspective on foreign affairs, Hyde-Price (2008: 29-30) for instance, puts the argument that in a world of rival states with competing visions of the ‘good life’ the pursuit of an ethical foreign and security policy risk the ‘tragic outcomes’ of the EU being left as a weak and ineffective actor unable to further the shared interests of its member states, or will indulge in ‘quixotic moral crusades’. The EU should therefore not act as a ‘crusader’ but as a ‘calculator’; the ethical dimensions of EU’s policies, where feasible, should be limited to a set of three principles of statecraft rooted in an ‘ethic of ultimate ends’: prudence, scepticism and reciprocity. Other scholars (Merlingen 2007) state that the notion of Normative Power Europe downplays that European foreign policy is invested with strategic calculations and that the material interests underpinning this calculus often trump the normative agenda of the EU where the two clash. Research into the EU’s policy towards the Maghreb by Joffé (2008) shows for instance that the normative objectives of Union policy, particularly in the political sphere, turned out to be ‘essentially rhetorical in nature’ and, in the end, subordinate to the Union’s security agenda. This raises serious questions as to the real significance of the Union’s norms and the extent to which they are no more than ‘a construct which camouflages’ the underlying concerns of both the Union and its Member States. One immediate consequence of the policies adopted was to further securitize the issue of migration, both in terms of the Union’s relationship with the states of the Maghreb and in terms of the attitudes adopted towards domestic minority communities. The pattern of events raises according to Joffé the question as to the real novelty of the Union’s normative agenda and of the degree to which it really wishes to act as a normative power. ‘It may well seek to project its values but to what extent can those values be described as universal and to what extent are they merely a projection of a specifically European agenda?’ (Joffé 2008: 168).

De Goede (2008) reminds us that ‘Europe’ is not a fixed actor or identity but is itself being reconstituted through the practices of securitization in the war on terror. As De Goede states, it becomes clear that, with respect to a number of policies that play a key role in pre-emptive security practice, including criminalizing terrorist support, data retention, and asset freezing, the European Union is ‘world leader rather than reluctant follower’. Diez and Pace (2007) add that the concept of Normative Power Europe is better seen as a discursive self-construction imbuing the integration project with new force and establishing an EU identity against Others, rather than an objective analytical concept.
The merging of internal and external security can have profound effects on the underlying value systems of security professionals, resulting in 'ethical blurring'. Bigo (2006: 111-114) coined the term ‘field of (in)security’ to conceptualize the space in which security professionals claim through their authority of specific knowledge that they have the capacity to class and prioritize threats and to determine what constitutes ‘(in)security’. The central question relevant to defining security is thus to know who is authorized or to whom is delegated the symbolic power to designate exactly what the threats are. But under the challenges arising from the new terrorist threats, rogue states and humanitarian tragedies, the ‘field of security’ is itself on the move. In all the European member states there has been a reconfiguration of the security field, aimed at overcoming obstacles for the cooperation between different security actors like law enforcement agencies, intelligence and security agencies, customs, military intelligence, border guards, immigration services and prosecution services. The results are mixed and differ from country to country, which is understandable because all these agencies have different cultures, trajectories, interests, powers, aims, budgets and political affiliates. This changing field of security however has consequences for which actor or actors manage in gaining ground in the ‘power of definition’ of what the ‘real’ threat is and what counter measures are believed to be necessary, justifiable and ethical sound. The same process however is being replicated on the European level. This results for instance in a ‘complex and blurred transnational sphere of counterterrorism’ (Den Boer, Hillebrand and Nölke 2008: 103-104). Within this ‘blurred transnational sphere’ transnational linked informal and horizontal networks of security professionals produce a ‘European field of security’ or a ‘field of truth’ in which they cooperate but also compete with each other for the monopoly of the legitimate knowledge on what constitutes risk.

According to Bigo (2006: 112), ‘in-security professionals’ have the strategy to overstep national boundaries and form corporatist professional alliances, and draw resources of knowledge and symbolic power from this transnationalization that can also be used to win the internal struggles in their respective national security fields. The field of in-security is thus in the heart of the field of power as a bureaucratic field composed of experts having the capacity to claim that they know better than others, whether these are elected politicians, citizens or academic experts. Inside this field, ethical boundaries can be in the same way ‘on the move’ as are the boundaries between the different security cultures. How exactly this reconfiguration is taken place, and which effect it has on the ethical value systems, must be a matter of empirical enquiry, as the INEX-project aims to do. It is however safe to say that the following structural factors matters in the shaping and reshaping of the internal-external security continuum.

