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The Temporary International Presence in the City of Hebron: A Unique
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Justus R. Weiner

Volume 16
The Temporary International Presence in the City of Hebron ("TIPH"): A Unique Approach to Peacekeeping


JUSTUS R. WEBER

The Israeli-Palestinian conflict, replete with war, insurgency, terrorism and assassinations, has been one of the greatest challenges to regional and world peace for the past half-century. The current Middle East peace process, known as the "Oslo" process, brought about, for the first time, face-to-face negotiations between Israel and the Palestinian Liberation Organization ("PLO") aimed at ultimately concluding a comprehensive peace settlement. However, four years and six interim agreements after the history-making mutual recognition between Israel and the Palestinians, the Israeli-Palestinian peace process is undergoing another period of acute

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2 The framework of the process actually began in Madrid in 1991. Most of the progress, however, materialized from the secret bilateral Israeli-PLO talks which began in London in 1992, and bore fruit after the venue was moved to Oslo in 1993. DAVID MASCOVICH, MAKING PEACE WITH THE PLO: THE RAAB GOVERNMENT'S ROAD TO THE OSLO ACCORDS 17-18 (1996).


4 This mutual recognition was symbolized by the Yitzhak Rabin-Yasser Arafat handshake at the September 13, 1993 signing ceremony of the DOP hosted by President Clinton on the White House lawn.
stress. Initial doubts, paperwork over with compromises on minor issues and unprecedented international financial and political support, have resurfaced with a vengeance. Although Israel is not committed in any of the interim agreements to refrain from construction in either Jerusalem or the West Bank, Palestinian sensitivity to this issue and some provocative Israeli actions in disputed areas have engendered international criticism and significantly undermined Palestinian support for the peace process as a whole. Concurrent episodes of Israeli-Palestinian terrorism, together with deep and persistent differences over core issues of existential significance to the parties, have combined to transform the peace process, embarking upon with enthusiasm and optimism, into an ambivalent and politically burdensome venture for the Palestinian and Israeli leadership to sustain.

The September 1997 visit of United States Secretary of State Madeleine Albright to the Middle East was aimed at stabilizing the...
One of the most demanding issues confronting the peace negotiators is to negotiate a *modus vivendi* between the Palestinians and Israelis living in Hebron, an ancient and holy contested city in the West Bank. In Hebron, the usual political and religious difficulties are magnified by a visceral mutual animosity between Muslims and Jews. Due to concerns for the safety of the approximately 500 Jews that reside in downtown Hebron as well as the desire to protect major Jewish religious sites, Hebron was the last large city in the West Bank under Israeli occupation and was a major obstacle to the continuation of the peace process. The presence of a small Jewish community, living in close proximity to a vehemently hostile Arab population in downtown Hebron, continues to cause tension in the city today.

Curiously, however, notwithstanding the bleak outlook for the Israeli-Palestinian peace process as a whole, a unique, low-key and inexpensive peacekeeping observer mission, the Temporary International Presence in Hebron ("TIPH"), has made significant steps towards reducing tension in that city. TIPH, which unlike most international missions is not under the aegis of the United Nations ("UN"), was created to promote stability and normalization in Hebron. TIPH has meaningfully contributed to precisely those objectives. Moreover, in the opinion of the reviewer, TIPH can serve as a model for observer missions to be stationed elsewhere, in the Middle East and other parts of the world.

This essay examines the creation and role of TIPH. Section I considers the origins and functions of modern peacekeeping. Section II discusses the inception of TIPH and its intended role in the peace process. Section III analyzes the agreements between Israel and the PLO which created the TIPH mission. Section IV examines, from diverse perspectives, the problems that have arisen since TIPH first took to the field. The views of the Palestinian Authority, the Israeli Defense Forces, the Israeli Foreign Ministry, the Palestinian municipal authorities and the Palestinian and Jewish residents of Hebron are considered. Section V forecasts the suitability of a TIPH-like mission for other peacekeeping roles. The reviewer’s conclusions and outlook constitute Section VI.

agreements no later than May 4, 1999. The permanent (or final) status negotiations are intended to resolve the major remaining issues, including “Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors.” See DOP, supra note 3, at art. V.3. As the date specified in the DOP for a permanent peace agreement approaches, the prospects of achieving that objective have receded.


41 Although similar, there have actually been three variants of TIPH. References to general matters regarding TIPH appear herein simply as "TIPH." Specific references to the first mission and the second mission, respectively, are "TIPH1" and "TIPH2." There was also an advance party [hereinafter Advance Party] for TIPH2, made up entirely of Norwegians.
I. THE DEVELOPMENT OF MODERN PEACEKEEPING

Defining "Peacekeeping"

Defining the term "peacekeeping" is problematic, as the expression has been popularly used to designate a wide range of operations. Commonly, several definitions are combined and peacekeeping is considered to include all international efforts, especially those of the UN, that involve the deployment of forces to a conflict-ridden area. Peacekeeping is not mentioned in the Charter of the UN. However, in the 1992 UN document, "An Agenda for Peace," peacekeeping is defined as:

the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.\(^{27}\)

The International Peace Academy of New York,\(^{28}\) which is devoted to the study of peacekeeping, defines peacekeeping as "[t]he prevention, containment, moderation, and termination of hostilities, through the medium of a peaceful third party intervention, organized and directed internationally, using multinational missions of soldiers, police and civilians to restore and maintain peace."\(^{29}\)

Peacekeeping operations typically involve one or both of two objectives: preventing the renewal of hostilities and promoting the resolution of conflict. Historically, UN peacekeeping operations are divisible into two broad categories: peacekeeping observer missions, which consist largely of officers who are almost invariably unarmed; and peacekeeping forces, which typically consist of lightly armed infantry units, together with logistical support.\(^{30}\)

Peacekeepers fulfill a large number of roles. Their functions may include separating hostile forces,\(^{31}\) monitoring a cease-fire agreement,\(^{32}\) supervising troop withdrawals,\(^{33}\) monitoring the parties' implementation of peace agreements,\(^{34}\) maintaining neutral demilitarized zones,\(^{35}\) acting as a conciliator between the parties,\(^{36}\) creating mechanisms to deal with alleged violations and disputes over the interpretation of agreements,\(^{37}\) preventing external interference,\(^{38}\) verifying arms control,\(^{39}\) preventing the expansion of war,\(^{40}\) and a whole range of other functions.

\(^{27}\) The British army has used it to describe its post-colonial internal security operations which fell under the heading "keeping the peace." In the United States, it has been used to refer to the operations in Grenada and Haiti in the 1980s, and the United Nations uses it to describe the activities of its multinational missions. John Mackinlay, The Peacemaker (1989).


\(^{29}\) Peacekeeping was an activity the UN had been politically reluctant to define. The Intergovernmental Special Committee on Peacekeeping Operations, for instance, annually considered making a declaration on the principles of peacekeeping, and annually rejected the idea on the grounds that to define peacekeeping was to impose a strait-jacket on a concept whose flexibility made it the most pragmatic instrument at the disposal of the UN. Nevertheless, a consistent body of practice and doctrine had developed over the years: peacekeepers functioned under the command and control of the Secretary-General; they represented the moral authority rather than the force of arms; they reflected the universality of the UN in their composition; they were deployed with the consent and cooperation of the parties involved; they were impartial and functioned without prejudice to the rights and aspirations of any side; they did not use force or the threat of force except in self-defense; they took few risks and suffered minimal numbers of casualties; and they did not seek to impose their will on any of the parties. Shachi Tharoor, Should UN Peacekeeping Go "Back to Basics, Survival, Winter 1995-96, at 52, 56.

\(^{30}\) The International Peace Academy is an independent, non-partisan, international organization dedicated to promoting the peaceful settlement of armed conflicts between and within states. Mission

\(^{31}\) This was an objective of the UN Observer Group in Lebanon [hereinafter UNOGIL], created in 1958. See Clemons, No Peace to Keep, supra note 32, at 125.

\(^{32}\) For example, the UN Observer Mission in Lebanon hereafter UNPROFOR), deployed in Croatian territory in 1995. Clemons, No Peace to Keep, supra note 32, at 125.

