

## Program Insight: The screening process of disengaged Boko Haram associates in Niger

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### **Abstract**

In an attempt to facilitate transition from conflict to peace, Disengagement, Disassociation, Reintegration and Reconciliation (DDRR) initiatives are key in fostering national dialogue and reconciliation. While much literature exists on the disengagement component of the process, very few scholars have documented in detail the screening phase and its challenges. Indeed, the screening phase is critical to ensure the success of a DDRR program, especially in contexts dominated by non-state armed groups (NSAGs). This publication examines how the Government of Niger (GoN) implements the screening process for disengaged combatants associated with Boko Haram and ISIS-West Africa (BH/ISIS-WA). Thanks to the screening process, this article also explores the linkages between BH/ISIS-WA surrenders and judicial actors, as an opportunity to collect information on arrested associates in an environment with weak state presence characterized by heightened insecurity. The Government of Niger has made progress in the treatment of defectors by updating its legal framework, through the creation of a National Program on disengaged combatants and the set-up of an action plan to seek international support. The GoN is therefore trying to align itself based on respect for the International humanitarian laws and United Nations resolutions, in order to promote the human rights of both BH/ISIS-WA repentants and the communities into which they integrate. Additionally, the GoN strives to integrate lessons learnt from other Disarmament, Demobilization and Reintegration (DDR) programs dealing with Violent Extremist Organizations (VEOs) across the African continent, in particular the case of Somalia. The overall process is managed by the Ministry of the Interior (MoI) but includes several other governmental agencies as well. In some instances, parts of the DDR implementation chain benefit from the support of international partners. The author of this article was in charge of providing technical assistance to the Government of Niger in developing a national strategy for disengaged persons associated with BH/ISIS-WA. He also assisted state actors to implement program components, such as the screening phase and the legal framework.

### **Article History**

Received Sept 27, 2019

Accepted Dec 4, 2019

Published Dec 27, 2019

**Keywords:** Disengagement, Screening, Triage, Rehabilitation, Prosecution, Boko Haram, Niger

### **Introduction**

Political and religious violence in northern Nigeria has regularly spread to Niger. The recent development of Boko Haram in Nigeria has provoked new concern. Engaged in an armed

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struggle with the Nigerian security forces since 2009, the movement has developed rear bases in Niger, especially in the region of Diffa.<sup>2</sup>

Boko Haram and ISIS-West Africa (BH/ISIS-WA's) ambition to capture territory beyond Nigeria's borders escalated in 2015 with the spread of its fighting ground into Niger. From the outset, the Government of Niger (GoN) has responded to the threat largely by keeping BH/ISIS-WA under surveillance. In this effort, the GoN initiated the National Program ("Programme National de Prise en Charge de la Reddition des Elements de Boko Haram"). This document describes all the Disengagement, Disassociation, Reintegration and Reconciliation (DDRR) steps for former BH/ISIS-WA fighters and affiliates, from defection to actual reintegration within the community, including screening, transfer to the Goudoumaria Reception Center and rehabilitation.

In the absence of formal commitments or a peace agreement between the parties of the conflict, the approach taken by Niger differs from the more "traditional" Disarmament, Demobilization and Reintegration (DDR) programs. Traditionally, a series of preconditions have to be met at the start of a DDR program: the signing of a peace agreement to provide a legal framework, the willingness of the conflicting parties to engage in DDR and a minimum guarantee of security.<sup>3</sup> Niger falls short of these preconditions and paves the way for a more innovative approach to DDR. Particular emphasis is placed on the notion of disengagement, whereby those associated with NSAGs are encouraged to voluntarily defect.

On the basis of the legal framework established through the National Program in Niger, disengaged combatants can only receive support from the rehabilitation and reintegration program under certain conditions. They must have passed a robust screening process and be granted immunity from prosecution for their involvement in BH/ISIS-WA. Based on the results of the screening phase, a triage is carried out in order to establish whether an ex-combatant can be exempted from prosecution. The screening procedure is designed to avoid providing assistance to violators of international humanitarian law and therefore makes this step a decisive factor for the success of DDR.

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<sup>2</sup> International Crisis Group, Niger: Another Weak Link in the Sahel? Africa Report N°208, 19 September 2013

<sup>3</sup> The Integrated DDR Standards (IDDRS), <https://www.unddr.org/iddrs.aspx>

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A number of conflicting political forces are at play during the triage process.<sup>4</sup> On the one hand, there is pressure to accelerate the procedure and -if possible- cancel the triage to offer blanket amnesty to all BH/ISIS-WA affiliates in order to encourage defections and weaken BH/ISIS-WA. On the other hand, there is a need for a rigorous and accurate screening to ensure that known or suspected violators of human rights are prosecuted. Indeed, this screening phase is particularly challenging because of the duality between applying judicial norms and deterring BH/ISIS-WA combatants from partaking in the DDRR program. The GoN's National Program first set into motion during the outbreak of the conflict was formalized in June 2018 with the support of the International Organization for Migration (IOM) of which the author of this paper was in charge at the time.<sup>5</sup> As a result of collaborative work between state actors and partners from the international community, the implementation of the National Program is now well underway and has reached the screening phase. Despite testing the procedures, this is a key step in the implementation of the National Program.

Within the context of Niger's National Program, this paper explores the background and the characteristics of the screening process, including all of the involved steps and the challenges faced in its implementation. This paper also presents the legal framework of the National Program and the main tools guiding the process.