1.1 What matters?

What are the factors that have profound effect on the value assumptions of security professionals, the cooperation between different security actors along the internal-external security continuum and the (new) security practices established?
Security Culture Matters
The cultural, or organizational values embedded in the different security organizations matter. Although the concept of culture, as in ‘police culture’ or ‘military culture’, is contested, most scholars accept that culture matters, but with the warning that security cultures are fragmented and it is better to speak, for instance, of different police cultures with common elements. As the literature review shows, the culture of security organizations can be subject to change, but it seems that certain elements are more likely to remain constant. In the literature, the culture of security organizations is appreciated in different ways.

The emphasis on the negative aspects of security cultures (most profound in the literature on police culture) was succeeded by a more positive appreciation of security culture, and more understanding of the situation in which security officers work and which also shape security cultures. A point of weakness in the literature about security cultures however is the dominance of American studies. More research on security culture in other countries is desirable, as well as research on specific aspects of security culture in different departments of security organizations. It is interesting to note, for instance, that much literature on ethics and military, and ethics and intelligence seems to have a more profound philosophical base than the literature on police ethics, which seems to be more of a pragmatic nature. Also we require more research on the influence of international security cooperation in security cultures: does it contribute to a fragmentation of security cultures or does it help to give rise to a convergence of security cultures? There seems to be wide agreement that security culture is an important variable in the ethical volume of security work: security officers work within a context of situational logic and keep a discretionary space for decision-making, which – by itself – is partly shaped by the security culture.

Security Officers Matter
Security officers are endowed with a certain discretionary space in their action. Most common reference in the scientific literature is made to the phenomena that the discretionary space is growing; this is of importance because it is believed that in this discretionary space the personal beliefs of security officers play an important role; more important than the organizational values or the external and internal codes of conduct. The literature has not validated the presumption that only a certain kind of people feels attracted by the security organization; the majority of recruits embody opinions, norms and values which are embedded in large parts of society. A question that remains unanswered however is whether security officers enjoy a special responsibility to act as ‘moral agents’, and to display a higher moral awareness and ethical conscience than other members of society. This question is intertwined with the complex question which ethical norms and values security officers should keep up in a morally divided world and whether this can be expected from security officers. In societies which are increasingly culturally pluriform, it is important that security organizations are an adequate reflection of society and that security officers understand and realize the significance of cultural diversity – at home and abroad. In a time when security officers are increasingly often active across national borders or work in international or joint teams, this is of increased importance.
Security Training Matters

Professional training and education of security officers is important in shaping the ethical perspective of officers. Academies can be regarded as vehicles of security culture. The role of a professional training and education with regard to security ethics is essential, even though the literature shows no straightforward consensus about the exact role which security training institutes play in the professionalization of security officers, nor about the question whether the training is resistant to socialization processes, the influence of cultures in the security forces and the influence of the working context (for instance, Conti and Nolan III 2005; Alain and Gréggoire 2008). With the introduction of concepts like “life-long-learning” (éducation permanente) into the training trajectories of security organizations, academies can play an important role in the sensibilization of officers in an ever changing, dynamic and complex society in which they have to operate. International training facilities such as the European Police Academy CEPOL, or international exchange projects or temporary secondments can play an important role in developing an international framework of reference in “good policing”, or in a broader understanding, “good security practices”.