\(^{33}\) For example, the UN Observer Mission in Lebanon hereafter UNAVEM), created in 1988.\(^{2}\)

\(^{34}\) The UN Observer Mission in Liberia [hereinafter UNOMIL] works closely with the Monitoring Group of the Economic Community of West African States [hereinafter ECOMOG] to monitor the Liberian factions' implementation of peace agreements.\(^{3}\)

\(^{35}\) For example, the UN Observer Mission in Lebanon hereafter UNPROFOR, deployed in Croatian territory in 1995. Clemons, No Peace to Keep, supra note 32, at 125.

\(^{36}\) For example, TIPPEZ. See supra note 25.

\(^{37}\) For example, the UN Observer Mission in Lebanon hereafter UNAVEM), created in 1988.\(^{4}\)

\(^{38}\) The UN Special Commission hereafter UNSCOM) is in charge of monitoring the disarmament of Iraq following the Gulf War in 1991. Anthony Goodman, Saddam Ahead First-Round Standoff with UN, Jerusalem Post, Nov. 9, 1997, at 5.

\(^{39}\) For example, UNSCOM. Goodman, supra note 38.
of hostilities to new areas, and conducting fact-finding missions. In recent years, peacekeepers have increasingly assumed responsibilities beyond the traditional concept of peacekeeping. Such functions include supervising elections, providing humanitarian assistance, assisting in the disarmament and demobilization of factions, interdicting drugs, combating terrorism, establishing confidence-building mechanisms, clearing mine-fields, assisting in the repatriation of refugees, building infrastructure, maintaining law and order, and monitoring human rights.  

46 The UN Preventive Deployment Force [hereinafter UNPREDEP] involved the deployment of over 1,000 UN peacekeepers in the former Yugoslav Republic of Macedonia [hereinafter FYROM] to help in maintaining peace and stability in FYROM as the other parts of former Yugoslavia were at war. The Year in Review 1996, supra note 34, at 1.  
47 Dietl, supra note 29, at 4. Fact-finding missions are based on the assumption that preventative diplomacy, peacekeeping and peacebuilding "must be based upon timely and accurate knowledge of the facts." In the 1992 Report of the Secretary-General entitled "An Agenda for Peace," the Secretary-General recommended: 
An increased resort to fact-finding...in accordance with the Charter, initiated either by the Secretary-General, to enable him to meet his responsibilities under the Charter, including Article 99, or by the Security Council or the General Assembly. Various forms may be selected as suitably. A request by a State for the sending of a United Nations fact-finding mission to its territory should be considered without undue delay.  
An Agenda for Peace, supra note 27, at 4.  
49 See, e.g., UNTAG, UPROFOS. See Clemens, supra note 32, at 125. UNOSOM, for example, counted among its functions humanitarian assistance. Id. at 136. The guiding principles governing UN humanitarian assistance are annexed to General Assembly Resolution 46/182 of 19 December 1991. The guidelines stress that: 
Humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartiality; that the sovereignity, territorial integrity and national unity of the States must be fully respected in accordance with the Charter of the United Nations; and that, in this context, humanitarian assistance should be provided with the consent of the affected country and, in principle, on the basis of an appeal by that country.  
An Agenda for Peace, supra note 27, at 5.  
50 See, e.g., UNOMIL. The Year in Review 1996, supra note 34, at 3.  
51 See Detr., supra note 29, at 154.  
52 Id. at 156.  
53 Id. at 159.  
55 See, e.g., UNAMIR. The Year in Review 1996, supra note 34, at 2. UNTAC. James, supra note 42, at 248.  
56 UNAMIR rebuilt four major bridges damaged during the war, helped restore operations at Kigali airport and telephone service throughout the country. The Year in Review 1996, supra note 34, at 2.  
57 In July 1990, after fighting broke out in the newly-independent Congo, the Security Council authorized a UN force to help maintain law and order. RUSKIE, supra note 31, at 1. In Cambodia, UNTAC had policing responsibilities. James, supra note 42, at 248.  
58 Despite the varied and multifaceted roles they fulfill, peacekeeping forces generally conduct their activities in accordance with three fundamental principles. First, peacekeeping missions should not brand one side or the other responsible for military conflict. Without at least the appearance of complete neutrality, UN peacekeepers are unlikely to obtain the critical element of consent and the requisite levels of cooperation from all the parties to a dispute. This does not mean, however, that the authorizing body may not pass judgment or may not condemn one side or the other. Furthermore, the deployment of peacekeeping troops in a conflict may constitute an implicit advantage for or endorsement of one side's political position. Nevertheless, peacekeeping forces do not usually overtly favor one side or the other, and are not designed to provide military advantage to either side or impose a solution on the parties.  
59 Second, peacekeeping operations usually have the permission of the state or states on whose territory its personnel will be stationed.  
60 maintenance of law and order. They perform such police tasks as patrolling the streets and countryside to report on, and deter criminal and other hostile activity. Peacekeeping forces may also fulfill administrative duties in a quasi-governmental fashion, although only as a temporary measure and without the recognition of sovereignty. Dietl, supra note 29, at 10.  
61 UNTAC and UNMIL monitor and investigate human rights violations. See The Year in Review, supra note 34, at 3; See James, supra note 42, at 248.  
62 Clemens, supra note 32, at 112.  
63 According to Tharoor, "[I]mmorality is the oxygen of peacekeeping: the only way peacekeepers can work is by being trusted by both sides, being clear and transparent in their dealings, and keeping lines of communication always open. The moment they lose their trust, the momentum they have by one side or the other as the 'enemy', they become part of the problem they were sent to solve." Tharoor, supra note 27, at 58.  
64 For example, the imposition of peacekeeping forces after the Suez Crisis was preceded by UN disapproval of French and British actions. NADAV SAPRAN, ISRAEL: THE EMBATTLED ALLY 356 (1982).  
65 Dietl, supra note 29, at 8.  
66 Id.  
67 What is at issue is not the motives of the peacekeepers, or even what they do, but the local perception of what they do. If they are seen as helping one side in the internal or external political conflict, even if only indirectly and without the immediate intention of doing so, then their reputation for impartiality will be endangered, leading to the peacekeepers becoming "part of the conflict and therefore part of the problem." The peacekeepers value as unbiased intermediaries or assistants, the chief distinctive contribution of peacekeeping, will be lost. See James, supra note 42, at 252-53.  
68 A reputation for impartiality has important implications on the ground. A force, or any of its contingents, which is regarded as partial will be treated as such by the offended party, conceivably, resulting in an uncomfortable and perhaps even a dangerous situation for its members. No force commander would wish to find himself in that situation equipped with only light arms. The contributor states, actual or potential, and the contributing states, explicitly or implicitly, would look with ill will on such an outcome. Id. at 253. This point was emphasized by the commander of the military component of the UN operation in Cambodia, "The critical point is that if peacekeepers fail to maintain their neutrality, they have to be prepared to go to war - or to go home." Id. at 254.  
69 See Dietl, supra note 29, at 8. The UN Mine Clearance Organization [hereinafter UNTSO] and the UN Mine-Removal Mission, [hereinafter UMNRR], have worked and did not depend on the consent of the parties. See UN Peacekeeping: Some Questions and Answers, UN Doc. D/638/Rev.4 (March 1997) at 3. However, even in the rare occasions where peacekeepers have been imposed on disputing parties, they remain in practice dependent on the consent of the parties as the effective performance of peace observation requires a level of cooperation from the host state(s) on the ground. Clemens, supra note 32, at 117.
Peacekeeping operations recognize and respect the sovereignty of states and assign a role for the mission compatible with the authority granted by the states involved. In most cases, intervention without consent violates state sovereignty. Moreover, any attempt to station troops without consent could precipitate military attacks on those forces by the host country, which would defeat the purpose of the mission and be dangerous for the peacekeepers, who do not possess the offensive military equipment or training to resist such actions. Furthermore, permission granted by a host country allowing the deployment of peacekeeping troops does not constitute an unlimited legal right, and permission may be withdrawn at any time by the host state. Thus, peacekeepers cannot impose their will on those who do not wish to keep the peace.

Third, while peacekeeping troops may occupy a given area and act as an interposition force between the protagonists, they have no offensive role, and no such capability in the conflict. A peackeeping operation does not seek to acquire or control additional territory, and has no legal or possessed sovereignty over the territory it occupies. Consequently, peacekeeping soldiers are only lightly armed, and they are authorized to use military force only under very limited conditions.