## The Context

Niger is located in the Southern belt of the Sahara and lies at the heart of the West African Sahel. It is a vast, landlocked country prone to a volatile security situation at the epicenter of geopolitical turmoil. The country is currently ranked as the least developed country in the world (189/189 UNDP HDI 2018).

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<sup>4</sup> Numerous working meetings with stakeholders from the Ministry of Justice, the Ministry of Interior and Governor of Diffa between February 2018 and June 2018.

<sup>5</sup> Workshop organized by IOM and the MoI «Atelier de Partage du Programme National de Prise en Charge de la reddition des éléments de Boko Hara », Niamey, 19-20 February 2019

The Diffa region has many cultural and economic links with northern Nigeria. To understand the appearance of Boko Haram in Diffa, it is necessary to go back to the 2000s. At that time, the ideological teachings of the former leader of Boko Haram, Mohamed Yusuf, had a strong impact in the Diffa region. Among the thousands of Nigerians, both men and women, who went to study or work in Maiduguri, many heard Yusuf's messages and some attended his mosque. Back in Niger, they spread his ideology: Yusuf's deputy and future successor at the head of Boko Haram, Aboubakar Shekau, also had family ties in the area and came to preach in Diffa before 2009.<sup>6</sup>

Since 2015, BH/ISIS-WA has been leading an insurgency against the Nigerien security forces and civilians, defying government attempts to destroy the group. Despite the engagement of Nigerien security forces in an armed conflict with BH/ISIS-WA – a Non-State Armed Group (NSAG) rooted in neighboring Nigeria - the region of Diffa in the south-east of Niger has been particularly affected. The conflict has led to an influx of refugees and generated even more resource scarcity for host communities.

In February 2015, Niger started to face direct attacks on its territory from NSAG associates with attacks in Bosso and Diffa.<sup>7</sup> As a response, the GoN banned both the production and commercialization of red pepper and fish in an attempt to cut BH/ISIS-WA funding sources. The ban was part of a larger set of state emergency measures. The fishing ban alongside restrictions on pepper and population movement crippled the local economy, causing further hardship to local populations.<sup>8</sup>

This crisis, affecting local communities and rendering them subject to displacement, challenges the population's resilience and heightens the risk of recruitment by Violent Extremist Organizations (VEOs). As of today (September 2019), the GoN has not engaged in any official negotiations with BH/ISIS-WA. The official position of the international

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<sup>6</sup> International Crisis Group, Niger and Boko Haram: Beyond Counter-insurgency, Africa Report N°245, 27 February 2017

<sup>7</sup> UNOCHA, Niger: Small farmers are paying the price for the lingering insecurity in Diffa, <https://www.unocha.org/story/niger-small-farmers-are-paying-price-lingering-insecurity-diffa-en-fr>, 3 October 2017

<sup>8</sup> Interviews conducted by IOM in Diffa with the Univeristy of Diffa and community leaders in February 2018.

community, including the United Nations and a number of other partners, is, that there should not be any negotiations with VEOs.<sup>9</sup>

Over the course of the crisis, large numbers of individuals suspected of association with NSAGs were arrested by the Defence and Security Forces.<sup>10</sup> As reported by the International Crisis Group in February 2017, the number of prisoners linked to BH/ISIS-WA has steadily increased over the past four years.<sup>11</sup>

In 2016, the number of prisoners was over 1200 and at the beginning of 2017, it had increased to almost 1700.<sup>12</sup> Between March 2017 and December 2018, several trials led to the release of 443 individuals due to a lack of evidence. Another 115 were sentenced. 410 still await trial and are preventively detained in the Koutoukalé, Kollo and Niamey prisons.<sup>13</sup> Furthermore, in these specific prisons but also in other penitentiaries, low-risk and high-risk ex-BH/ISIS-WA affiliates are kept in custody together. This increases the risk of relapse to violence and the exposure to a broader radical environment. Mixing low-risk custody detainees and high-risk custody detainees is recognized by GoN as problematic in detention environments.<sup>14</sup>

In December 2016, the Minister of Interior, Public Security and Customary and Religious Affairs (MoI) and the Governor of Diffa Region announced the beginning of an outreach policy towards BH/ISIS-WA surrenders, asking families whose children had joined BH/ISIS-WA to spread the word of an amnesty. Fighters were told that if they surrendered, they would be forgiven rather than prosecuted. It was also stated that surrenders would be given the opportunity to enroll in a rehabilitation program. The official communication

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<sup>9</sup> UN Security Council Al-Qaida Sanctions Committee Adds Boko Haram to Its Sanctions List, paragraph 17 of resolution 2083 (2012)

<sup>10</sup> As of July 2018, there were 968 detained Boko Haram associates (534 Nigeriens, 407 Nigerians, 20 Chadians, 2 Cameroonians) in Nigerien detention facilities across the country, from Ministry of Justice, July 2018.

<sup>11</sup> International Crisis Group. 2017. Niger and Boko Haram: Beyond Counter-insurgency REPORT 245: Africa, 27 February.

<sup>12</sup> International Crisis Group. 2017. Niger and Boko Haram: Beyond Counter-insurgency REPORT 245: Africa, 27 February.

<sup>13</sup> Judicial Pole Specialized in the fight against Terrorism and Transnational Crime, April 2019

<sup>14</sup> Interviews conducted by IOM in Niamey with stakeholders from the Ministry of Justice in February 2018

appeared to offer blanket amnesty for crimes, including for those who had committed serious crimes during their engagement in BH/ISIS-WA.