Security Leadership Matters

Leadership in security organizations has an important task in monitoring, stimulating and innovating ethical frameworks of security practices. Without a strong and continuous signal of security managers that ethical behaviour is essential, lower ranks will show a tendency to do it their own way. Leading by example is deemed very important: when security chiefs openly show a moral compass and also seek confrontations with legal or administrative authorities, it may help to thwart the skepticism about ethics as mere PR-talk for the outside world. Security leadership also enjoys an important role when it concerns the ethical implications of the core tasks, contents, priorities or direction of security practices that have been determined by political or administrative authorities. Where Lasthuizen (2008: 150) defines “ethical leadership” as “the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and promotion of such conduct among followers through two-way communication, reinforcement, and decision-making processes”, we would even advocate a wider definition which stipulates that ethical leadership is a leadership style which actively prioritizes, promotes and defends effective compliance with and monitoring (auditing and reviewing) of ethical values within an (security) organization. Elements of an ethical climate are: managers who set high standards by good example, an active code of conduct, education and training, good administrative systems, an internal reporting system for suspected ethics violations (e.g. corruption) and an effective internal audit: “Managers set the tone of an organization and can influence the prevailing culture.” (ICAC, 1994: 31). In her empirical research within a regional police force in The Netherlands, Lasthuizen (2008: 155) established that ethical leadership “has a limiting impact on the incidence and prevalence of integrity violations”. Role-modelling can be a powerful instrument in nourishing an ethical culture within the organization.
Security Styles Matter
Different security styles have different ethical effects. For instance, a police force which is strongly focused on crime-fighting and counter-terrorism will generally be located at a fairly large distance from the society it serves, than a police force which is focused on community policing or other forms of policing in which close co-operation with and empowerment of communities are central notions. In practice however, different security styles will be rather mixed and it is not always clear what the rational argumentation is behind changes of opinion about the desired security style or model. Ethical dilemma’s may be couched in new developments which are not yet fully crystallized, such as pro-active policing and intelligence-led policing, active ‘hunting strategies’ in the intelligence community, or new strategies and tactics deployed by armed forces in (post)conflict zones. The potential merits of preventive security policy and the control on the space of flows which are so characteristic of the global society require careful consideration against the potential pitfalls of stereo-typed security practices, social sorting and the importance adhered to so-called “dead data” which have been cut out of the context of living subjects.

Plural Security Matters
Earlier in this paper we noted that safety and security are no longer just a matter of public security organizations. A growing number of actors are involved in the production and management of security, ranging from transnational private security firms, citizens’ initiatives, schools, public welfare institutions, to regulatory agencies. The role of the public security organizations in this system of ‘plural security’ is still emergent, and this also applies to the shaping of a complementary political, administrative and social system of the multi-lateral governance of security. In this context, it is no longer clear which actor conceptualizes safety and security, which priorities are being defined and by whom, which and whose interests are dominant and who supervises the ethical dimensions of plural security practices. The commercialization of the product of safety raises pertinent questions about the public value which is represented by safety and security, the equity of access to security and justice for all world citizens, and the dynamics in view of security perceptions. A fundamental question is whether - in the context of plural security practices - the ethical values of third parties are in accordance with those of the public security services and forces us to redesign mechanisms of accountability and integrity.3

International Security Matters
The internationalization of security cooperation raises pressing ethical issues. In the first place, as has been described above, there may or may not be a convergence of security cultures and security styles as a result of international training and action. Principally, questions that remain to be tackled more systematically concern the political, democratic and legal control of international security cooperation, as well as public engagement, the determination of priorities, the employment of particular methods of investigation, intelligence gathering and military operations and the co-operation with countries which have a weak human rights record. In this emergent grey area of security practices – which sometimes

3 The role of the private security sector will be the subject of the next INEX-paper we will deliver
unavoidably and necessarily accommodates pioneering practices – one may expect a growing awareness and responsibility of the security leaders and security professionals and a thorough reflection on the need for boundaries which are measured by ethical standards.

Moreover, within the context of security cooperation one may observe a merging between internal and external security: police and military find themselves increasingly often involved in co-operative practices, EU-police missions are being sent to post-conflict countries, and gendarmerie forces of a few EU Member States co-operate in EUROGENDFOR. These relatively new forms of multi-disciplinary co-operation raise pertinent questions about the moral framework and the ethical standards which are applied by these hybrid organizations in the relatively grey field of ‘peace building’ operations, and about the mutual influencing of ethical frameworks which originate from different cultures (police, intelligence and military).

**Security Technology Matters**

The use of new technologies may have a considerable effect on security activities. A more pro-active approach which is based on risk management is emergent, with all the ethical aspects it raises. The emphasis is increasingly on the assumptions about future behaviour of citizens, partly base on the analysis of group characteristics. Computers can now make predictions of ‘unusual behaviour or anomalies’. This raises questions about the design if these automated applications and the determination of criteria for risk profiles and risk categories. The international exchange of data is and will take place at a vast scale, both within the commercial as well as within the security sector. The integrity of data and data systems, the interrelationship between different data protection regimes and the systems for data-gathering and access are issues which are under debate, but which require a more solid and comprehensible framework to avoid loopholes and potential misuse of personal data.