The UN needs "to respect the sovereignty of the State; to do otherwise would not be in accordance with the understanding of member states in accepting the principles of the Charter." An Agenda for Peace, supra note 27, at 5.

As a matter of international law, Article 2(7) of the UN Charter requires the UN to obtain the consent of any host state before entering its sovereign territory. Article 2, paragraph 7 of the UN Charter forbids the UN from intervening "in matters which are essentially within the domestic jurisdiction of any state." See Jan Brownlee, Principles of Public International Law 373 (1990). Likewise, peacekeepers are generally not heavily armed and can be readily overrun or bypassed by a determined army or militia. This was demonstrated at the outbreak of the 1967 Arab-Israeli War when the Jordanian army occupied the strategic UN Headquarters in Jerusalem. Teyor M. Dupuy, The Arab-Israeli Wars, 1947-1974 293-94 (1978). The UN general and his staff of peacekeepers protested but offered no opposition. At UNTSO, the peacekeeping force placed between Syrian and Israeli forces for the post-1967 War ceasefire, offered no impediment to the Syrian surprise attack on Israeli positions in October 1973. Jerry Aisher, DUEL FOR THE Golan 90 (1987).

The experience of the UN in Somalia and former Yugoslavia has made it clear that those who are determined to fight will not be prevented from doing so by the presence of peacekeepers. Parties to a conflict that are convinced to have more to gain militarily than peace are also particularly unreliable targets for the UN's peace efforts. Tharoo, supra note 27, at 57.


Tharoo, supra note 27, at 59. "If there is no political will among the protagonists to solve the problem," former Secretary-General Boutros-Ghali declared in 1995, "the United Nations cannot impose peace." Id. at 57.

Diehl, supra note 29, at 6.

Id. at 7. UN peacekeeping forces have always carried light weapons for use, as a last resort, in self-defense. (Differences in the local context has led to a variation in the degree of "lightness" of these arms.) In contrast to the forces it established in the 1970s, the UN's draft of that self-defense included resistance to forceful attempts to prevent peacekeepers from discharging their duties.

James, supra note 42, at 252.

Although peacekeeping activities are usually non-confrontational, the need to deploy combat units in peackeeping roles has arisen when a stronger military presence was needed. Diehl, supra note 29, at 4. In particular, the principle of the non-use of force has at times been modified in civil war settings, where peacekeepers have all too often come under military assault and been unable to respond. Largeely because of the hostile reactions of the various factions to their presence, peacekeepers in civil war situations have had to brandish heavier weaponry that would be typically permitted under the conventional peackeeping model. For example, artillery of UN peacekeeping forces in Lebanon [hereinafter UNIFIL] goes far beyond light weaponry, as it did earlier in the Congo. Furthermore, in some civil disputes, UN peacekeepers have been armed more heavily because civil instability has meant that several groups were operating in different parts of the country. Consequently, this required the peackeeping operation to cover more territory, opening up greater possibilities for incidents of unposed violence or attacks. Gleemos, supra note 52, at 173.

The end of the Cold War has opened the way to greater assertions on the part of the UN, and in many minds the recent development of peackeeping is chiefly significant for the tougher possibilities it can offer. A more muscular approach to peackeeping would involve two aspects. First, the UN Security Council may depart from usual peackeeping practice by dealing somewhat ambiguously with or even directly denying the principle that the host state must consent to the presence of a peackeeping mission and has the right to determine its departure. Second, the mission's mandate and equipment may be more imposing than is usual for peackeeping. Signalling that they have the right, the ability, and, if necessary, the intention to engage in armed defensive measures; and that parties to the conflict are aware of their undertakings or obligations may exert a muscular peace-restoring response. Such missions, therefore, have some of the character of peace-enforcement, that is, military activity which from the outset is both partial and threatening and for which the consent of the target state or group is certainly not deemed necessary.

The UN adopted a tough stance regarding the use of force by UNPROFOR in Bosnia-Herzegovina. Although the Security Council gave the force the right to protect the delivery of humanitarian supplies, banned all military flights in the state's air space, asserted the right to ensure compliance with the ban, established some "safe areas," authorized certain measures to protect civilian inhabitants, and demanded a nation-wide ceasefire. In support of these objectives, the air force of the North Atlantic Treaty Organization [hereinafter NATO] was sought and made available. James, supra note 42, at 255-56. However, the ban on military flights has not been strenuously enforced and negotiation rather than might has been used to protect humanitarian convoys. In general, the UN authorities on the ground in Bosnia-Herzegovina, were very cautious about utilizing NATO air power. Id. at 256.

In Somalia, the UN has gone further in the use of force. In mid-1993, it set out to establish and maintain a secure environment throughout the country and authorized 2,500 military personnel for the purpose. However, "all we went rather disastrously wrong," causing the US to withdraw its personnel, followed by half a dozen West European states and Turkey. Id. at 256-57. This left 18,000 UN troops in Somalia, but their mandate was scaled down. Even this role was abandoned in March 1995. Id.

Consequently, it appears that despite tough demands and associated declarations that the UN was acting under Chapter VII of the Charter in both Somalia and former Yugoslavia, the practice generally kept within the usual peackeeping guidelines. Id. at 257.

Article 16 of the League of Nations Covenant states: 1. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State and the nationals of any other State.
prevent escalation of a crisis was "peace observation," whereby the international community introduced a third-party intervention as early as possible with the aim of allowing calmer judgments to resolve a potential or actual conflict.65

However, the theory proved better than the reality. The League was ineffective in preventing the war in Manchuria between China and Japan, the Italian invasion of Abyssinia and the growing militarization of Germany, Italy and Japan, which eventually contributed to the outbreak of World War II.66

The United Nations was created in the aftermath of the Second World War and adopted the peacekeeping aspirations of its precursor, the League of Nations.67 Article 1 of the UN Charter states as the first purpose of the organization:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.68

The UN was determined to give itself the capability to maintain world peace, through enforcement powers which the League had clearly lacked. Mindful of the lessons of two world wars, the members of the UN included in the Charter the legal authority and organizational machinery to keep peace by force, if necessary.70 Chapters VI and VII of the UN Charter provide the organization with concrete methods to achieve the purposes of Article 1 of the Charter. Chapter VI provides the UN with legal authority to encourage peaceful dispute settlement among its members,71 while Chapter VII grants it authority to adopt a more forceful military approach whenever a dispute has escalated to a level which threatens international peace and security.72

Thus, the Charter sets forth guidelines for how the UN can deal with the use or threat of force:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.73

Article 41, Chapter VII of the UN Charter specifies several measures not involving the use of armed force which can be applied by the members of

71 UN Charter, Ch. VI. BISHOP, supra note 65, at 1065-66. The means to bring about peaceful dispute settlement contained in Chapter VI of the Charter have been amplified in various declarations adopted by the General Assembly, including the Manila Declaration of 1962 on the Peaceful Settlement of International Disputes and the 1989 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the UN in this Field. They have also been the subject of various resolutions of the General Assembly, including resolution 44/21 of November 15, 1989 on enhancing international peace, security and international cooperation in all its aspects in accordance with the Charter of the UN: Agenda for Peace, supra note 27, at 5.

72 UN Charter, Ch. VII. BISHOP, supra note 65, at 1056-67.

70 UN Charter, Ch. VII, art. 39. BISHOP, supra note 65, at 1066. It is significant that the Security Council is expressly mentioned in Article 39, and not the General Assembly. The UN Charter specifies that the Security Council has primary responsibility for the maintenance of international peace and security. The fifteen member states of the Security Council, not the Secretary-General, create and define peacekeeping missions. The five permanent council members - China, France, the Russian Federation, the United Kingdom, and the US - can veto any decision on peacekeeping operations.

While the authority to make decisions on peacekeeping may be delegated to the General Assembly, with a few exceptions, the organization of peacekeeping activities by the UN has remained under the control of the Security Council. GERHARD VON GLAERN, LAW AMONG NATIONS 595 (1986).

In December 1946, post-World War II boundary disputes between Greece, Bulgaria, Albania, and Yugoslavia led to the Security Council's creation of a Commission of Investigation. In September 1947, the Council shifted the disputes to the General Assembly, and a month later the Assembly established the first peacekeeping unit, a Special Committee which lasted from 1947 to 1954.