The MoI drafted a short document named “*Document Cadre de prise en charge de la reddition des éléments de Boko Haram*”<sup>15</sup> in December 2016. The document briefly explains the plan to offer a rehabilitation program for defectors and mainly focuses on professional training.

At the same time, and based on this document, the MoI initiated the construction of a center, located near Goudoumaria in Diffa Region, to provide accommodation and security to the defectors and their dependents. The management of the center is assigned to the Garde Nationale du Niger (GNN).

Due to increasing military pressure on the NSAG, the number of BH/ISIS-WA associates who surrendered to community leaders and administrative authorities in Diffa steadily increased. While in 2017 approximately 150 individuals surrendered to the Governor of Diffa in response to the promise of amnesty, numerous spontaneous defections are still regularly reported reaching up to 235 (including their dependents) until September 2019.<sup>16</sup>

Given the probability that former BH/ISIS-WA combatants and associates possess critical information that could support military operations to counter BH/ISIS-WA’s influence, the GoN interviewed them immediately upon their arrival in Diffa. The newcomers first spent an average of one week in Diffa before being transferred to the newly built Goudoumaria Reception Center. Once arrived in Goudoumaria, security actors such as GNN, military intelligence and SCLCT conducted new rounds of interviews.<sup>17</sup>

Some pieces of information collected through the aforementioned interviews were used in the trials of arrested individuals associated with BH/ISIS-WA. This collaboration was permitted by a provision in Nigerien law that grants immunity from prosecution for those who provide information that enable the prevention of an attack.<sup>18</sup>

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<sup>15</sup> Document Cadre de prise en charge de la reddition des éléments de Boko Haram, 2017

<sup>16</sup> Garde National of Niger (GNN) in Goudoumaria, September 2019

<sup>17</sup> Assessment on the registration process conducted by IOM with the Pôle Spécialisé against Terrorism and the SCLCT between June to October 2018

<sup>18</sup> Code pénal, Art. 399.1.20, Ord. n°2011-12 du 27 janvier 2011

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Since their arrival at the Goudoumaria Reception Center, defectors have been expected to enroll in the rehabilitation program, as per the promise of amnesty that was communicated while the legal framework was still under development.<sup>19</sup> However, in the absence of a legal framework to clarify and detail the defection process and the status of the rehabilitation camp, no distinction has been made between different categories of defectors in the Goudoumaria Reception Center. From an operational perspective, defectors are not allowed to go outside of the Center, except under specific conditions, and the facilities in the Center are divided between families, singles and youth.<sup>20</sup>

### The Legal Framework

In order to better understand the legal framework in Niger, it is important to highlight the distinction between arrested individuals and disengaged NSAG associates. The legal frameworks guiding these two approaches have evolved according to different logics: on the one hand, to effectively prosecute perpetrators of crimes and, on the other hand, to create conditions for combatants to abandon the NSAG and benefit from a rehabilitation program.<sup>21</sup> While the Ministry of Justice (MoJ) manages the process for arrested individuals, the MoI is in charge of disengaged combatants.<sup>22</sup>

Over the past ten years, the GoN has developed a comprehensive counterterrorism institutional framework. In January 2011, the MoJ established a Specialized Judicial Unit against Terrorism and Transnational Crime (*Pôle Judiciaire Spécialisé en matière de lutte contre le Terrorisme et la Criminalité Transnationale*).<sup>23</sup> In the same year, the government

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<sup>19</sup> Interviews conducted by IOM in the center of Goudoumaria with surrenders in March 2018

<sup>20</sup> Assessment conducted by IOM in the center of Goudoumaria in March 2018

<sup>21</sup> Several meetings conducted by IOM with the Prosecutors and the Governor of Diffa between February 2018 and June 2018

<sup>22</sup> Assessment on the institutional framework conducted by IOM in March 2018

<sup>23</sup> Ord. n° 2011-12 du 27 janvier 2011

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also created a Central Service for Combating Terrorism (Service Central de Lutte Contre le Terrorisme - SCLCT) in charge of all investigations related to the fight against terrorism.<sup>24</sup>

A series of counterterrorism laws were also passed in 2011<sup>25</sup> including a law regarding amnesty for defectors. At that time, exemption from prosecution could be granted under one specific condition: defectors had to provide information that could prevent an attack from being carried out.<sup>26</sup> Meanwhile, defectors who denounced other members of BH/ISIS-WA could have their sentence reduced.<sup>27</sup>

- *“Any member of a group planning a terrorist act is exempt from prosecution if, having notified the administrative or judicial authority, it has prevented the commission of the offence”.*<sup>28</sup>
- *“Any member of a group that has participated in the commission of a terrorist act and provides the administrative or judicial authority with any information enabling the perpetrators of the offence to be identified may benefit from the mitigating circumstances provided for in Articles 53 and 54 of the Criminal Code”.*<sup>29</sup>

The aim of this last paragraph is to encourage collaborations between disengaged individuals associated with VEOs and judicial actors by offering reduced sentence to defectors who committed serious crimes. In order to be effective, this information exchange needs to be correctly organized and documented by the Prosecutor’s office. While the counterterrorism institutional framework was still in its initial phase, the Government decreed the state of emergency in the Diffa region in February 2015. In this context, the Security Forces engaged in Diffa made a number of arrests although their procedures were not yet