Data which are carved out of “living contexts” and combined with other “dead data” should sketch an accurate image of individuals, but this is still a largely underdeveloped area. New issues have emerged concerning the theft of identities, the ownership of (biometrical) data, and the way in which these data are exchanged, dispersed, retained, used and synthesized. It may well be that one the most pressing ethical challenges for security organizations and security practices lies within the domain of information technology. For the military, ethical challenges can be found in the belief that technology itself can carry the ‘full moral load’; By impersonalizing warfare a ‘perversion’ in the logic of military ethics is predicted. Further, in general a trend can be discerned in which faults and mistakes are to be thought of as a technological problem, and not as ethical dilemmas embedded in the choice and use of new technologies (see also Marx 1998).

**The Legal Framework Matters**

National and international legal frameworks have a sometimes strong influence on security activities. The jurisprudence of the European Court of Human Rights has for instance been very influential for police work, such as undercover policing and counterterrorism. The legal framework set the boundaries of what the police force can do within the setting of a democratic society and demands accountability from police forces about the choices that are made and the way of acting. Human rights
frameworks have acquired the status of a lingua franca of democratic societies and adheres major significance to ethical policing. Legal frameworks are also important in view of the increased internationalization of security cooperation. When clear rules are absent, universal human rights norms can offer guidance in the exploration of grey areas. Which legal framework applies to the operations of FRONTEX in extra-territorial waters, to transatlantic counter-terrorism co-operation, or to the prosecution and investigation of war criminals? Can it be guaranteed that the core principles which flow from (international) jurisprudence are effectively implemented and complied with in daily security practices? What are the exact legal boundaries of international intelligence cooperation? Which judicial and human rights framework is applied to multination security operations under the umbrella of different international organizations, as we currently witness in the anti-piracy operations at the coast of Somalia?

The Societal Context Matters
The surroundings in which security organizations operate co-determines the moral and ethical context of security practices. In societies with a high influence of organized crime, corruption and the symbiosis between upper-world and under-world will more often be a challenge to the compliance with ethical standards than in stable and safe societies. The threat of international terrorism has given security organizations new challenges to deal with, in which moral values may clash with one another. At the moment moral values are in conflict with one another, one can assess the appreciation that is generally attributed to these values. Another factor is whether societies are more or less homogeneous, or whether there is a strong cultural and religious diversity. This societal composition affects the way in which security organizations act, but also the expectations of society about security practices and operations. Politics and society can impose a lot of pressure on security organizations to handle problems more efficiently or smartly, or ‘get the gloves off’. This may result in a situation where security organizations are sandwiched between contradictory social and political expectations, the influence of the media, the legal framework and professional preferences. Ultimately this leads to the question to whom security organizations are accountable to: the state, the public, or its own professionalism? Is it possible for security organizations to make their autonomous ethical choices or are they being play-balled between continuously shifting societal and political demands?

Accountability Matters
Accounting for choices, procedures, strategies, security styles and the use of investigation methods, intelligence methods and technologies: it remains a fundamental issue in the design of ethical security practices. External accountability as such has many faces: accounting to security leadership, political authority, parliament, society, and legal authorities. Internal accountability takes place at the level of the individual security officer as well as the level of the security organization. Accountability can take place before and after an activity (ex ante and ex post). Procedurally and institutionally, accountability is lifted to supra-national levels and applies to formal and informal cross-border security activities, and to different agencies that are rooted in different communities, e.g. the police, military and the
intelligence community. As far as international security practices are concerned, there has been little or no explicit contemplation of social legitimacy aspects.

1.2 Shifts in security
The multi-variable dimensions of the shifts in security and with it possible shifts in underlying values demands further empirical research. One possible way forward in conceptualizing and researching the possible changes in value systems due to the emerging internal-external security continuum is to use the concept of ‘normative order’ as conceptualized by Herbert (1998: 347). Normative orders are sets of generalized rules and common practices orientated around a common value; the different security cultures then can be seen as composed of different normative orders in which conflict and change is inherent. The subjoined tabel summarizes the most important changes that have been, or are occurring in the security field and points at the possible consequences for different security organizations internally as well as externally. As such, it can be seen as a conceptual model that encloses the mentioned changes and could function as a directory for the coming empirical research.

