



## Security Council

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### **Letter dated 29 April 2022 from the Secretary-General addressed to the President of the Security Council**

In its resolution [2600 \(2021\)](#), the Security Council requested me to conduct an assessment of the mandate of the United Nations Integrated Office in Haiti (BINUH), including whether and how the mandate could be adjusted to address the ongoing challenges Haiti faces; to increase the effectiveness of the mission and its efforts to support engagement between Haitian national authorities, civil society and other stakeholders; to strengthen the rule of law; and to promote respect for human rights. The Council also requested me to convey the findings of the assessment within six months.

I appointed Mourad Wahba of Egypt as the Independent Expert to lead the assessment and to provide an impartial perspective on the mandate of BINUH, as well as recommendations regarding how it might be adjusted to address the challenges Haiti faces.

The assessment was conducted through an extensive and diverse consultative process drawing on the views of stakeholders in Haiti, New York and the Caribbean region. The Independent Expert met with Haitian authorities and stakeholders; Security Council members; representatives of other Member States, regional organizations and international non-governmental organizations; religious leaders; and representatives of United Nations entities, including the United Nations country team and BINUH. He placed particular emphasis on listening to Haitians, incorporating perspectives from the State and civil society, including the Prime Minister, Ariel Henry, the Civil Society Commission for a Haitian Solution to the Crisis and women's organizations, as well as the Haitian public. A survey of 1,000 Haitian residents, a social media analysis of Haitians' views and an online public consultation with over 230 participants were conducted to inform the assessment.

#### **Main findings of the Independent Expert**

In his assessment report to the Secretary-General, the Independent Expert concluded that Haiti is undergoing one of the most difficult periods in its history, with a high level of insecurity, marked by an exponential growth in armed gang influence, kidnappings, violations of human rights, in particular women's rights, and the availability of high-power weaponry. In that context, and given that the root causes of instability in Haiti require political solutions, he found that a United Nations political mission remains necessary.



### *Governance*

Democracy, restored in 1987 after decades of dictatorship, has not yet led to political stability, with accountable institutions and the continuity of dialogue that is required. Without political reform, the current system will continue to unwind institutional development and perpetuate political instability and the frequent changes in Government that drive the periodic crises in Haiti.

A reform of the political system will require Haitians to engage in a review of their Constitution that would allow improved functioning of the institutions of Government and the electoral system. Any reform should result in a system that promotes political stability and the continuity of executive authority.

The assassination in July 2021 of the President, Jovenel Moïse, was a shocking and egregious crime. The stalled investigation into the killing is emblematic of the impunity and weak institutions plaguing Haiti. Following the President's assassination, the good offices of BINUH have been a stabilizing factor, preventing a deeper crisis. They were also essential in the immediate aftermath of the assassination in supporting the continuity of executive authority. Although that role contributed to stability, it has come under attack by segments of society and opinion-makers, who deem it an external intervention.

BINUH has also been able on several occasions to put its third-party role to use in support of efforts to advance a national dialogue among political actors, although there has not been enough progress to reach a formal agreement. Apart from that role in crisis management, the ability of BINUH to push forward any systemic change has been stymied by frequent changes of Prime Minister and cabinet reshuffles. The same phenomenon also affected the work of previous United Nations missions in Haiti.

Various national proposals to resolve the crisis and prepare for elections have yet to bear fruit. In some cases, various interlocutors have expressed disappointment that the United Nations has not done more to exercise its good offices in support of grass-roots movements, which have called for improvements in governance, including accountability in public financing, anti-corruption measures and an end to impunity. Nevertheless, the assessment found that the United Nations good offices mandate would remain critical to supporting future national dialogue efforts to chart a common path forward. New and bold approaches will be required, building on the efforts of past dialogue to build confidence and trust.

The political capability of a United Nations special political mission holds a comparative advantage over other actors in Haiti, including the United Nations country team, which does not have the resources or mandate to create political space to convene national political actors and the diplomatic community. The assessment concluded that a special political mission continues to be the most appropriate and effective structure to address the core challenges in Haiti.