In 1948, UN military observers were deployed for the first time to monitor the truce which ended Arab-Israeli hostilities. Given the political blockade caused by the divergent political interests of the United States and the USSR, both permanent members of the Security Council empowered to veto any proposals, the General Assembly acted later to establish the first of the United Nations Emergency Force. UN General Assembly Resolution 377 explained the reason the General Assembly stepped into the void as follows:

Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly will consider the matter immediately with a view to making appropriate recommendations to the members for collective measures, including in the breach of the peace or act of aggression, and the use of armed force when necessary to maintain or restore international peace and security.
the UN to give effect to its decisions. These include "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."  

In the event these sanctions fail to prevent a threat to peace, the UN is empowered under Article 42, Chapter VII to "take such action by air, sea, or land forces as may be necessary to maintain or restore peace and security." 

This activity is referred to as "collective enforcement" or "enforcement action." Enforcement action occurs when the Security Council gives member states the authority to take all necessary measures to achieve a stated objective. It requires agreement among the member states and especially within the Security Council on the identity of the aggressor state against which these sanctions might be imposed. Consent of the parties is not necessarily required. Beyond the aforementioned provisions of the UN Charter, there is no precise legal authority for a UN peacekeeping operation. Consequently, "peacekeepers are somewhat of a legal fiction," and it is useful to understand the basis of a peacekeeping operation as a UN action that finds its legal authority in the marriage of Chapters VI and VII of the Charter. Consequently, UN peacekeeping operations have come to be viewed as a unique approach to peacekeeping actions authorized under "Chapter Six and One Half" of the UN Charter.

Peacekeeping During the Cold War

For much of the UN's first fifty years, Cold War disagreements hindered effective Security Council action. Hopelessly divided by the Cold War and impaled on the Soviet veto, the Security Council found its ability to maintain international peace and security severely compromised. The contest between the US and the Soviet Union was intense. Consequently, self-interest overwhelmed the desire to submit to, or even recognize, the collective interests of the international community. In particular, since specific reference to peacekeeping does not appear in the UN Charter, the Soviet Union traditionally opposed it and refused to pay for peacekeeping missions, although it acquiesced in certain instances. The veto also meant that no steps could be taken by the Security Council against the actions of any of its permanent members.

A consistent, albeit often underlying, criticism of peacekeeping during the Cold War era was that it was insufficiently robust. Its modest contribution to international security was generally acknowledged, but with some emphasis on the modesty. It was often implied that the UN peacekeeping contribution could only be enhanced if the peacekeepers were equipped and authorized to make more of an independent impact on the disputes to which they were despatched. That did not happen. Consequently, peacekeeping was seen by the large majority of officials, soldiers, and academics as "something of a backwater."

Nevertheless, important accomplishments were credited to UN peace observation and peacekeeping missions in a number of conflicts.

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82 Id. The late UN Secretary-General Dag Hammarskjold coined the term to describe how certain UN peacekeeping operations fall between the pure conciliatory measures outlined in Chapter VI of the UN Charter and the enforcement measures provided for in Chapter VII. Id.

83 Between 1945 and 1992, over 100 major conflicts around the world left some 20 million dead. The UN was rendered powerless to deal with many of these crises because of the vetoes - 279 of them - cast in the Security Council, which were a vivid expression of the divisions of that period. Since the end of the cold war, May 31, 1990, there have been no such vetoes. An Agenda for Peace, supra note 27, at 2.

84 The five permanent members of the Security Council have a veto over all council decisions.

85 Brian Urquhart, Introduction to Part I: Towards a New United Nations, SIPRI Yearbook 13 (1995). The collective security action in defense of South Korea in 1950-51 was an exception to this paralysis, made possible only because the Soviet Union had abstained itself from the Council in protest at the non-participation of the People's Republic of China in the UN. Id. at 13.


87 Urquhart, supra note 85, at 13. The failure to make the Charter work as written led to the development of other, less spectacular methods of conflict control. Conciliation, good offices, mediation and fact-finding were exercised by groups of experts, ad hoc panels of experts, and agencies of the UN.
potential conflict situations. The UN Special Committee on the Balkans ("UNSCOB"), established in 1947, marked one of the UN’s earliest official steps toward diffusing hostilities between states. Undertaken before the term "peacekeeping operation" gained currency, UNSCOB established two principles that have since become cornerstones of the conventional peacekeeping operation: the practical importance of the consent of host states\(^9\) and the significance of the peacekeeping force appearing impartial to the disputing parties.\(^9\)

\(^8\) In 1947, in the aftermath of World War II, Greece faced the internal violence of guerrilla warfare and an escalating dispute over border violations with its northern neighbors: Yugoslavia, Albania, and Bulgaria. Greece accused its neighbors of violating its borders, and Yugoslavia and Albania, fearing that they had nothing to do with Greece's internal problems and, moreover, that Greece was the one responsible for provoking expansionist policies across its borders.

\(^9\) The UN interposed itself between the disputing states to prevent serious armed conflict. Because of the deadlock in the Security Council (see supra notes 84 and 85), the General Assembly established UNSCOB to achieve that end. See Clemons, supra note 32, at 109-10.

Although UNSCOB pre-dated the development of formal peacekeeping models for international dispute resolution, its mandates were similar to those drafted today for UN observer missions. Id. at 110. Its basic functions were to observe the compliance of the four disputing states with the General Assembly resolutions and to assist those states in implementing the recommendations for peaceful dispute settlements. G.A. Res. 109, UN Doc. A/319, at 9 (1947).

\(^10\) Id. at 12.

\(^11\) In order to carry out its functions of observation and conciliation, UNSCOB sought the consent of all four disputing parties. As a practical matter, without the consent of all four disputing parties, UNSCOB would not have been able to obtain the requisite levels of cooperation to perform its functions. For example, if any of the cooperating parties had objected to UNSCOB’s presence as would likely have been the case, UNSCOB’s presence would have jeopardized the safety of UNSCOB members. Clemons, supra note 32, at 110. Second, as a matter of international law, Article 2(7) of the UN Charter requires the UN to obtain the consent of any host state before entering that state’s sovereign territory. See supra note 28.

Consequently, in UNSCOB’s enabling resolution, the GA requested that the Secretary General enter into a standing arrangement with each of the four governments concerned in order to ensure that UNSCOB would have "full freedom of movement and all necessary facilities for the performance of its functions." See G.A. Res. 109, supra note 89, para. 10; Clemons, supra note 32, at 110.

The failure of the GA to obtain the consent of all of the parties negated an essential element of UNSCOB and severely limited its effectiveness as a conciliatory to the dispute. See id. at 111.

\(^12\) Id. at 109. The facts surrounding the UN’s handling of this dispute made the deployment of UNSCOB appear far from impartial to the host countries, and made the hostile reactions of Albania, Bulgaria, and Yugoslavia at least predictable, if not inevitable. Proceeding the GA vote on the establishment of UNSCOB, a Commission of Investigation was formed and instructed to submit a report to the Secretary General of the UN Council on its findings of the facts surrounding the tensions between Greece and its northern neighbors. The majority of the Commission, made up of non-Communist countries, found support for Greece’s allegation that Yugoslavia, Albania, and Bulgaria were conducting a guerrilla movement within Greece’s borders. However, a minority of the Commission (the Soviet Union and Poland) considered the evidence cited by the majority to be inconclusive and contradictory. They considered the charges that Yugoslavia, Albania, and Bulgaria supported Greek guerrillas to be entirely unfounded. Id. at 111. Consequently, the Communist members of the General Assembly opposed the establishment of UNSCOB from the outset. They not only challenged the factual basis for the establishment of UNSCOB, but also criticized the deployment of UNSCOB as a legal violation of the sovereignty of Albania, Yugoslavia, and Bulgaria. Id. at 112.