**Shifts in Security**
**Matrix Flow Chart**

<table>
<thead>
<tr>
<th>OLD</th>
<th>NEW</th>
<th>EFFECT</th>
<th>PROFESSIONAL REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facts</td>
<td>Scenario’s</td>
<td>Uncertainty</td>
<td>Imagination</td>
</tr>
<tr>
<td>Spaces</td>
<td>Flows</td>
<td>Mobility of Criminals / Criminality; PD and criminal record become living documents i.e. curricula;</td>
<td>Nodal thinking</td>
</tr>
<tr>
<td>General</td>
<td>Specialist and Tailor-Made</td>
<td>Lack of uniformity and efficiency</td>
<td>Matrixing general and special needs</td>
</tr>
<tr>
<td>Public</td>
<td>Private</td>
<td>Loss of monopoly on security (and perhaps violence); commercial</td>
<td>Business-like thinking</td>
</tr>
<tr>
<td>Reactive</td>
<td>Proactive</td>
<td>Policing becomes more secret; legitimacy?</td>
<td>Smart thinking; anticipation</td>
</tr>
<tr>
<td>Defensive</td>
<td>Offensive</td>
<td>Don’t wait: anticipate!</td>
<td>Creativity</td>
</tr>
<tr>
<td>Human Factor</td>
<td>Technology</td>
<td>Dependency</td>
<td>Professionalization: knowledge about ICT and interaction between surveillance systems</td>
</tr>
<tr>
<td>Military</td>
<td>Civil</td>
<td>De-militarization</td>
<td>Communication</td>
</tr>
<tr>
<td>Mono-disciplinary</td>
<td>Multi-disciplinary</td>
<td>Different codes; friction between professional codes</td>
<td>Co-operation</td>
</tr>
<tr>
<td>Authority (Gezag)</td>
<td>Social Legitimacy (Maatschappelijk draagvlak)</td>
<td>Legitimacy contested</td>
<td>Involve citizens</td>
</tr>
<tr>
<td>Information</td>
<td>Intelligence</td>
<td>Pro-activiness</td>
<td>Connect information; Signal and possibly intervene at an early stage</td>
</tr>
<tr>
<td>Central</td>
<td>De-central /de-</td>
<td>Diffusion</td>
<td>Complex governance,</td>
</tr>
</tbody>
</table>
1.3 Final Comments

This state-of-the-art literature review has demonstrated that the ethical framework of the security field is a complex and dynamic subject. Many factors and variables are at stake, and they mutually influence one another: security culture(s), leadership, training and education, social context, technological influences, security styles and ethical codes. This complexity has several implications for empirical research into the ethical values of security.

First of all, it is necessary to identify and operationalize the variables that are at stake and to analyze their role in specific contexts: the ethical values that apply in local community projects may be considerably different from those that are applied in the context of a joint international investigation team on organized crime; the application of homogenous legal frameworks may differ greatly from the use of incremental or even fragmented legal norms; ethical values may be differentially applied by public police forces in the context of third-party policing. The ‘normative orders’ of police, intelligence and military differs but also intertwine. Each of those contexts raises different issues and questions concerning ethical security practices, and they may produce different dilemmas and contradictory ethical claims. Political and administrative prioritization of ethical values may deliver different outcomes as to the way in which security organizations account for the compliance with ethical standards.

Second, this literature review has also made clear that there is an urgent need for empirical longitudinal research: compliance with ethical standards in security organizations can only be properly investigated when measured over a longer period of time in stable professional environments.
Third, and perhaps most important in view of the INEX-project, we have established an academic void when it concerns ethics research in emergent hybrid and transnational security practices. There is an urgent need to expand the scope of ethics research to new security arenas, including international intelligence-led policing, cross-border policing, peacekeeping missions, international counterterrorism, co-operation and information sharing between different intelligence organizations, and security reform projects. There is also the need for specific research into the European context. American literature and American research are dominant in the scientific debate. Experiences and insights from the American context cannot however be translated unthinkingly into the European situation. Hopefully, our empirical research into the shifting value systems of security professionals as the next step in the INEX-project will function as a starter towards filling these gaps.
References


Baarda, T. van (2003) Military ethics in peacekeeping and in war: maintaining moral integrity in a world of contrast and confusion. Guest-lecture held at the University of Amsterdam on 2 October 2003, in the course of a lecture series of the Masters program The United Nations in a divided world. Amsterdam: Universiteit van Amsterdam


Jones, J.M. (2007) *Is ethical intelligence a contradiction in terms?* Paper written at the University of Aberystwyth


O’Conner, T. (2008) *Ethical and moral issues in Intelligence*, Special Topics in Criminal Justice, Intelligence Studies Syllabus