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<sup>24</sup> Arrête n°0045 MI/S/D/AR/DGPN, portant création, attribution et organisation du Service Central de Lutte Contre le terrorisme (SCLCT), 28 janvier 2011

<sup>25</sup> Arts. 399.1.2; 399.1.3; 399.1.6; 399.1.8; 399.1.9; 399.1.12; and 399.1.14, Ord. N° 2011-12

<sup>26</sup> Code pénal, Art. 399.1.20, Ord. n°2011-12 du 27 janvier 2011

<sup>27</sup> Ibid

<sup>28</sup> Code pénal, Art. 399.1.20, Ord. n°2011-12 du 27 janvier 2011

<sup>29</sup> Ibid.



aligned with the needs of the *Pôle Spécialisé* against Terrorism. These arrests were characterized by a lack of data collection and a weak management system of the collected data. The Specialized Judicial Unit did not have enough evidence to set-up a case and its capacity to organize trials was lacking.<sup>30</sup> Prisons in Niamey soon became overcrowded and suspects could spend up to two years in pre-trial detention.<sup>31</sup> In 2017, the SCLCT initiated preliminary investigations for each arrest when it was deemed possible. This operation slightly reduced the number of individuals transferred to Niamey in preventive detention.

In 2016, the Nigerien MoI promised to extend amnesty to any member of BH/ISIS-WA who would cooperate with the authorities and accept to undergo rehabilitation. During the development of the legal framework for disengaged combatants, the rehabilitation process could not start. Furthermore, when the first NSAG associates started to surrender in 2016, they had no information to share about a planned terrorist attack from BH/ISIS-WA and could therefore not be granted immunity. As a result, those who surrendered were in a legal limbo, and, together with their dependents, had no other option than to stay in the Goudoumaria Transit Center protected by the GNN.

Since March 2017, the trials of the arrested individuals took place with the support of international partners, that included the provision of financial resources for lawyers. Between 2017 and 2018, 997 individuals were prosecuted for terrorist activities and only 183 were sentenced (18%). The judges from the *Pôle Spécialisé* had to organize the trials with the limited evidences or witnesses they could gather. In some cases, the Goudoumaria rehabilitation center was used to verify information about arrested individuals through mobile phone with disengaged combatants during trials.<sup>32</sup> This practice was considered to be in line with the provision of the law stipulating that defectors who denounced other members of BH/ISIS-WA could have their sentence reduced.<sup>33</sup>

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<sup>30</sup> Assessment on the registration process conducted by IOM with the *Pôle Spécialisé* against Terrorism and the SCLCT between June to October 2018

<sup>31</sup> Meeting with the Head of reinsertion at the MoJ in June 2018

<sup>32</sup> IOM participated as an observer in the Boko Haram trials in Niamey in March 2018

<sup>33</sup> Code pénal, Art. 399.1.20, Ord. n°2011-12 du 27 janvier 2011

In June 2018, Nigerian authorities finalized the drafting of the National Program on disengaged combatants. The MoI initially intended to wait for the legal framework to be updated before officially presenting the National Program to international partners. However, due to financial time constraints, international partners urged the National Program to move forward. Following discussions between the MoI and MoJ on the text and the submission process, the Head of the Legal Reform drafted the law to allow defectors to join a rehabilitation program under specific conditions.

The draft law was shared with the national parliament for adoption which debated it, notably questioning the screening system.<sup>34</sup> Eventually, on 19 December 2018, the amendment to the Penal Code was promulgated without opposing votes.<sup>35</sup> The basis of this legal framework is a modification to Article 399.1.20 of Law No. 61-27 of the 15 July 1961 decree establishing Niger's Penal Code. The law defines the conditions under which a person associated with a VEO can participate in the rehabilitation program. The new paragraph was added in the article 399-1.20 in December 2018:

- *“Any member of a group that has participated in the commission of a terrorist act that voluntarily surrenders may also be exempt from criminal prosecution, except for perpetrators of genocide, war crimes, crimes against humanity and any other serious crime”.*

This paragraph allows defectors who have not committed serious crimes to benefit from a rehabilitation program. In other words, it prevents amnesty from being granted to individuals who have committed serious crimes. This possibility implies a screening process. This is also the limitation of what the MoI can offer to defectors according to International Law and the MoJ.

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<sup>34</sup> IOM was invited by the MoJ to provide elements of a response to parliamentarians in December 2018

<sup>35</sup> Article 399-1.20, Loi n°2018-86 du 19 décembre 2018 modifiant et complétant la loi n°61-27 du 15 juillet 1961

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Regarding the legal basis of the Goudoumaria Reception Center, it was only established in February 2019 upon the issuance of an Order by the MoI. This Order on the establishment of the Center for defectors associated with BH/ISIS-WA also details the management and the rehabilitation process.

Within the Nigerien legal framework, provisions for the specific treatment of minors exist as well. In February 2017, under the leadership of the President of the Republic of Niger, a memorandum of understanding on children alleged to be associated with VEOs was signed between the GoN and the United Nations system. This agreement allows the return of presumed associated children to child protection facilities.

In 2017, a law on the establishment of Transit and Referral Centers (CTO - Centre de Transit et d'Orientation) for children presumed to be associated with VEOs was administered by the Ministry for Women and Child Protection.<sup>36</sup> With the official adoption of the screening process, unaccompanied minors from the Goudoumaria Center have been transferred to the CTO as of September 2019.

