

FIDH Position Paper on UN peacekeeping reforms and implementation of recommendations made by the High-level Review Panel on UN Peace Operations

On 28 September 2015, President Obama and Secretary-General Ban Ki-Moon will co-host a world leader summit during the United Nations General Assembly to discuss needed reforms to UN peacekeeping. In June 2015, an expert panel composed mainly of former UN Heads of peace missions, published a [High-Level Review of UN Peace-Operation](#). The report provides various recommendations on how to ensure that UN peace operations keep pace with current challenges. Most critically, world leaders should seriously discuss how they can improve the protection of civilians in peace operations. This will require concrete pledges from Member States – either in the form of more troops or financial contributions for equipment, or pledges on improving troop performance. The International Federation of Human Rights (FIDH) would like to convey the following recommendations on needed reforms:

I. Improve the implementation of protection of civilians mandates in UN peace operations:

The protection of civilians is at the heart of most peacekeeping missions. Protection from physical violence is often needed most in these conflicts, which requires boots on the ground. Today over [128,000 people work in 39 missions](#) around the world. Of the 16 peacekeeping missions, ten are mandated to undertake protection of civilian activities.

The UN has been haunted by its failures in Rwanda and in Srebrenica when its peacekeeping forces failed to prevent genocide of populations they purported to protect. More recently, the UN was also deeply shamed when [M23 rebels took over the eastern town of Goma in 2012](#) while UN peacekeepers stood by. It became clear that the UN could no longer follow the traditional concept of protection through presence and needed UN troops to aggressively defend civilians from armed attacks when necessary. Moreover, the changing nature of conflict whereby civilians are often directly targeted in civil wars demanded that the UN take a different approach. As a result, the United Nations Security Council has authorized new robust protection of civilian mandates charging peacekeepers with the responsibility to “use all necessary measures” (including the use of force) to “protect civilians under imminent harm from physical violence.” Today’s peacekeeping mandates require troops to be more proactive, and sometimes to even undertake offensive operations, as in the case of the Force Intervention Brigade (FIB) in the Democratic Republic of the Congo (DRC).

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Still, UN troops often fail to intervene when they should. For example, on the night of 6 June 2014, [30 civilians were killed](#) inside a church by an armed militia in Mutarule, DRC despite multiple alerts to the UN base just five miles away. Members of the community begged the UN Commander to intervene before and during the massacre. The UN Commander reportedly received orders from his hierarchy in Pakistan not to intervene to avoid any “body bags.” In South Sudan too, UN peacekeepers have been criticized for failing to conduct patrols to remote areas where civilians are most at risk and for limiting their patrols to daylight hours. A [2013 study by the UN Office of Internal Oversight](#) found that in most cases peacekeepers failed to use force to protect civilians when they were authorized to do so. During the four-year period under review (2010-2013), UN troops responded in only 20% of the cases where civilians were under imminent threat. The study also found that “peacekeepers are absent from many locations when civilians come under attack, and when they are present, are unable or unwilling to prevent serious harm from being inflicted.”

The countries which finance peace missions ([US, Japan, France, Germany, UK, China](#)) criticize the growing gap between the mandates and their implementation. In turn, some of the major troop-contributing countries (TCCs) (Pakistan, Bangladesh, India, Ethiopia, Ghana) have pushed back against new robust protection of civilian mandates arguing that they violate the three principles of peacekeeping: impartiality, the non-use of force except in self-defense, and consent of the host country. They complain that they are not consulted on the mandates and that their troops are deployed in environments where there is little or no peace to keep and where their troops are increasingly becoming targets themselves. As Samantha Power, the US ambassador to the UN has stated, “Today, we are asking peacekeepers to do more, in more places, and in more complex conflicts than at any time in history.”