### *Security*

In a public consultation with Haitians held to inform the assessment, over 80 per cent of respondents identified insecurity as the main issue before Haiti. The security situation has seen a sharp deterioration and a proliferation of gangs. Significant parts of Port-au-Prince are currently under gang control, including arterial roads. Observers have noted adaptations towards a more organized, sophisticated gang profile, with militaristic command and control structures. Some observers assert that the national police is often outnumbered and outgunned by gangs, which continue to expand their territorial control while eroding the extension of State and police authority. They possess the latest models of powerful, high-calibre automatic

weapons that rival well-armed militaries around the world. The gangs have become an industry of organized crime that profits in a context of instability.

Severing the links of gangs with members of the political and business elites is key to reducing violence and criminality, which is an underexamined pressure point. Gang figures have publicly challenged the legitimacy of the interim Government and violently confronted the Prime Minister and called for his resignation. The ability of gangs to disrupt and influence elections at the behest of others is high – whether by intimidating voters, committing assassinations and abductions, fomenting violence or obstructing the movement of election material.

Participants in the consultations raised concerns not only about the impact of gangs on the levels of community violence, but also regarding the overall situation of organized crime, trafficking and illicit financial flows. The availability of illicit firearms is significant. Left unchecked, gangs could develop an almost insurgent capability. Porous borders have for years permitted the virtually unhindered flow of weapons and contributed to concerns that the situation in Haiti is becoming a threat to regional peace and security.

The erosion of State and police authority has affected the daily life of citizens through infringements on the freedom of movement and limitations or denial of human rights. The impact of gang violence on women and girls is dire. An increasing number of rape cases have been reported, often with an alarming level of brutality and ruthlessness. In some cases, entire families have been subjected to sexual violence. Women's groups have reported an unwillingness of victims to report crimes and sexual and gender-based violence incidents to the police. Efforts to address sexual violence involving gangs have been extremely weak. The national police sexual and gender-based violence data centre, set up with the support of previous United Nations missions, is no longer functional. Between June and December 2021, no cases of sexual violence were officially documented by that coordination body.

Cases of kidnapping for ransom are said to be grossly underreported but nonetheless have seen a steep increase. Between January and December 2021, the number of gang-related deaths and kidnappings in the metropolitan area of Port-au-Prince exceeded by far the numbers recorded in 2019 and 2020 combined. Kidnapping, of both Haitians and foreigners, has become one of the main sources of income for gangs.

### *Institutions*

Since the establishment of the Haitian National Police, following the dissolution of the Army in 1995, successive United Nations missions and international partners have provided support to strengthen the police in the areas of personnel, training and equipment. Although most observers noted that serious challenges remain in terms of capacity, motivation and efficiency, the national police remains one of the few State institutions that continues to operate at a quasi-adequate level.

The national police has not operated at full strength for several years. This is attributed to a rising crime rate and attacks against the police, attrition and, to a lesser degree, deaths, suspensions and dismissals of police officers. The number of national police officers devoted to the operational maintenance of law and order appears to be much smaller than the 15,000 officers regularly cited by officials. For example, a disproportionately large part of the police force (900 officers) is appointed to guard the presidential palace. Furthermore, the deployment of the national police is territorially unbalanced, with high concentrations of police in the West Department, where Port-au-Prince is located. One observer noted the near total absence of national police in rural areas. The vetting of police officers takes place after basic training, which accounts for an estimated annual loss of 8 per cent of the number of police

officers, potentially enriching gangs with trained elements. Overall, the number of officers is decreasing at a rate of 400 officers per year, which does not bode well for the future given the expected retirement levels of police officers in the coming years.

Corruption within the national police is widely regarded as a major issue. A commonly held view during consultations was that elements within the police participate directly in or tacitly support organized criminal activity, including drug trafficking and kidnapping. In addition, the Government and certain politicians also regularly apply pressure to direct certain actions and decisions of the national police.