### **The National Program for DDRR**

In May 2018, IOM organized a consultative workshop in Diffa to discuss the DDR National Strategy and the future National Program on disengaged combatants. This discussion involved national and local authorities including traditional leaders from affected communities. During this workshop, participants agreed that IOM would assist the MoI in drafting a National Program for the management of disengaged combatants in the Diffa region.<sup>37</sup>

This National Program was drafted in June 2018 and revised by a panel including representatives of the MoI, the MoJ, the High Authority for Peacebuilding (La Haute Autorité à la Consolidation de la Paix or HACP) and IOM. It provides a policy framework guiding all

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<sup>36</sup> Arrêté n°000042 /MPF/PE/SG/DL portant création, attribution et fonctionnement de Centres provisoires de Transit et d'Orientation pour les enfants supposés pour des enfants supposés associés à des groupes ou forces armées et ceux victimes de migration à risque ou de traite, 2017

<sup>37</sup> Report of the workshop on the strategy for the surrender of Boko Haram elements signed by the participants, Diffa, 16 May 2018

actors involved in the management of disengaged persons associated with BH/ISIS-WA in Niger.

Following the May 2018 workshop, efforts focused on the development of the legal framework for disengaged combatants that was then adopted in December 2018. Two months later, in February 2019, the MoI organized a workshop with the support of IOM. The National Program for defectors was presented to State actors, UN agencies, NGOs and other international partners. During the workshop, a two-year action plan was developed to identify roles and responsibilities of involved partners. This was a key step for the MoI, to avoid programmatic duplications and identify which gaps needed to be filled in order to facilitate international donor support. It was also an opportunity to identify inconsistencies in the process, namely the non-existence of a Steering Committee and the lack of national coordinator appointed despite these provisioned for in the official document (see below).

### *The Program Phases*

The National Program consists of six central components: institutional framework, communication, reception, registration and screening, rehabilitation, reconciliation and reintegration.<sup>38</sup>

1. The institutional framework: This consists of establishing the legal and institutional basis for the implementation of the National Program. It outlines the creation and strengthening of the key coordination committees and implementation units (see institutional framework below).
2. Communication: This component focuses on the need to inform communities and stakeholders on the National Program to ideally result in waves of defection and to sustainably weaken BH/ISIS-WA. To this end, the National Program includes plans to assess cultural and community-based perceptions and to develop a communication strategy, including the design and dissemination of messages to different audiences.

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<sup>38</sup> These phases were inspired by the NATIONAL PROGRAMME FOR THE TREATMENT AND HANDLING OF DISENGAGING COMBATANTS IN SOMALIA in 2013, in which the author had participated in development as a consultant for UNDP;

3. Reception: this phase refers to the mechanism for the reception of disengaged combatants that involves administrative, traditional leaders and security authorities. The standard operating procedures (SOP) related to this component describe the various steps of the reception process including the duration, the location, the actors involved and their specific tasks. The reception phase covers other aspects, such as the collection of weapons, the identification and transfer of unaccompanied minors to the CTO as well as the transfer and improvement of services at the Goudoumaria Reception center.
4. Screening: the screening (which is detailed below), includes registration, profiling and sorting (triage) of the former combatants. The main objective being to identify the individuals who should be exempted from prosecution and are eligible for the rehabilitation program from others. It details the different steps of the screening phase and the role of the SCLCT in regard to the registration/profiling and of the Prosecutor's office in the triage process. The National Program also foresees capacity building activities for the involved actors to carry out this task. The screening part also includes specific provisions for people with special needs.
5. Rehabilitation: this phase is divided into two categories: social rehabilitation, also called deradicalization, which includes a psychosocial aspect, and economic rehabilitation through vocational trainings. This component also details the modalities related to the exit procedure from the Goudoumaria center also named "certification".
6. Reconciliation/reintegration: the National Program does not make a clear separation between reconciliation and reintegration. They are presented as part of the same set in which reintegration is not possible without reconciliation.<sup>39</sup> Reconciliation is essentially based on communication activities and community revitalization projects for the most affected communities. Meanwhile, reintegration focuses on community-based projects for defectors including a quota of vulnerable youth for the reintegration communities in order to avoid creating a sense of preferential treatment.

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<sup>39</sup> IOM Workshop, Diffa, May 2018

### *The Coordination Mechanism*

The National Program details the official coordination bodies from the national to the local level. At the top, the Steering Committee, headed by the MoI, brings together all the Ministries and international partners involved in the process. Its primary objective is to validate the National Program and to provide guidance at each phase of the National Program. The National Program also plans the establishment of a national coordination unit under the authority of the MoI, which would be responsible for implementing the recommendations of the Steering Committee. A national coordinator is to be appointed to oversee this unit and ensure the coherence and coordination of the actions of all parties involved in the process, going from national to the local actors. This unit is also responsible for organizing meetings with technical partners and serves as the Secretariat of the Steering Committee.

At the local level, the National Program is implemented by the Governorate of Diffa through its regional coordination committee. This regional committee involves all other regional stakeholders, including Ministries, NGOs and United Nations agencies.

The regional committee is working with four departmental committees, one for each department that is affected by the BH/ISIS-WA crisis: Nguigmi, Bosso, Diffa and Mainé Soroa. The departmental committees coordinate all activities that take place in their respective areas. They are the main actors in charge of the communication, the reception, the reconciliation/reintegration and monitoring phases of the National Program.