This is why major reforms are needed to ensure that peace missions have the tools and political will to protect civilians. In order to strengthen the protection of civilians in UN peacekeeping operations, FIDH makes the following recommendations:

1. Expand the scope of troop-contributing countries: Many peacekeeping missions are in dire need of troops. Nearly all of the missions have not met their authorized numbers. There are simply not enough countries willing to put their troops in harm's way for the sake of a UN peacekeeping mission. Troops with high-capable militaries are especially needed. In the 1990s, European forces constituted [40% of peace missions, while today they constitute 7% of UN troops](#). The US is trying to reverse this trend by persuading European countries to contribute more troops, particularly with the drawdown of NATO forces in Afghanistan. But the US, with the most capable military in the world, should also provide more troops. While the US is the single biggest financial contributor to peace missions (28% of the total budget), it only provides [80 uniformed personnel](#), compared to contributions from countries such as Bangladesh ([9,434 troops](#)) or Ethiopia ([8,141 troops](#)). The High-Level Review Panel (Peace Panel) encouraged the five permanent members of the Security Council to contribute more troops to peace missions to bolster their legitimacy. This would also go a long way to easing current tensions between countries that fund the mandates and those tasked with implementing them.

2. Ensure UN troops are well equipped: Member States must generate contributions to address the severe equipment shortfalls. UN peacekeepers need the necessary logistical and material resources to carry out protection of civilian mandates. Today, many peace missions are operating with outdated equipment, without access to life-saving medical evacuation capabilities, and with vehicles only capable of performing short-range patrols. Lack of proper equipment not only hampers their ability to protect civilians, but also endangers the lives of peacekeepers. For example, in the case of MINUSMA, the most deadly mission for peacekeepers, [56 UN troops have been killed](#) in Mali since the beginning of the mission in April 2013. In Mali, peacekeepers have been targeted by improvised explosive devices while traveling in open-air vehicles seeking to protect civilians in areas controlled by armed extremists and Al Qaeda elements in the north. This is an avoidable threat. If troops are sent in harm's way, they need to be well-protected. While it is the responsibility of troop-contributing countries to supply equipment, the fact is, many of the biggest TCCs come from low-income countries that lack

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adequate equipment. Access to life-saving medical services is also important. If the UN is asking peacekeepers to risk their lives in missions, they should at least be provided with medical capabilities that can meet emergency and trauma care needs.

3. Ensure clarity on the mandate: Before any country deploys troops to a particular mission, the UN must underscore key performance expectations. There must be a meeting of the minds on what actions will be required to fulfill the mandate, including a list of duties (i.e. patrolling at night, conducting operations in the bush, conducting air assaults). Such details need to be discussed beforehand so countries know what they are getting into and there is no misinterpretation. Contingents that are unwilling to respect the mission's mandate should not be deployed.

4. Improve training: UN troops need to be properly trained before they are deployed. While many soldiers are trained in combat in their home country, they are not trained on how to protect civilians in foreign lands and do not receive training specific to their mission. They are not trained on what is needed to protect civilians from rebel attacks in the bush of DRC, or how to protect women in South Sudan from attacks while they gather firewood. Each mission involves a different context with different threats. This is why UN troops need contextualized training before they are deployed. The [UN Protection of Civilian Guidelines for Military Components](#) recommends that troops receive scenario-based trainings to demonstrate what action peacekeepers should take in particular situations. Trainings should also seek to elucidate in the clearest terms possible what constitutes an imminent threat. This will create clarity on whether the use of force is sanctioned in a particular circumstance. The Peace Panel noted that training is severely under-funded and since the UN relies on Member States to deliver their own training, troops come ill-prepared to understand the context and their duties. The Secretariat can address this gap by providing a basic training course on the Protection of Civilian guidelines for UN troops before they are deployed.

5. Reduce or eliminate caveats: One the main impediments to the implementation of robust protection of civilian mandates is the [issue of caveats](#). Caveats are limitations written in a memorandum of understanding between a TCC and the United Nations stipulating what they cannot or will not do. It is understandable that many countries resort to caveats in order to minimize the risk to their troops. However, caveats create problems for Force Commanders and give excuses for troops to willingly disobey orders. For example, a caveat might include the stipulation that a particular contingent will not move beyond a certain geographical range. This becomes a problem, for example when rebels attack civilians and then flee and the Force Commander orders that unit to pursue them. Some contingents actually go so far as to include caveats that prohibit the use of force altogether. Recently, there has been a big push to persuade TCCs to minimize, if not withdraw altogether, all caveats. The Peace Panel recommended that Force Commanders treat national caveats beyond the national restrictions expressly accepted by the Secretariat at the outset as “disobedience of lawful command.”