International partners noted the essential role of BINUH in supporting and coordinating assistance to the national police. As such, the assessment found that BINUH is fulfilling a necessary task with regard to police support. However, with the changes in the operating context, the national police is confronted with forms of crimes that require a specialized approach. The current capacity and expertise of BINUH – both in terms of the number of experts and the degree of specialization – may fall short. This concerns, on the one hand, support in tackling cross-border criminal phenomena and, on the other hand, support in developing technical capacities and specializations. Logistical and capacity issues have obstructed the daily presence of BINUH police advisers at co-location sites and interfered with crucial strategic guidance and technical support to national counterparts.

Despite those setbacks, the national police has had some success in its efforts to maintain law and order against overwhelming odds and has held off attacks on commissariats and undertaken operations against gangs in certain areas. Together with many observers of Haiti, the assessment found that considerable and steady national and international political commitments and investments would, in time, enable the national police to build and reform to a level of capability that would fulfil its law and order needs in the country.

The judiciary remains only partially functional. Instability in the other branches of power affects their ability to fulfil their constitutional role in the renewal of judicial mandates. According to the Haitian Constitution, judges are appointed by the President on the basis of a list of candidates submitted by the Senate. Yet there is no President in place, and the Senate is not in quorum. As the Supreme Court of Haiti, the Court of Cassation is formed by 12 judges, but only three are currently in office. New appointments are pending to fill the seats vacated since the end of the terms of the outgoing judges. The Court of Appeals has been closed for the past 18 months, as of March 2022. At the level of jurisprudence, two Codes were prepared with support, among others, from United Nations expertise: the Penal Code and the Code of Criminal Procedure. Attempts by late President to issue these Codes by decree, in the absence of a functioning Parliament, were sharply criticized. The political opposition disapproved of the procedural elements towards the issuance of the Codes as contrary to constitutional law, while others suggested the issuance of the Codes was an example of external intervention in the domestic affairs of Haiti.

The criminal justice system in Haiti lacks credible investigative capacity. More than eight months after the assassination of President Moïse, there has still been no national investigation into the crime, with delays in the appointment of judges, compounded by accusations against and recusals of those ultimately appointed. The investigation into the alleged diversion of funds from the PetroCaribe programme of assistance has yielded no results and is now stalled. The court registry, reformed by previous United Nations missions, is no longer functional. At least two Haitian legal observers noted the regular disappearance of evidence and the trade in criminal files.

Conditions in the prisons remain notoriously poor, with unacceptable rates of pretrial detention. Overpopulation in Haitian penitentiaries results in very harsh living conditions and rather basic life-sustaining service provisions, affecting prison

security and public safety. Prisoners are poorly fed as prison food suppliers regularly go unpaid. Prisoners have been fed only one meal a day since November 2021.

The weakness of the police and the judiciary in dealing with criminal elements and the weakness of financial controls raise the question of the tracking of financial flows in and out of Haiti. Multiple organizations working in Haiti have alleged links between gang activity, politics and business. There is an immediate need to follow the money trail and deal effectively with the problem of gangs.

#### *BINUH mandate and integration*

During the consultations, the mandate of BINUH was generally welcomed, although some interlocutors reflected that BINUH resembles an abridged version of the United Nations Stabilization Mission in Haiti (MINUSTAH), with the same overall mandate areas but without the footprint, programmatic funds and support to police operations. As a result, BINUH has struggled to project its own character as a special political mission. Furthermore, some highlighted that the objectives of BINUH do not point to a concrete end state, which may have contributed to a lack of clarity of purpose and an expectation gap encountered during the course of the assessment of what BINUH is mandated to do and deliver.

The assessment concluded that integration is meant to be what underpins the impact of the United Nations mission, with BINUH conducting good offices and advisory functions backed by the country team's programmatic and technical assistance. While integrated planning for this configuration succeeded with the establishment of common priorities articulated in an integrated strategic framework, as an implementation model, integration has shown less success in this context. The United Nations posture, the assessment shows, has suffered from fragmentation and insufficient unity of purpose over the past two and a half years.