The Goudoumaria Reception Center is managed by the GNN through a security detachment that reports to the MoI. The GNN manager is to be assisted by a technical director with rehabilitation expertise who is responsible for the operational planning and implementation of activities in the camp. Officers of the anti-terrorist police unit conduct the profiling and sorting of BH/ISIS-WA defectors.

However, the institutional framework is poorly implemented. All actors working on prosecution processes, institutional reform initiatives and rehabilitation programs should be coordinated through a focal point, that would enable for information exchange and collaboration. In the case of Niger, there is currently no Steering Committee, no national

coordinator and no technical director at the Goudoumaria Center. To start the screening phase, and in the absence of the Steering Committee, the MoI organized a special meeting of the inter-ministerial committee including the Prosecutor and some actors of the international community.<sup>40</sup>

### The Screening Process

According to the National Program, only those who voluntarily defect from BH/ISIS-WA can benefit from the rehabilitation program at the camp of Goudoumaria. Nonetheless, this excludes perpetrators of genocide, war crimes, crimes against humanity and other serious crimes. In order to verify their eligibility, the defectors have to undergo a screening. The term “screening” refers to the initial process of determining the profile of an individual under the responsibility of authorities, in order to recommend the next course of action: either rehabilitation or prosecution.

From September to December 2018, IOM worked closely with the SCLCT to improve the profiling of individuals associated with VEOs. An initial assessment indicated that registration was done in writing and that the information collected was limited and not centralized.

The information collected came from an arrest form which only provided limited information, namely: the place of arrest, the equipment seized from the arrested individual, the circumstances of the arrest, the comments of the concerned individual and those of the investigator.<sup>41</sup> Meanwhile, for the defectors at the Goudoumaria Center, SCLCT investigators had not registered them, and arrest forms or interview reports had not been issued.

In close collaboration with the SCLCT, IOM developed a software for the registration and screening of disengaged combatants.<sup>42</sup> In accordance with data protection requirements,

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<sup>40</sup> Meeting of the Inter-ministerial committee on the disengaged combatants, 17 June 2019

<sup>41</sup> Assessment on the registration process conducted by IOM with the Pôle Spécialisé against Terrorism and the SCLCT between June to October 2018

<sup>42</sup> Registration and Screening Software developed by IOM and the SCLCT in December 2018

the software captures personal and biographical information biometrically, assesses each person's risk level through an automatic scoring system and determines a rehabilitation profile for each individual. In addition, the system operates as an Internet network for data entry between the office of the SCLCT in Niamey and its sub-office in Diffa. Through this network, the Office of the Prosecutor's is also able to consult the database. In December 2018, IOM organized a training delivered to 20 SCLCT agents on how to use of the software, the psychosocial approach and data protection. The trainees were also briefed on the planned registration operation in Goudoumaria.

### *The Registration*

The SCLCT is in charge of collecting information on the combatants associated with VEOs. It also collects information from other security forces that undertake a basic form of registration mainly for the individuals arrested on the frontline.

In January 2019, IOM supported the SCLCT in the implementation of a 10-day pilot mission in Goudoumaria Reception Center. As a result, a biometric database was created thanks to the screening and registering of all individuals residing in the center, this included both ex-BH/ISIS-WA fighters but also their dependents (except the minors). This operation was an opportunity to test the first version of the registration software.

According to the National Program, the stay at the Diffa police station for a BH/ISIS-WA affiliates must not extend beyond 48 hours for the registration process. Following the registration, the profiling in Goudoumaria must not exceed 30 days. However, given the distance between Diffa and Goudoumaria and the fact that the disengaged individuals were already located in the Goudoumaria center since 2016, the pilot operation undertook the registration and the profiling at the same time. The software also allowed to speed up the operation and avoid countless travels to the remote area of Goudoumaria.

While a second version of the software is already under development, the first version used for the registration operation includes the following:<sup>43</sup>

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<sup>43</sup> Registration and Screening Software developed by IOM and the SCLCT in December 2018



- A dashboard presenting the statistics and the overall progress (number of individuals disaggregated by: gender, age, registered, profiled, reintegrated, returned to legal proceedings, etc.);
- A search system in the database by name, by an index number (created by the software) or by fingerprint;
- A biometric registration method that groups individuals by family;
- A system for scanning documents that individuals may have in their possession;
- A confidential file allowing health staff to indicate the state of health and the specific medical needs of the individuals;
- A file on the history of the individual's involvement with VEOs and a scoring system to assess the level of risk and the category under which they would fall. This allows the investigator to submit his recommendations to the Prosecutor's Office;
- The decision of the Prosecutor's Office (rehabilitation, prosecution or additional investigation);
- A file on the professional capacities and aspirations of the individual to help them in their reintegration;

During a workshop on prosecution organized in Niamey by the United Nations Office on Drugs and Crime (UNODC) in November 2018,<sup>44</sup> the investigators of the SCLCT presented the new registration system. Representatives of the SCLCT and participants from the Prosecutor's office expressed their desire to use this registration software to establish a data collection for all individuals currently held in detention centers. To this date, there are no registration and screening operations of individuals who are currently held in preventive detention on charges of association with VEOs despite there being an estimated 600 to 800 persons suspected of terrorism held in preventive detention, 80% of whom are BH/ISIS-WA associates.<sup>45</sup>