6. Monitor performance of troops: Another issue plaguing peace missions is the issue of accountability for poor troop performance. When UN troops fail to protect civilians from threats, it is not only tragic because they have the reasonable expectation that they are there to protect them; it is also tragic because poor performance by a few can stain the reputation of the UN as a whole. For what purpose are UN troops on the ground if they fail to take action when civilians need it the most? Currently there is no accountability for cases of inaction and Force Commanders are reluctant to report bad behavior for fear of jeopardizing relations with contingents. Some troops [have said they are risk-averse](#) because they fear penalties in the case of allegations of excessive use of force. On the other hand, they know there are no penalties for inaction. This should change. The Peace Panel recommended a strengthened system for review in cases of non-performance. Consistent underperformers, they said, should be warned officially and repatriated if they fail to improve. Cases of non-performance should be reported to UNHQ, which in turn should take them up with TCCs. The Secretariat should create a position for this purpose, ideally within the FC's office. A mechanism for accountability would incentivize TCCs to be more proactive.

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7. Engage communities: UN peace missions must improve their engagement with local communities. While the High-Level Review report placed great emphasis on the need for peace missions to have a more people-centered approach, it was short on concrete recommendations. The Peace Panel warned against the legacy of the “white SUV culture” where members of peace missions seem to act within a bubble, with little regard for the concerns or aspirations of the local population. To this end, the Peace Panel urged peace missions to develop a more human face that prioritizes closer interaction with the local population. This will require the establishment of positions or institutionalized mechanisms to ensure that the voices of the local population are heard. In one positive example, MONUSCO employs nationals to live and work in UN military bases as “Community Liaison Assistants” (CLAs) where they serve as translators and the link between UN troops and the community to provide information on issues confronting the local community. CLAs have been a great success and should be implemented in other missions. Top leadership should also be required to meet regularly in forums where the local population can voice their concerns, including by having the terms of reference for SRSRs require that they meet with a community advisory board.

Example: In November 2012, after M23 rebels took over the town of Goma, FIDH and its member organizations called upon MONUSCO to fulfill its priority mandate: to ensure the protection of civilians, especially those who find themselves in imminent danger of physical violence, in particular violence by one of the parties to the conflict.¹ After the establishment of the FIB in 2013, FIDH urged MONUSCO to improve its communication with the civilian population, which was seriously lacking. FIDH and its partner organizations in the DRC, called on MONUSCO to collaborate with communities at risk to gain their trust and identify their needs. Considering the very weak presence of DRC state security forces in the region, communication with communities and civil society organizations is vital in order for MONUSCO to efficiently and effectively identify threats to civilians.²

8. Improve women's access to peace missions: Women are vastly under-represented in UN peace operations, especially among uniformed personnel. In 2014, women constituted only [3% of military personnel and 10% of police personnel in peace missions](#). Women in peacekeeping help make the force approachable to women in the host community. This is especially important when working with victims of sexual violence. UN military bases remain largely a male-dominated atmosphere and in many countries such as South Sudan, DRC, and CAR, it is simply unthinkable and culturally inappropriate for a woman to report her abuse to another man, much less one who does not speak her language. Women and girls suffer disproportionately from conflict and rape continues to be used as a weapon of war. In many of these conflicts, peacekeeping missions are missing access to the full extent of the reality on the ground when it comes to sexual violence. UN Member States should address the severe gap of female peacekeepers by providing financial incentives for female UN troops. At the minimum, UN military bases should hire local women as Community Liaison Assistants in order to serve as a link to the women in the community.

9. Bolster the political will to act: Most importantly, UN peacekeepers must have the political will to act – to put themselves between the threat and civilians when required. TCCs must understand that undertaking protection of civilian activities entails risks. The fact is that some TCCs are motivated only by the financial payments they receive from the UN to serve in peace missions. For some TCCs, the goal is to collect the UN financial contributions for their service and avoid harm during their tour of duty. Normally troops risk their lives in battle for love of their country, or to defeat an enemy that has harmed them or their national interests. It is a more tenuous situation when foreign troops are asked to risk their lives for the sake of protecting civilians in a foreign conflict. But this is precisely the notion

¹ See FIDH press statement, “DRC – The taking of Goma by the M23 : our organisations demand protection for civilians,” 22 November 2012, <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/democratic-republic-of-congo/DRC-The-taking-of-Goma-by-the-M23-12481>

² See FIDH press statement, DRC: An intervention brigade within MONUSCO would require further human rights protection mechanisms, 27 March 2013, <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/democratic-republic-of-congo/DRC-An-intervention-brigade-within-MONUSCO-would-require-further-human-13106>

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that needs to be upheld. UN troops need to be united under the blue flag and realize that they are acting on behalf of the international community to protect civilians and are fighting not for their country, but for the principle of human dignity. While it is true that UN peace missions cannot protect all of the population from every threat, they can and should do better.