\(^13\) The General Assembly then rejected and deployment of UNSCOB over the objections of its Communist members. By isolating one side of the dispute (Yugoslavia, Bulgaria, and Albania) and by adopting the contested findings of fault as the basis for UNSCOB's establishment over
the instructions to UNTSO troops form the primary basis for UN peace observer missions.98

Soon after peacekeeping observer missions established themselves as a critical tool for UN peace efforts, a type of armed conflict arose that exposed and exploited the limits of the peace observer principles. This conflict involved frequent military raids by one party against another, thereby triggering increasingly strong reprisal attacks.99 As a result, the parties were more likely to ignore the demarcated boundary lines, as well as the UN observers who were deployed to supervise them.100

In order to keep the peace and maintain armistice agreements, the UN required a paramilitary force capable of stopping and apprehending violators of demarcated armistice lines rather than simply observing and reporting them.101 Consequently, the UN Emergency Force ("UNEF") was created and interposed between Egypt and Israel in 1956, after the tensions over the Suez Canal erupted into fighting.102 Collective enforcement action was made impossible by the inability of the Security Council to agree on the identity of the aggressor state. However, because the Security Council recognized the threat of escalation, it endorsed a course of action aimed at defusing the situation.103 This conciliatory act, whereby an internationally convened body of soldiers and civilians was placed between the armies of warring factions and states, without identifying an aggressor, became known as "peacekeeping."104 Thus, it took over a decade for present conceptions of peaceful intervention to develop from the UN's initial concept of collective enforcement.105

Born largely of the ingenuity of then UN Secretary-General Dag Hammarskjöld106 and then Canadian Minister of External Affairs Lester

Pearson,107 UNEF marked a significant modification of the UN peacekeeping operation model. While retaining the principles of consent and impartiality, UNEF did not operate under an absolute prohibition on force.108 As Hammarskjöld envisaged the force, UNEF troops, unlike peace observers, were entitled to respond with force to armed attacks, including attempts to compel them to withdraw from their authorized positions.109

Given this capacity to use defensive force, UNEF was assigned more aggressive peacekeeping activities around the Suez Canal.110

Hammarskjöld's revised model for peacekeeping strengthened the ability of the UN to interpose itself between member states at a time when a new type of armed conflict situation had exposed the limits of the peace observation model.111 More recently, the "Six and One Half" peacekeeping model has been expanded to include the monitoring and supervising of elections for those countries that fear the physical intimidation of voters.112

The decolonization process created power vacuums in various parts of the world.113 In these situations, the technique of peacekeeping was progressively developed until by the end of the Cold War it had become a

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98 Lester Pearson was the leader of the Canadian delegation to the UN, subsequently the president of the General Assembly (1952-1953), and later the Canadian Minister of External Affairs (1948-1957). His efforts to resolve the Suez Crisis were rewarded with the Nobel Peace Prize in 1957. Later, he was elected Prime Minister of Canada.

99 Clemens, supra note 32, at 118.

100 Id. at 118-19.

101 Id. at 119. These activities included guarding key installations, providing protection for the Suez Clearing Organization and preventing any reopening of the armistice line, which included the right to apprehend ground violators. Id. at 119. Regarding the concept of neutrality, Hammarskjöld emphasized that the UN did not intend to influence the military balance in the conflict. Therefore, Hammarskjöld refused any peacekeeping troops offered by "the permanent members of the Security Council or from any country which for geographical or other reasons might have a special interest in the conflict" if requested by the disputing parties. Additionally, Hammarskjöld ordered that UNEF not be "used so as to prejudice the solution of the controversial questions involved." Hammarskjöld made it clear throughout his creation of UNEF that the UN could not request to station or operate the force on the territory of a given country without the consent of the government of that country. Hammarskjöld was thereby unable to gain Israel's consent to operate on its territory, and UNEF was thus deployed only on the Egyptian side of the Armistice Demarcated Line. Given the Egyptian refusal, Hammarskjöld made special efforts to assure Egypt that UNEF would not infringe Egyptian sovereignty. Id. at 119.

102 Id. at 120.

103 The UN Transition Assistance Group in Namibia [hereinafter UNTAG] established in 1989 is an example of the expanded use of Hammarskjöld's "Six and One Half" peacekeeping model. Id. at 120.

104 A further development of peacekeeping has been the evolution of the concept of preventive deployment, which permits the positioning of a UN military force on one or both sides of a border with the object of deterring the escalation of tension into armed conflict. Peacekeeping, (visited Oct. 7, 1997) [http://www.un.org/rights], ch. 7.7. Each case is dealt with individually, with member-states providing personnel and assistance on a voluntary basis. See Risky, supra note 31, at 3. Article 43 of the Charter authorizes the Security Council to call on member-states to provide a military assistance force and, in accordance with a special agreement or agreements, military assistance and facilities, including rights of passage, to keep the peace. However, no such agreement has yet been reached or appears likely to be reached in the immediate future. Id.

105 For example in Palestine, Kashmir, the Congo, Cyprus and West Iran. See UNEOMT, supra note 83, at 14.
main pillar of the authority and effectiveness of the Security Council. Peacekeeping served not only to contain conflict and create the necessary conditions for negotiations, but it also provided a welcome and acceptable means for keeping regional conflicts out of the Cold War orbit, thereby avoiding conflict between East and West which could conceivably have resulted in a nuclear confrontation.

Civilian Peacekeeping

According to the 1992 Report of the UN Secretary-General, peacekeeping operations, "to be truly successful, must come to include comprehensive efforts to identify and support structures which tend to consolidate peace and advance a sense of confidence and well-being among people." In addition to traditional military deployments, civilian peace missions have been established in several countries by the UN and international organizations to help verify agreements, promote stability, engage in public education, monitor elections, encourage former belligerents to respect human rights and assist in rebuilding state institutions to bring justice and lasting peace. Increasingly, the UN and international organizations are endeavoring to integrate peacekeeping operations with "post-conflict peace-building." These missions recognize the importance of continuity between the first stages of peacekeeping operations and later measures aimed at the full return of stability to societies recovering from the trauma of civil or international war. They involve action to identify and support structures which will strengthen and solidify peace in order to avoid a relapse into conflict. Increasingly, peacekeeping requires that civilian political officers, human rights monitors, electoral officials, refugee and humanitarian aid specialists and police play as central a role as the military. The synthesis of peacekeeping operations with humanitarian and complementary civilian efforts is perceived by the UN and other international organizations as crucial to the success of its peacemaking objectives. Among other things, civilian missions can help to ensure that election results are honored, that local police forces are able to maintain order, and that the economic benefits of peace are tangible. The operations that brought Namibia to independence, that transformed the society and politics of Cambodia and El Salvador, and that restored hope in Mozambique, were all multi-dimensional efforts that demonstrated the effectiveness of a broader concept of peacekeeping— one which combines military functions with a variety of largely civilian undertakings to bring about change and thereby fulfill the objectives of the operation. However, "multi-dimensional peacekeeping" still rests on the traditional pillars of agreement and consent and the new functions identified above are usually reflected in the terms of a comprehensive settlement that both (or all) parties in a conflict wish the UN to implement.

Multi-dimensional peacekeeping efforts are currently underway in a number of countries where the formal UN peacekeeping operation has either ended or been dramatically scaled down, including El Salvador, Cambodia, Rwanda, Mozambique and Haiti. The UN General Assembly has created three civilian missions to complement UN peacekeeping

114 An Agenda for Peace, supra note 27, at 2.
115 Id. at 8.
116 Civilian efforts may include the disarming of previously warring parties and restoration of order, assuming custody and possible destruction of weapons, repatriating refugees, advising and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening government institutions and promoting formal and informal processes of political participation. Id. at 9.
117 In surveying the range of efforts for peace, the concept of peace-building as the construction of a new environment should be viewed as the counterpart of preventative diplomacy, which seeks to avoid the breakdown of peaceful conditions. When conflict breaks out, mutually reinforcing efforts at peacemaking and peacekeeping come into play. Once these have achieved their objectives, only sustained, cooperative work to deal with underlying economic, social, cultural and humanitarian problems can place an achieved peace on a durable foundation. Preventative diplomacy is to avoid a crisis; post-conflict peace-building is to prevent a recurrence. Id.
118 UN Peacekeeping, supra note 119, at 1.
119 Besides its military element, the UN Transition Assistance Group (UNTAG, 1989-90) in Namibia had a civilian component which engaged in political education throughout the territory, kept a close eye on the local police, and oversaw all aspects of a complex and sensitive electoral process. James, supra note 43, at 241.
120 In Cambodia, UNTAC's civilian role in 1993-93 included policing, repatriation of refugees, monitoring human rights, overseeing elections, and providing civil administration. Id.
121 Thereon, supra note 27, at 54.
122 Id. None of the civilian functions involved a threat to the UN's preference for the non-use of force. Id.
123 UN Peacekeeping, supra note 119, at 1.
124 Id.
activities: the UN Office of Verification in El Salvador ("OUNU"), the UN Mission in Guatemala ("MINUGUA") and the International Civilian Mission in Haiti ("MICIVIH").