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<sup>44</sup> CTED/UNODC, Atelier national sur les approches en matière de triage et de poursuite des personnes associées à Boko Haram au Niger, Niamey, 19 – 21 novembre 2018

<sup>45</sup> Based on information from the Judicial Pole Specialized in the fight against Terrorism and Transnational Crime, May 2019

### *The Profiling*

While the registration phase can be quick, the profiling process might take longer. Indeed, it requires taking into account different variables collected during registration based on a psychosocial evaluation and individual interviews on the history of the individuals regarding their involvement with the VEO. During interviews, the investigators ask a series of questions to establish the category in which the disengaged combatant falls, based on the nature of the committed crimes and the motivation to join the VEO. The National Program developed in June 2018 identifies 6 categories:

1. Persons captured by or forced to join the group but who have not been involved in terrorist activities;
2. Persons who voluntarily joined the group for reasons other than terrorism (e.g. crime, rebellion, economic) and who did not carry arms;
3. Persons who voluntarily joined the group to support the terrorist cause but did not take up arms or commit crimes;
4. Persons forced to join the group who have been forced to take up arms and have committed crimes;
5. Persons who voluntarily joined the group for reasons other than terrorism (e.g. crime, rebellion, economic) and who have taken up arms and committed crimes;
6. Persons who voluntarily joined the group to support the VEO cause and carried weapons and committed crimes, etc.

In accordance with the legal framework, if a disengaged combatant falls in one of the last three abovementioned categories, further investigation will be carried out and a transfer to the Specialized Judicial Unit for prosecution will be considered.<sup>46</sup>

In order to help overcome the logistical and security difficulties in accessing the Goudoumaria center, an automatic ranking system has been added to the registration software to help agents categorize the individuals and speed up the profiling process. Depending on the

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<sup>46</sup> This has been confirmed during the Inter-ministerial committee on the disengaged combatants, 17 June 2019

answers provided during the interview, the software calculates the risk level percentage of each individual and defines the corresponding category. For this purpose, 17 questions are asked to assess the risk percentage and 11 questions are used to determine the category. The aim of the questions is to determine several aspects such as motivation to join the group, operations conducted while in the group, the role of the individual during each operation, the nature of the targets, the type of weapon used, etc. Each answer is assigned a value ranging from 0 to 10. The weighted calculation provides the level of risk.

The categorization uses key information such as: the age of the individual at the time of his/her participation in the group (under or over 18 years), how the person joined the group (forced or voluntary), their motivations (ideological or other), acts committed (misdemeanor or crime), the nature of the targets (civil or military), etc.

The scoring tool thus provides an automatic risk level and categorization of individuals to facilitate the work of SCLCT agents.

### *The Triage*

The triage is the term used in the National Program for the final decision by the Prosecutor's Office to transfer former associates to rehabilitation or prosecution. The Specialized Judicial Unit Prosecutor's Office began conducting triage at the end of June 2019 and the first results were submitted to the MoJ on 22 July 2019. The methodology used by the team of the Prosecutor's office consists in dividing the caseload into 4 groups:

1. Unaccompanied minors (for whom the prosecutor requested their placement at the CTOs in Niamey);
2. Minors accompanied by their mothers (or legal guardians);
3. Individuals (including wives of defectors) who have not committed any criminal act and who have had their area taken over by BH/ISIS-WA and have taken refuge in Niger;

4. Individuals associated with BH/ISIS-WA on whom further investigation is required to clarify their involvement in serious crimes;

In the interests of the children, the Prosecutor also decided that if the parents or guardians are not to be prosecuted, the minors would remain with their parents at the center during their rehabilitation. However, if the parents are to be prosecuted and detained, the minors will be placed in the CTOs until they reach the age of majority.

Through this approach, the Prosecutor's Office started by identifying unaccompanied minors. As a result, 13 unaccompanied minors were identified and will be transferred to the CTOs. Subsequently, using the information provided by the SCLCT, the Prosecutor's Office was able to identify 45 individuals who had not committed any crimes within the group, hence making them eligible for enrollment in the rehabilitation program.

As this article was written, the Prosecutor's Office is in the process of examining the information on those disengaged who had voluntarily joined terrorist groups and carried weapons. Because the security forces and the SCLCT have not collected any evidence at the time of their surrender, the screening process is essentially based on confessions. Should the Prosecutor's Office call for more investigations for these cases, it is difficult to estimate the time it would take in a context of insecurity and displaced communities. Furthermore, Niger does not have a kind of Truth Commission tasked with discovering and revealing crimes by BH that would provide a safe space for victims to testify about their experience and enable the SCLCT to collect information outside the Goudoumaria Centre.

Individuals identified as having committed crimes are expected to be prosecuted. However, should they have denounced other members involved with NSAG, they can perhaps benefit from a reduced sentence in recognition of their cooperation with the authorities.<sup>47</sup> In order for this arrangement to work, the Prosecutor would have to collect information on the level of collaboration that the defectors have had with the justice system.

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<sup>47</sup> Meeting with the Prosecutor in May 2019

Meanwhile, international partners such as IOM have continued to support the SCLCT and the Prosecutor's Office to harmonize and coordinate their efforts through the establishment of SOPs on the screening process for disengaged combatants.