II. Strengthen human rights components in peace missions

A. Protect journalists and human rights defenders:

Today in many conflicts around the world, journalists and human rights defenders are increasingly targeted. Conflict countries often clamp down on press freedom and are plagued by politically-motivated violence in which journalists and human rights defenders are prime targets. For example, during the recent crisis in Burundi, a leading human rights defender, Pierre Claver Mbonimpa, was shot and injured in the capital on 3 August 2015. He was the President of a human rights NGO that advocates for the rights of prisoners and victims of torture. He was also a vocal opponent of President Nkurunziza's third bid term. In South Sudan too, seven journalists have been killed during the brutal civil war in that country this year. For example, on 19 August 2015, Peter Moi, a journalist who worked for South Sudan's Corporate Weekly newspaper was shot and killed in Juba. His assassination occurred just days after President Kirr threatened to kill reporters "working against the country."

Recognizing the particular threat that journalists and human rights defenders face in conflict situations, the UN Security Council has increasingly called for special measures for their protection. For example, MONUSCO calls for the protection of civilians with a particular emphasis on vulnerable groups, including human rights defenders.³ The UNAMA mandate also calls for respect of "all human rights and fundamental freedoms, including those of human rights defenders" and "notes with concern the continued restrictions on freedom of media, and attacks on journalists by terrorist as well as by extremist and criminal groups."⁴ The UN Security Council has also recognized the particular vulnerability of journalists and media professionals in conflict who are often targeted by security forces and armed groups due to their activities.⁵

Nevertheless, peace missions need greater attention to human rights defenders, journalists, and media workers. Some peace mission mandates do not provide special measures for their protection, including UNMISS and ONUB despite the increase in attacks on journalists and human rights defenders in South Sudan and Burundi. Protection of human rights defenders should be systematically included in peace mission mandates.

B. Promote accountability and the fight against impunity:

UN peacekeeping missions play an important role in assisting both the host government and the International Criminal Court (ICC) in the fight against impunity.⁶ They do this by working with national actors to re-establish and strengthen the judicial and legal systems in countries recovering from war. They may also provide information and/or logistical and administrative assistance to the ICC, thereby contributing to the investigation of the most serious crimes at the international level; or assist in the arrest and transfer of persons subject to an ICC arrest warrant. To do so, it is important for mission mandates to authorize support to national authorities in securing arrests of ICC suspects, or to carry

³ MONUSCO mandate, S/RES/2211(2015), para. 9(a)

⁴ UNAMA mandate, S/RES/2210 (2015), para. 41

⁵ S/RES/2222 (2015)

⁶ The UN-ICC Relationship Agreement provides a general framework for cooperation. In particular, article 3 provides that "[t]he United Nations and the Court agree that, with a view to facilitating the effective discharge of their respective responsibilities, they shall cooperate closely, whenever appropriate, with each other and consult each other on matters of mutual interest pursuant to the provisions of the present Agreement and in conformity with the respective provisions of the Charter and the Statute".

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out operations that may lead to arrests of ICC suspects prior to transfer of fugitives to the national authorities.

Nevertheless, in conflict countries, UN peace missions face immediate challenges such as security issues and the protection of civilians. As a result, justice activities often receive less priority. However, it is essential that peace missions also prioritize the rule of law and the fight against impunity. It is widely recognized that the absence of a functioning justice can lead to the outbreak of armed conflict and that the re-establishment and strengthening of justice systems can play a key role in the restoration of peace and security.

There are examples of good practices in peace missions promoting the rule of law and justice. For example, MONUSCO works with judicial actors to assist them in trials involving some of the most egregious human rights violations by providing assistance for mobile court hearings. MONUSCO also trains magistrates and provides information to the ICC in the proceedings against Bosco Ntaganda, a former rebel leader accused of war crimes. Other good practices include UNAMA's work with judicial authorities to implement the Elimination of Violence Against Women Law (EVAW) and UNMIL's facilitation of an 18 million € justice program.