Non-UN Peacekeeping Forces

The first multinational peacekeeping force to be established outside the framework of the UN was the Inter-American Peacekeeping Force sent by the Organization of American States ("OAS") to the Dominican Republic in 1965.129 The Arab League also has peacekeeping experience. An Egyptian force was sent to Kuwait by the League in 1961, and the Inter-Arab Deterrent Force was sent into Lebanon in 1976. The latter force was intended to police the ceasefire that purported to end the 1975-76 civil war between Lebanon's Christians and Muslims. It consisted of token units from Saudi Arabia, the Yemen, the Sudan, Algeria, and the United Arab Emirates, with the overwhelming bulk of the force consisting of units of the Syrian army.130

Furthermore, regional organizations have worked in cooperation with the UN on peacekeeping missions. Chapter VIII of the UN Charter is devoted to regional arrangements or agencies for dealing with matters relating to the maintenance of international peace and security as are appropriate for regional action and consistent with the purposes and principles of the UN.132 The Cold War impaired the proper use of Chapter VII and indeed, during that era, regional arrangements worked on occasion against resolving disputes.133 However, in recent years, the UN has encouraged a variety of complementary efforts in cooperation with regional organizations.134 In Africa, three different regional groups - the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference - joined efforts with the UN regarding Somalia.135 In the Asian context, the Association of South-East Asian Nations and individual states from several regions were brought together with the parties to the Cambodian conflict at an international conference in Paris, to work with the UN.136 In the case of El Salvador, "The Friends of the Secretary-General" contributed to agreements reached through UN mediation.137 The end of the war in Nicaragua involved a highly complex effort which was initiated by leaders of the region and conducted by individual states, groups of states and the Organization of American States. Efforts undertaken by the European Community and its member states, with the support of the states participating in the Conference on Security Cooperation in Europe, have been critical in dealing with the crisis in the Balkans and neighboring areas.138

Since 1992, the Organization for Security and Cooperation in Europe ("OSCE") has established nine long-term peacekeeping missions to assist in the easing of tensions and the settlement of conflicts.139 Such missions are currently operating in the Former Yugoslav Republic of Macedonia, Georgia, Estonia, Moldova, Latvia, Tajikistan, Bosnia-Herzegovina, and Ukraine. The OSCE is also involved in assisting in the implementation of certain bilateral agreements between Russia and two of the Baltic States. Missions also operate, under the aegis of the OSCE, in each of the states neighboring Serbia and Montenegro to assist in the implementation of UN sanctions against Belgrade.140 In June 1992, NATO announced its readiness to support, on a case by case basis, in accordance with its procedures, peacekeeping activities under the responsibility of the OSCE.141

Peacekeeping in the Post-Cold War Era

The end of the Cold War has brought about a new era for international organizations. Increased cooperation between the two former superpowers, often in the context of international organizations, allowed for the unprecedented, unified response by the UN to the Iraqi invasion of

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129 VON GLAISS, supra note 73, at 602. Following an initial intervention by the United States, the OAS force was, in fact, built around the US troops. The OAS also sent observers to El Salvador and Honduras after the so-called 'football war' in 1976. RICKERT, supra note 31, at 6.
130 VON GLAISS, supra note 73, at 602. The first unit (Sudanese) arrived in Beirut on June 10, 1976, but in reality it merely supplemented the large Syrian force (22,000 men) already deployed in Lebanon.
131 Unlike most other international forces, the Inter-Arab Deterrent Force has sometimes been involved in heavy combat. In 1984, the force was entirely composed of Syrian units. From 1976 until 1982, Syria received regular financial support for the force from the Arab states. Since 1982, Syrian forces have remained in Lebanon. While ostensibly maintaining the peace, these troops are, in reality, an occupying force, allowing Syria to exercise control over its weaker neighbor. See JOHN K. COOLEY, PAYBACK: AMERICA'S LONG WAR IN THE MIDDLE EAST 65 (1991).
132 Agenda for Peace, supra note 27, at 9. The Charter deliberately provides no precise definition of regional arrangements and agencies, thus allowing useful flexibility for undertakings by a group of states to deal with a matter appropriate for regional action which could also contribute to the maintenance of international peace and security. Such associations or entities could include treaty-based organizations for mutual security and defense, organizations for general regional development or for cooperation on a particular economic topic or function, and groups created to deal with a specific political, economic or social issue of current concern. Id.
133 What is NATO's Role in Peacekeeping in the Former Yugoslav Republic? supra note 78.
134 Id.
135 Peacekeeping, supra note 112, at 7.
136 Id.
Kuwait in 1991. The easing of East-West tensions has also seen major power restraints in various regions of the world, with the major power states showing less willingness to intervene unilaterally with arms or military forces in proxy wars or conflicts outside their region. Consequently, a vacuum has been created, into which the UN is re-emerging as a force for international stability.

The UN's security arm, once disabled by circumstances it was not created or equipped to control, has emerged as a central instrument for the prevention and resolution of conflicts and for the preservation of peace. An unprecedented degree of agreement within the UN Security Council in responding to international crises has plunged the organization into a series of peacekeeping operations that bear little or no resemblance in size, complexity and function to those of the past. During the Cold War, peacekeeping worked within the limitations imposed upon it by superpower rivalry. When these limitations became a matter of history, everything seemed possible, leading the world to make unprecedented demands on the military capability of the UN.

This trend is easily discernable. Shortly after the start of the 1990s, as East-West tensions eased, UN peacekeeping operations expanded rapidly. Between 1991 and 1993, significant operations began in Cambodia, El Salvador, the former Yugoslavia, Mozambique, Kuwait, Angola, Rwanda, Somalia and the Western Sahara. In the same period, the number of UN peacekeepers deployed increased from approximately 10,000 at a cost of $300 million per year, to more than 78,000 personnel at an annual cost of $3.5 billion by mid-1993.

This period of expansion seriously strained, and at times exceeded, UN capabilities, leading to critical failures and problems. The evolution of peacekeeping in the new world disorder outstripped the conceptual underpinnings that had girded it during the Cold War years. UN peacekeepers were sent to intervene in crises before the world could find the time to elaborate, or agree upon, the doctrinal justifications or the overall strategy behind each new mandate (or modification of a mandate). As the Security Council proclaimed "no-fly zones" and "safe areas," declared punitive actions against warlords and acquiesced in NATO-declared 'exclusion zones,' as member-states established command arrangements that did not in all cases terminate in New York; and as peacekeepers mounted anti-sniping patrols and called in air strikes, the traditional peacekeeping principles have been strained to the breaking point.

142 Diehl, supra note 29, at 1. The end of the Cold War loosened the straight-jacket within which many potential conflicts had been confined, and many conflicts erupted amid the diminution of the major powers to intervene. During the Cold War, both superpowers had sought to prevent conflicts arising which might engage their interests. Today, the states are lower; Somalia is not seen as threatening to lead to another Stalinization, and Sarajevo 1992 does not carry the globe-threatening resonance of Sarajevo 1914. In this climate, warring factions, unconstrained by ties to one superpower or another, pursue their ambitions without regard to the outside world that clearly cannot summon the will or the resources to intervene decisively. Tharoor, supra note 27, at 55.

A post-ideological world stokes its frenzies in the flames of nationalism, ethnicity and tribal tribalism. Old hatreds and old enemies are revived, intensified or reinvented; history becomes a whip with which to flail those still in the tenebrous moments of peace that punctuate them. The techniques of a calmer era, peacekeeping included, seem inadequate to the moment. Id. at 55.

The large majority of peacekeeping missions are related to the end of the Cold War in that the conclusion of East-West rivalry had a direct impact on the relevant disputes. Some problems have been eased or settled, usually in consequence of the changed post-Cold War position of the states immediately concerned. Others, while not being settled, have at least made some formal moves in that direction. This has often been associated with the withdrawal of Cold War backing from one or both sides. Yet others have been released or revitalized by events which are related to the end of the Cold War. Additionally, some peacekeeping operations concern disputes which are settled, subsist, or arise independently of the improvement in relations between East and West, but nonetheless may benefit from the new international climate's encouragement of peacekeeping. James, supra note 47, at 258-59.