The assessment further concluded that the current gaps would make any transition from a special political mission to a country team presence more complex in the near future. Greater impact could have been achieved by streamlining the overall programme management of integrated activities, including a political strategy, monitoring and evaluation mechanisms and an overarching resource mobilization strategy for sustainable and predictable funding towards the benchmarks under the integrated strategic framework agreed upon by BINUH and the country team. Support from Member States and regional organizations remains critical to those efforts.

Some substantive areas of integration show functional collaboration. The human rights component of BINUH, which integrates capacities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) into the Mission, has been a key and necessary dimension of the BINUH mandate, although the current capacities and means to tackle the extent of the human rights needs in the country have been insufficient. Integration has also worked in electoral assistance.

On policing, a basket fund has been developed with the support of the United Nations Development Programme (UNDP) and BINUH. During consultations with Member States, there were calls for BINUH to assume a lead role in coordinating international assistance to the national police by donors through the new police basket fund, in order to ensure complementarity and non-duplication.

On community violence reduction activities, progress has been slow. Both BINUH and members of the country team noted that procedural issues and competition for resources delayed the start of operations, and the current operating context has further slowed progress. Nevertheless, a national community violence reduction strategy and an interministerial task force, established through joint United Nations assistance, have opened a path to achieving a measure of progress in joint

programming. This will remain an essential area for progress if anti-gang activities are to be successful and lasting human security at the community level is to be ensured.

On joint planning, efforts were made so as to enable BINUH and the country team to work on joint priorities identified in the integrated strategic framework. Currently, the country team is working on the development of a United Nations Sustainable Development Cooperation Framework. Integration will deliver stronger results if BINUH and the country team can fully commit to a single, jointly developed planning instrument and if it is fully aligned with the Security Council mandate for the Mission. The fact that the Deputy Special Representative of the Secretary-General, Resident Coordinator and Humanitarian Coordinator does not have any reporting lines to mission activities has also hampered coherence and effectiveness in programme development and integration.

At the operational level, the lack of integration between the health services available to BINUH and country team staff and the need for improved integration of security services has led to the duplication of expenditure. The capacity of the security services in country, in particular, needs to be increased if it is to support the safe mobility of United Nations staff in Port-au-Prince and access to areas outside the capital where needs are arguably just as great.

#### *Public sentiment*

Based on the opinion survey and digital public consultation conducted for the assessment, Haitian public opinion about the United Nations varies, including mixed positive and negative sentiments depending on the issue. Differences in the mandate and activities of BINUH, in comparison to MINUSTAH and the United Nations Mission for Justice Support in Haiti (MINUJUSTH), are mostly unknown by the public. While participants in the digital dialogue were somewhat negative regarding the role of BINUH, a much broader compass of responses was noted in the telephone survey, with most participants arguing for enhanced engagement of the United Nations in Haiti. The majority of participants responded that the United Nations at large should provide support for the elections, for the reform of the justice system, to deal with security – especially violence against women – and to promote political stability. Participants of the digital consultations encouraged the continued engagement of the United Nations with the public. They called upon BINUH strongly to improve its work to support the country in addressing current challenges.

#### **Observations**

The findings confirm that the United Nations has a clear understanding of the issues in Haiti and should continue to be part of the solution. At the same time, the assessment signals the importance of real and visible change in the way we operate and focus United Nations efforts in Haiti. Below are my observations based on the priorities of the findings.

##### **1. Root causes of instability**

The root causes of instability in Haiti require inclusive and nationally led political commitments and solutions. In that context, a United Nations political mission remains necessary. BINUH should be empowered to continue its good offices, scale-up police support to curb armed gang violence and reach out to all sectors of society, including communities living in areas controlled by gangs.