The High-Level Review Panel report however does not address the importance of justice issues in peace missions. This is very revealing as the panel of experts who wrote the report are mostly all former heads of missions. It may demonstrate that mission leaders tend to believe that promoting justice issues jeopardizes peace. This is unfortunate and UNHQ should take a stronger stance in ensuring that mission leaders in peace missions promote the fight against impunity and the rule of law.

For example, the mandates of MINUSMA and MINUSCA include specific provisions related to justice and accountability which can serve as good models for other mission mandates:

MINUSMA: To assist the Malian authorities in their efforts to promote and protect human rights, including to support, as feasible and appropriate, the efforts of the Malian authorities, without prejudice to their responsibilities, **to bring to justice those responsible for serious abuses or violations of human rights or violations of international humanitarian law, in particular war crimes and crimes against humanity in Mali**, taking into account the referral by the transitional authorities of Mali of the situation in their country since January 2012 to the ICC;

MINUSCA: To support and work with the Transitional Authorities to arrest and **bring to justice those responsible for war crimes and crimes against humanity in the country, including through cooperation with States of the region and the ICC**; To help build the capacities, including through technical assistance, of the national judicial system, and of the national human rights institutions and assist with national reconciliation efforts, coordinating with the Independent Expert as appropriate; To provide support and to coordinate international assistance to the police, justice and correctional institutions to reinstate the criminal justice system, within the framework of the UN global focal point on rule of law, including through assistance in the maintenance of public safety and basic law and order, in a manner that emphasizes civilian oversight, impartiality and the protection of human rights and to support the restoration and maintenance of public safety and the rule of law including through the presence and assistance of UN police;

Yet not all peace missions include mandates to promote the fight against impunity. For example, UNMISS does not include any justice initiatives despite that country's severe need for accountability and capacity-building of justice actors.

Example: In November 2014, after a series of fact-finding missions in northern Mali, FIDH and its member organizations urged the Malian justice department to open judicial investigations into crimes committed against women and girls during the conflict in northern Mali. Although many judicial investigations have been opened in the Bamako Commune III Court of First Instance related to the

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conflict, nearly all of the charges up to present have been related to terrorism and criminal association, rather than arrests and charges for grave human rights violations.⁷ Likewise, charges for rape and other sexual violence, which are crimes against humanity and war crimes, have, up to now, been totally omitted from the scope of the investigations. FIDH has urged government authorities (and MINUSMA in its supporting role) to bring the perpetrators of grave human rights violations to justice.

FIDH urges the Security Council to ensure that justice initiatives receive priority in peace missions, including mandating missions to:

- cooperate with the ICC where possible, including through the creation of a Memoranda of Understanding to facilitate agreed modalities for specific forms of assistance, such as providing necessary administrative and logistical support, submitting information to the ICC OTP, facilitating victims and witnesses protection, and supporting the implementation of arrest warrants
- provide support to national authorities to bring to justice all perpetrators responsible for serious human rights violations, in particular war crimes and crimes against humanity
- increase capacity-building efforts for judicial authorities

C. Ensure the proper funding for human rights components:

The High-Level Review Panel noted the essential contributions which a human rights approach can make to the prevention of conflict and to sustaining peace as well as the role of mission human rights components in the protection of civilians. However, reliable funding is needed for human rights components in peace missions. Today, OHCHR is suffering from a financial crisis which has had negative consequences for its field offices, including the closure of several field offices. The High-Level Review Panel also pointed out that resources for the deployment of human rights officers are not routinely included for new missions, which results in the delay of their deployment. OHCHR and DPKO need to ensure more reliable funding for human rights components in peace missions.