The withdrawal of Cold War induced support has been a factor in the outbreak of civil wars in Liberia and Somalia. Those in Croatia, Bosnia-Herzegovina, and Georgia reflect, in one way or another, the breakdown of the former states of those regions, which may be seen as an accomplishment of the Cold War's end. Id. at 261.

143 Diehl, supra note 39, at 2.

144 Agenda for Peace, supra note 27, at 2.

145 Tharoor, supra note 27, at 55.
Recent peacemaking difficulties can be largely attributed to the unwillingness of warring parties to seek peaceful solutions. However, a further problem has been the failure of member states to provide sufficient resources to peacemaking missions. Peacemakers have sometimes been handed daunting and wide-ranging tasks by the Security Council, but have not been given the means to carry them out.

In the summer of 1994, when the UN required 5,000 soldiers for its operation in Rwanda, it turned to the 15 member states which at that time had pledged a total of 31,000 troops for future UN peacemaking operations; all declined to participate.\(^\text{143}\)

The former UN Secretary-General, Boutros Boutros-Ghali, noted in connection with the willingness of member states to contribute to the UN mission in Somalia, "unmistakable signs of fatigue smouldering under the facade of voluntary service."\(^\text{144}\)

The UN Charter foresees special agreements whereby member states undertake to make armed forces, assistance and facilities available to the Security Council for the purposes stated in Article 42, not only on an ad hoc basis but on a permanent basis. According to the 1992 Secretary-General's report, "under the political circumstances that now exist for the first time since the Charter was adopted, the hopelessness of such special agreements should no longer prevail."\(^\text{145}\)

According to the former Secretary-General, the readiBility of armed forces on call could serve, in itself, as a means of deterring breaches of the peace since a potential aggressor would know that the Council had at its disposal a means of response. While the forces envisaged under Article 42 may perhaps never be efficiently large or well enough equipped to deal with a threat from a major army equipped with sophisticated weapons, they would be useful "in meeting any threat posed by a military force of a lesser order."\(^\text{146}\)

However, such forces are not likely to be available in the foreseeable future.\(^\text{147}\)

The current gap between mandates and means as it existed in Rwanda in 1994 and the Bosnian 'safe areas' in 1993, the Security Council can routinely pass resolutions without being obliged to provide the troops to implement them. When the troops are found, they too often need to be equipped, usually with unfamiliar equipment, and trained, tasks for which the UN has no infrastructure and for which it cannot provide supervision. When the newly equipped and deployed troops are finally found, the sending governments have to be paid, an obligation in which the UN is increasingly falling behind. In 1995, the Secretary-General was obliged by a severe shortage of cash to suspend all repayments to troop- and equipment-contributing countries.\(^\text{148}\)

According to the former UN Secretary-General, the current peacemaking problems concerning logistical equipment, personnel and financial resources could be corrected if member states wished and were ready to make the necessary resources available.\(^\text{149}\)

For example, in 1994, the Secretary-General informed the Security Council that peacemaking commanders would need 35,000 troops to deter attacks on the safe areas in Bosnia and Herzegovina created by the Security Council. Member states authorized 7,000 troops and took a year to provide them. In Rwanda in 1994, faced with evidence of genocide, the Security Council unanimously decided that 5,000 peacemakers were urgently needed. But it took nearly six months for member states to provide the troops, even though 19 Governments had pledged to keep 31,000 troops on a standby basis to implement the peace.\(^\text{150}\)

In some cases there is no peace to monitor and the acceptance by the parties of the UN role and mandate is less than wholehearted. On occasion the UN is required to act in situations where there has been a virtual breakdown of the political,
administrative and judicial systems. In these circumstances, member states are showing increasing unwillingness to provide troops for UN operations.

The widespread criticism of UN efforts in situations where there was little peace to keep - particularly in Somalia, former Yugoslavia and Rwanda - lies directly behind the calls for retreat to a simpler era. Amidst so many voices urging the UN to "go back to basics," it is likely that it will be a long time before the Security Council again authorizes another of the hybrid operations whose ever-mounting scope spiralled seemingly out of control in a flurry of Security Council resolutions in 1992 and 1993. At a recent international conference entitled "Peacekeeping in a Revolutionary World," Professor Theodore Meron spoke about the "unrealistic expectations, inevitably followed by a measure of disillusionment" that had been associated with recent UN peacekeeping operations. He noted that the UN had often been given tasks "that the UN forces had not been authorized, equipped or financed to fulfill." He added that when its mandate did not cover certain scenarios, like the atrocities that occurred in Srebrenica, Bosnia, the UN's credibility was further damaged. He called for more realistic peacekeeping: "limited, consent-based, low risk, observer, wire-trip type of operations, such as the MFO," remains a possibility for states in the Middle East.

In response, the Security Council has adopted stricter guidelines for authorizing new operations and placed greater emphasis on ending old ones. There are currently fewer than 35,000 UN peacekeepers, and the cost of UN peace missions in 1996 did not exceed $1.8 billion. According to a UN publication, the emphasis on establishing an end point for the large-scale deployment of UN peacekeepers is designed to encourage local parties to take responsibility for their own affairs.

TIPH2 as an Example of the New Approach to Peacekeeping

TIPH2 is an indication of the new approach to peacekeeping, which recognizes the mistakes of the immediate post-Cold War period. Outside the framework of the UN, TIPH2 is an example of the developing role of regional organizations in modern peacekeeping efforts. Furthermore, TIPH2 has adopted a low-key, relatively inexpensive approach to peacekeeping. TIPH2's realistic expectations in terms of what it can achieve, is a recognition of the failures of recent over-ambitious UN peacekeeping missions. Its utilization of civilian and humanitarian efforts to complement its observation role, is an indication of the growing importance given to development efforts and the rebirth of civil society in modern peacekeeping missions.

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165 Peacekeeping, supra note 3, at 2.
166 Id. The Irish government, for example, produced a recent report on peacekeeping which called for the development of "a selective response to future requests from the United Nations" for peacekeeping troops. Id.
167 Tharoor, supra note 27, at 54. Early in 1995 the New York Times, in discussing the future of UN peacekeeping, stated that "[t]he thinking and rethinking are in order... There should be a shift toward more limited objectives like policing ceasefires... UN peacekeeping does what it can do very well. It makes no sense to continue eroding its credibility by asking it to do what it cannot." The Future of UN Peacekeeping. N.Y. Times, Jan. 12, 1995, at A1. The New York Times' editorial columns had earlier been very critical of UN peacekeeping, especially with regard to Bosnia and Somalia. Tharoor, supra note 27, at 52.
168 MPO is a multinational peace observer force deployed in Sinai since the signing of the Egyptian-Israeli Peace Agreement that followed the Camp David Accords in 1979.
170 UN Peacekeeping: Emphasizing Results, supra note 119, at 1.
171 Id.
II. THE INCEPTION OF TIPH: THE DELICACY OF THE CITY OF HEBRON

Opposing historical and present-day claims by Palestinians and Israelis to the city of Hebron complicate the role of TIPH. Jews date their arrival in Hebron to approximately 2000 years before the common era when their Patriarch Abraham purchased the cave at Machpela from a Hittite. This cave was used as the burial site for Abraham, his son Isaac and grandson Jacob, as well as their wives and became known as the Tomb of the Patriarchs. This complex, parts of which were constructed by King Herod, the Crusaders, the Mamelukes, and the Ottoman Turks over many centuries, will be referred to, infra, as the Tomb of the Patriarchs/Al-Ibrahim Mosque. Approximately 1000 years later Hebron served as King David’s initial seat of government for 7 years. Jews have continued to live in Hebron throughout the millennia, except after being driven out by massacres, as in 1100, 1517, 1834 and in 1929. Jews returned to the center of Hebron after Israel captured the city in the 1967 Arab-Israeli War. Currently some 400 to 500 Jews live in five small enclaves in the city center.

Muslims also revere Abraham as the father of Israel from whom the Arabs claim descent. Hence Hebron, the city where Abraham lived much of his life and is buried, enjoys a special status. Muslim Arabs have lived continuously in Hebron for some 1300 years, but perhaps their most weighty claim stems from the fact that their current population in Hebron (approximately 120,000) far outnumbers that of the Jews.