Four major priorities lie ahead for BINUH: (a) assist Haitians in achieving progress toward overcoming political divisions, bringing the country back to the path of democracy and engaging in institutional reforms; (b) strengthen the capacity of the

Haitian national police to curb armed gang violence, in close coordination with donors providing bilateral assistance, and cut the links between gangs and political and economic actors; (c) support Haitian initiatives to extend State authority and United Nations community violence reduction and protection activities led by the country team in areas affected by gang violence; and (d) ensure that support to the Haitian authorities also contributes to the revitalization of the judiciary.

## **2. Broad scope of the mandate**

The broad scope of the mandate should be maintained in order to allow sufficient margin to adjust the priorities of BINUH, while maintaining flexibility and responsiveness, but needs to be adequately resourced to address evolving challenges and adopt different and more impactful ways of working hand-in-hand with the country team.

### *Strengthening political stability and good governance*

Good offices, uniquely performed by BINUH, remain necessary as the need to reform the political system will continue to drive the periodic multifaceted crises in Haiti.

## **3. Engagement with stakeholders**

BINUH should engage in a more systematic manner with all stakeholders in Haiti, in particular political actors, civil society, women and religious leaders, as well as entrepreneurs, to foster a national dialogue regarding a way out of the impasse, with an agreement on the form and duration of the transition period.

## **4. Outreach to communities**

Special efforts should be made to reach out to communities and young people, including beyond Port-au-Prince, to support local authorities' efforts to open local spaces for dialogue and regain access to areas affected by gang violence.

## **5. Accountability mechanisms**

Efforts should also be geared towards strengthening the capacities of State accountability mechanisms and supporting elections at the earliest opportunity, when political and security conditions permit.

### *Reinforcement of the capacity of the Haitian national police*

With the deterioration in the operating context over the past two years, national policing authorities are now being called upon simultaneously to combat armed gangs and reclaim gang-held territory while also continuing to maintain and build the institutional capacity of the national police and add specialized capacities. This dual task for the national police will require a long-term commitment by policing donors and the Security Council to support transformational change in the security sector.

## **6. Growing insecurity**

To address growing insecurity, BINUH should receive adequate resources to scale up its advisory support to strengthen the capacity of the national police to fight gangs, reopen police commissariats in areas affected by gang violence and stem illicit financial flows.

**7. Flexibility in police assistance**

To ensure flexibility in police assistance and limit the overall size of BINUH, increases in mission resources to scale up police support should be targeted and time-bound, through short-term deployments of specialized personnel of the Standing Police Capacity, small specialized police teams provided by police-contributing countries, and consultancies. Support would be provided for the training of the national police, including in new areas, such as intelligence-led policing and electronic surveillance, to enable the national police to tackle gangs and liberate some of the communities they currently hold.

**8. Basket fund**

Such support by the United Nations, drawing on resources from the basket fund established by UNDP and BINUH, should include community policing in areas not covered by other programmes, control of border traffic and ports and strengthening public oversight of the police. United Nations support to the national police should be aligned with the priorities of the basket fund and seek complementarity and non-duplication with assistance from donors.

**9. Coordination role for BINUH**

During the deliberations on the mandate, the Security Council could also consider supporting a coordination role for BINUH with regard to external assistance to the national police through the basket fund.

*Reducing community violence*

The work of BINUH would also seek to enhance country team-led community violence reduction programmes in areas affected by armed gangs, with special attention to victims and survivors of sexual and gender-based violence, while continuing efforts to protect and promote human rights and national human rights institutions.

**10. Illicit financial flows**

The Council could also consider mandating BINUH to support Haitian authorities in combating the growing challenge of illicit financial flows, which enable armed gangs to operate and pose a growing threat to stability.

*Strengthening the justice and corrections sector*

Coordinating closely with the country team and international partners, the advisory support BINUH provides to the Haitian authorities should also support the revitalization of the judiciary through a reform of the registry system and the familiarization of judges with new Codes and procedures. Furthermore, the international partners of Haiti could pool efforts to fund an independent international investigative initiative to assist in strengthening the functioning of the judiciary.