D. Regularly publish human rights reports:

In many peace missions, public reporting is one of the best tools missions have at their disposal to combat impunity in the host country. UN peace missions are uniquely placed, with a substantial number of staff on the ground in various parts of the country, to conduct human rights monitoring. Protection of civilian mandates also require missions to conduct investigations into serious incidents of attacks on civilians. Timely and credible public human rights reports serve as a major advocacy tool for the protection of civilians and as an important source of information to fight against impunity in domestic and/or international criminal proceedings. Public reports also garner public exposure and increase pressure on government authorities to take corrective action. However, many peace missions fail to release regular public human rights reports. It is true that publishing public reports poses many challenges for mission leadership. Under OHCHR procedures, the mission is required to share the report with government authorities for comments before the report is released, which can risk straining sometimes already difficult relations with government authorities. Therefore, significant political will is needed by UN mission leaders to publish reports. Nevertheless, public reports are crucial in advancing human rights in peace missions and UN mandates should require missions to regularly produce them. The High-Level Review Panel recommended that the implementation of public reporting on human rights should be more fully reflected in the work of all peace operations with human rights mandates.

While many peace missions monitor and internally document human rights violations, it is important that such documentation makes its way into the public sphere to ensure greater accountability. Public

⁷ See FIDH press statement, “Mali / Complaint filed on behalf of 80 victims of rape and sexual violence during the occupation of northern Mali: response by Malian judiciary to victims’ need for justice is essential without delay,” 12 November 2014, <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/mali/16455-mali-complaint-filed-on-behalf-of-80-victims-of-rape-and-sexual-violence>

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reports serve a critical role in establishing the historical record for human rights abuses in the country.

Example: FIDH has urged the UN Security Council to insist on regular public reports on the humanitarian and human rights situation in Darfur and throughout Sudan in order to adequately monitor the situation on the ground.⁸ FIDH has noted that information about security in Darfur and the impact of violence on civilians is largely unavailable despite the large presence of UN peacekeepers and civilian staff in Darfur. The mission has developed a reputation for non-disclosure or under-reporting of the situation on the ground as far as civilian protection is concerned. Before UNAMID published its most recent human rights (August 2015), it had not published a stand-alone public human rights report since 2009.

Currently, UN peacekeeping missions have a poor record on releasing public human rights reports. Here are the number of human rights public reports released by peacekeeping missions thus far in 2015:

UNMISS: 2

- Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, Released 30 June 2015
- Attacks on Civilians in Bentiu and Bor, released 9 January 2015

MONUSCO: 1

- Report of the UNJHRO on international humanitarian law violations committed by the ADF, released on 13 May 2015

MINUSMA: 1

- Report on the human rights situation in Mali between 1 November 2013 and 31 May 2014, released 20 March 2015

UNAMID: 1

- Report of the United Nations High Commissioner for Human Rights on Impunity and Accountability in Darfur for 2014, released on 21 August 2015

MINUSA: 0

UNOCI: 0

UNFIL: 0

UNMIL: 0

ONUB: 0

III. Ensure accountability for grave human rights violations or violations of international humanitarian law, in particular sexual and gender-based violence:

Member States must ensure accountability for serious crimes committed by peacekeepers, including sexual abuse and exploitation and other grave crimes, such as the killing of civilians. Recent allegations of [sexual abuse of children by UN peacekeepers in CAR](#) shocked the conscience. Other cases of sexual and gender based violence by UN troops have gone unpunished. When peacekeepers abuse the very people they are charged with protecting, these heinous acts should be treated as nothing short of criminal. Member States must pledge to investigate and prosecute all cases of abuse and face consequences if they fail to do so. When peacekeepers commit abuses against the population, the UN as a whole loses its credibility. Holding UN leaders directly responsible for these crimes, as Ban Ki-moon recently did by firing the head of the UN mission in CAR, may also alert other UN leaders that this issue will finally be treated with the seriousness it deserves. FIDH also

⁸ [See FIDH press statement, "Deteriorating situation in Darfour of great concern warn NGOs," 8 January 2011, https://www.fidh.org/International-Federation-for-Human-Rights/Africa/sudan/Deteriorating-situation-in-Darfour](https://www.fidh.org/International-Federation-for-Human-Rights/Africa/sudan/Deteriorating-situation-in-Darfour)

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welcomes the Secretary-General's [initiative](#) to repatriate troops and suspend their payments if their hierarchy fails to investigate and prosecute cases of misconduct and abuse after six months of being notified of allegations. To this end, FIDH urges TCCs to embed national investigation officers in their contingents as advised in the Secretary-General's [report](#) on the implementation of recommendations made by the Peace Panel.