### Conclusion and Challenges

As an attempt to support the transition from conflict to stabilization, the GoN has recorded some impressive achievements in a short period time. The efficient set-up of the DDRR program has undoubtedly helped to reach the current phase of screening. This step was achieved thanks to the fulfilment of preconditions. In just over a year, Niger adopted its National Program for the treatment of disengaged BH/ISIS-WA associates (June 2018), set-up a legal framework to rehabilitate low-risk disengaged NSAG associates (December 2018), established a database to profile the 235 individuals living in the Goudoumaria Reception Center (January 2019) and screened low risk disengaged combatants (June 2019). Nonetheless, despite this rapid evolution of DDRR to address changing realities, challenges related to the screening remain. These comprise notably the political and judicial conditions that need to be met for the National Program to be carried out successfully.

#### *The Weak Capacity of the State*

State capacity determines whether state actors are able to coordinate efforts across governmental bodies in order to fulfill DDRR commitments. Central to this argument is the idea that the Nigerien defectors management system only depends on the state's own capacity. Due to other critical emergencies in the Lake Chad Basin region, the implementation of the National DDRR Program has resulted in a consequential extension of workload for designated state agents requiring the absorption of a new responsibilities, in addition to their initial duties. The National Program gives a central role to the GoN, precisely in areas where state capacity is weak. Additional resources need to be committed and a coordination

framework that needs to be created, involving all capable actors that have a comprehensive understanding of the overall DDRR process.

The development of the National Program and its dissemination in the Diffa region was designed in an attempt to establish ownership and develop national coordination in the DDRR process. International partners have worked to articulate collectively the capacity building requirements to align themselves with the National Program. Despite the weak capacity of the state and its difficulty in setting up a coordination mechanism, the DDRR process has made noticeable progress and is in the process of completing its screening phase.

#### *Limitations of Judicial Investigations*

The triage phase whereby BH/ISIS-WA affiliates must undergo a screening process to ensure that they do not have a record of human rights abuse is a new process in Niger. It was initiated by the recent update of the legal framework and the adoption of the new National Program determining the different categories of NSAG associates. The legal framework defines the conditions under which a person associated with a VEO can participate in the rehabilitation program, provided that they have not committed serious crimes. To make this distinction, the Prosecutor's Office refers to the Penal Code, which differentiates between treatment related to crime and to misdemeanor. Transposed into the DDRR process, only defectors who have committed misdemeanors can be enrolled in the rehabilitation program. The perpetrators of crimes on the other hand are to be prosecuted.

While the Prosecutor's Office team quickly identified individuals eligible for the rehabilitation program, it encountered more difficulty with the group of adults who joined BH/ISIS-WA and carried arms. Because the information collected by the SCLCT was based on confessions, it is difficult to establish whether the information is reliable. In order to carry out a proper screening, the Prosecutor's Office indicated that it needed more evidence through additional investigations.

In order for the Prosecutor's Office to make a decision, it is imperative that the information collected during investigations are in line with the law. By responding to this

need, the screening procedure has enabled SCLCT officers and the prosecution team to strengthen their collaboration. It has also allowed SCLCT investigators to better understand the provisions of the legal framework and the Prosecutor's Office to better understand the constraints related to investigations in the Diffa region.

#### *Collaboration with the Justice System*

Whether for surrendering or arrested individuals, the investigation procedure requires SCLCT investigators to collect information in the Diffa region and to conduct witness investigations. This proves to be a challenging endeavor given the context of Diffa region. Parts of the region are insecure, reducing the possibilities to conduct investigations with the states' limited resources. Some witnesses and family members of defectors live in Internally Displaced Person (IDP) and refugee camps in Niger or Nigeria, further complexifying the work for investigators. Finally, there are no truth commission to collect victims' testimonies. Truth commissions serve an important tool for investigation and reporting on VEO actions, in an attempt to understand the extent and patterns of past violations. In this context, the Goudoumaria Centre is an organic and spontaneous space that offers information to investigators that can be used for prosecutorial recommendations as they were able to conduct investigations and hearings in a secure space. Nonetheless, the creation of a truth commission should be a complementary process to the judicial system.

#### *Towards a Witness Protection System*

Witness testimony has critical value in investigating and prosecuting VEO crimes. According to the current legal framework, disengaged individuals convicted of serious crimes have to serve a prison sentence. However, in the absence of a dedicated prison, these individuals will serve their sentence in the same prison as those they have denounced. This represents a considerable risk to their own security. Hence, a system for their protection in the prison environment is fundamental.

In addition, the fact that they have fled BH/ISIS-WA and collaborated with the GoN exposes these defectors to reprisals from the VEOs they defected from. Having been a member of BH/ISIS-WA also exposes them to reprisals from the reintegration communities. However, during the various discussions with the defectors at the Goudoumaria Centre, they explained that their main fear was linked to the reprisal attacks by BH/ISIS-WA while fear of host communities only came second in the ranking of their concerns.

While most reintegration programs take place in communities of origin through reconciliation ceremonies coupled with community recovery program, reintegration must also ensure the safety of individuals for it to be successful.

At this stage, the reintegration phase has not yet started and it is difficult to predict how the GoN will carry it out. However, in view of the existing risks of retaliatory violence, discretion and confidentiality should be ensured during the reintegration phase. In the absence of a witness protection program, traditional reconciliation activities such as forgiveness and reconciliation ceremonies should be limited and low-profile reintegration should be applied. Finally, the police should be involved in monitoring and protecting former associates to guarantee their security.



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ISSN: 2363-9849

Editor in Chief: Daniel Koehler