**11. Strengthening internal disciplinary procedures and oversight mechanisms**

BINUH should also step-up efforts to advise Haitian authorities on strengthening internal disciplinary procedures and oversight mechanisms in the security and justice sectors and help strengthen informal oversight through civil society.

### *Increasing integration*

The assessment showed that the challenges across the political, security and rule-of-law, humanitarian and development fronts demonstrate the importance of continuing efforts to bring the parts of the United Nations system together.

In order for integration to be successful, it needs to work for the overarching political objectives of the mandate and enable BINUH and the country team to be more effective in making progress towards achieving the benchmarks for Haiti and achieving a transformational impact, and we will continue to explore the United Nations system to identify the right formula to do this.

## **12. Continuing the integrated approach**

The resolution of the political and institutional crisis in Haiti would create a more conducive environment to envision further adjustments to the structure of the United Nations configuration in the country. In the meantime, I recommend that the current integrated approach continue under the leadership of my Special Representative and Head of the United Nations Integrated Office in Haiti and assisted by the triple-hatted Deputy Special Representative of the Secretary-General, Resident Coordinator and Humanitarian Coordinator. Continued reporting by the country team and BINUH to the Economic and Social Council through the Ad Hoc Advisory Group on Haiti will remain essential to the integrated efforts of the United Nations.

However, to increase their respective and collective impact, BINUH and the country team should consider ways to expand their outreach capacities, especially in the provinces. They could also rely on new bases on which to expand through the establishment of joint units in back-office functions.

## **13. Joint information and analysis unit**

Chief among these joint units are a joint information and analysis unit for situational awareness, risk assessment and data collection on the situation in gang-affected areas to inform United Nations country team programmatic activities; a joint planning, monitoring and evaluation unit; a joint security unit; and shared office and support functions.

## **14. Implementation of the joint teams**

These units should be added to the effective implementation of the joint teams staffed by BINUH and the country team on community violence reduction, justice and elections that are part of the 2019 BINUH mission concept.

## **15. Strengthening logistical capacity**

It would be important to strengthen logistical capacity, in particular the security service for the United Nations in Haiti, to provide much-needed mobility, both inside Port-au-Prince and outside the capital.

## **16. Strengthening integration**

To strengthen integration, the Deputy Special Representative of the Secretary-General, Resident Coordinator and Humanitarian Coordinator would oversee the new joint units and assume direct oversight of the joint teams of BINUH and the country team on community violence reduction and justice. These proposals will require a change in the BINUH organizational chart. Given the high stakes of the pending elections and the coordination under way for the past two years of United Nations joint support through an electoral assistance task force led by my Special

Representative, it will be important to maintain this mechanism in place until the elections.

As a follow-up to the present letter, I will request that my Special Representative and the Resident Coordinator in Haiti develop, in consultation with the relevant Secretariat departments, a proposal to establish joint BINUH-country team units on information and analysis, monitoring and evaluation and security. These joint units would have to be co-funded by BINUH and the country team through the regular budget and with extrabudgetary funds.

As another follow-up, I will ask my Special Representative, with the support of the Department of Peace Operations, to undertake in consultation with the national police and donors a detailed assessment of specialized police capacities that could be provided and strengthened through BINUH over the next 12 to 24 months and identify the best mechanism to provide resources for the mission (i.e., consultancies, standing police capacity and specialized police teams). The results of the assessment of police capacities will inform a recommendation in my next report to the Security Council on BINUH on whether it would be necessary to consider an increase in the police ceiling during the deliberations on the mandate in July and the scope of such an increase.

To conclude, I would like to thank the Independent Expert for his leadership in conducting the assessment and presenting the findings. The needs of Haiti are great and the challenges daunting. Together, however, we have the opportunity to have a United Nations presence that is more coherent, efficient and accountable, to enable Haitians to return to their chosen path of democracy, stability and development.

*(Signed)* António **Guterres**

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