III. THE TIPH AGREEMENTS

TIPH

The Israeli and Palestinian residents of Hebron have periodically been victimized by ethnic violence, principally shootings, hand grenade attacks, stabbings and stonings. In 1994, apparently in retaliation for attacks he had witnessed, Israeli physicist Baruch Goldstein killed 29 Muslim worshippers in a shooting spree at the Tomb of the Patriarchs/Al-Ibrahim Mosque. At the time, the Israeli Defence Forces ("IDF") were deployed throughout the city as no Israeli redeployment had yet been negotiated for Hebron. At the behest of the Arab states, the UN Security Council condemned the massacre and called for measures to guarantee the safety and protection of the Palestinians throughout the Occupied Territories, including the establishment of a temporary international or foreign presence. Just such an international presence had been provided for in an annex to the first interim Israeli-Palestinian peace agreement, the DOP.

Following the Goldstein massacre, Yasser Arafat announced the PLO’s withdrawal from any further peace negotiations with Israel, unless Israel agreed to a presence of international observers in Hebron to provide security for Palestinian residents. After a month of negotiations a security agreement was reached between Israel and the PLO.

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199 Beniamin, Two Inseparable Peoples, JERUSALEM POST, Aug. 3, 1995, at 2. American born Dr. Goldstein lost his own life in the attack. Dr. Goldstein was in full IDF uniforms at the time. He had attained the rank of Captain before his death. Captain David Ramlati, ON THE EDGE, THIRTY DAYS IN HEBRON WITH TIPH: A Diary, JERUSALEM POST, Feb. 17, 1995, at 3. Captain Ramlati compiled the diary while serving as a liaison between TIPH and the IDF in Hebron. Id.
200 UN Security Council Resolution No. 994.
201 In an annex to the DOP, reference was made to the possibility of positioning a peacekeeping presence in Gaza and Jericho, the territories initially handed over to the PA, although no specific mention was made of Hebron. DOP, supra note 3, ANNEX II, 3(D).
202 A Presentation of TIPH (on file with author), at 1; See David Makovsky, Arabs Talk Talks, DEMAND MORE MEASURES, JERUSALEM POST, Feb. 28, 1994, at 1.
203 Arafat has sought expanded international involvement in the peace process, in the belief that it will lead to increased pressure on the Israeli government. In fact, Arafat is thought to have sought the presence of international forces throughout the entire West Bank. Incidents involving foreign nationals are frequently raised on a diplomatic level and are more likely to be handled by the international media.
204 The ensuing international pressure is most likely to fall on the Israeli government, because Israel, unlike the PA, has the power and infrastructure to address the problem. Interview with Lieutenant Peter Lerner, Spokesman for the Israeli Civil Administration, in Hebron (Oct. 5, 1997). On December 27, 1997, the Palestinian National Authority ratified a proposal by Arafat for the creation of an international force to be stationed in West Bank areas Israeli deems vital to its security, thereby enabling Israel to evacuate Arafat’s proposal calls for the deployment of an international contingent, similar to the TIPH mission deployed in Hebron, along the border between Israel and the PA.
205 The Israeli government rejected the proposal as a "non-starter unworthy of consideration." According to David Bar-Ilan, Communications Advisor to Prime Minister Netanyahu, "This is a new
relinquished the idea of a Palestinian police force under Israeli auspices, in return for an international observer mission.\textsuperscript{183} Despite grave doubts about the mission’s viability,\textsuperscript{189} and fear that Arafat wanted to use it to internationalize the conflict, on March 31, 1994, representatives from both the PLO and Israel signed an agreement asking Italy, Denmark and Norway to "provide 160 persons as TIPH personnel...consisting of office staff, field observers and support personnel"\textsuperscript{190} for a temporary international presence in Hebron. Established "in response to the unique situation created in Hebron in the aftermath of the [Goldstein] massacre,"\textsuperscript{191} the mandate of the international observer mission was to "assist in promoting stability and in monitoring and reporting the efforts to restore normal life in the city of Hebron, thus creating a feeling of security among Palestinians in the city of Hebron."\textsuperscript{192} Established on May 8, 1994,\textsuperscript{193} the mission became known by the acronym TIPH ("TIPH1").

The tasks of TIPH1 personnel, as set out in the Agreement were:

a. to provide by their presence a feeling of security to the Palestinians of Hebron;

b. to help promote stability and an appropriate environment conducive to the enhancement of the well-being of the Palestinians of Hebron and their economic development;

c. to monitor the efforts to restore the safety of Palestinians and

idea. Arafat has put it forward several times in the past years. It’s just as unacceptable now as it was then. ... Only Israel will defend Israel." See Jay Bushmey, Gov’t Rejects Arafat Proposal for International Buffer Forces, JERUSALEM POST, Dec. 28, 1997, at 2.

\textsuperscript{183} Alon Pinkas, A Diplomatic Recipe for More Disorder, JERUSALEM POST, Apr. 1, 1994, at B2.

\textsuperscript{189} Id. Historically, Israel has had mostly negative experience with the UN, in general, and its peacekeeping missions, in particular. The UN General Assembly, Security Council, and the various UN agencies have maintained a blatantly hostile attitude toward Israel for more than two decades. See SCHOFENBERG, supra note 86, at 251-327.

Israel’s frustration with the performance of various UN peacekeeping forces has made it wary of relying on these forces. UNEF I was precipitously withdrawn at the very moment it was needed, when Egyptian President Nasser was massing troops in Sinai just before the outbreak of the 1967 War. Id. Israel has also had a very disappointing experience with UNIFIL in Lebanon. Id., at 171. Operating since 1978 in a region with numerous armed militias and weak governmental control, UNIFIL was given a vague mandate that proved impossible to carry out. Id. As a result it was never able to insulate Israel from attacks and has been criticized as “living proof of the failure of peacekeeping when the parties concerned deny their cooperation.” UN ASSOCIATION OF THE UNITED STATES OF AMERICA, ISSUES BEFORE THE 37TH GENERAL ASSEMBLY OF THE UNITED NATIONS 12 (Donald J. Puchala & Frederic Eckhoud eds., 1982); See also SCHOFENBERG, supra note 86, at 171-78. In certain instances, UNIFIL was also blamed by Israel for collaborating with the PLO. See Id. However, similar accusations of collaborating with the enemy have been raised against most peacekeeping missions. Interview with Kristi Lindholm, TIPH2 Deputy Head of Division, Research-Analysis-Information, in Jerusalem (Nov. 1997).


\textsuperscript{185} Id. at 1.

\textsuperscript{186} Id. at art. A(2).

\textsuperscript{189} Id. at art. 5(a).

\textsuperscript{190} Id. at art. 5(b).

\textsuperscript{191} Id. at art. 5(c).

\textsuperscript{192} Id. at art. 7.

\textsuperscript{193} Id. at art. 5(a).

\textsuperscript{194} Id.

\textsuperscript{195} Agenda for Peace, supra note 27, at 3.

\textsuperscript{196} TIPH Agreement, supra note 190, art. A(1).

\textsuperscript{197} See The Blue Helmets, supra note 50, at 8.

\textsuperscript{198} See supra note 35 for peacekeeping roles.

\textsuperscript{199} See supra notes 43, 47, 50, 51 and 52 for civilian missions.

\textsuperscript{200} TIPH Agreement, supra note 190, art. 3.

The Agreement also required TIPH1 to report "on specific events to a Joint Hebron Committee ("JHC"),\textsuperscript{202} comprised of two representatives each from the Palestinian and Israeli sides; to report periodically to a Joint-Irak-Palestinian Liaison Committee established by the DOP;\textsuperscript{203} and to "provide periodic reports to the Chair of the Ad Hoc Liaison Committee of the Donor [countries].\textsuperscript{204} The Agreement specified that the senior Palestinian representative on the JHC would be the Mayor of Hebron, and that the senior Israeli representative would be the head of the Civil Administration in the District of Hebron.\textsuperscript{205} A representative of TIPH1 would be "invited on a bi-weekly basis to participate in the JHC meeting in order to report on the TIPH[1] activities."\textsuperscript{206}

TIPH1 complied with the UN definition of peacekeeping established in "An Agenda for Peace." TIPH1 was deployed with the consent of both Israel and the PA and sought to "expand the possibilities for both the prevention of conflict and the making of peace by providing a feeling of security to the Palestinian residents of Hebron.\textsuperscript{207} TIPH1 can be defined as a peacekeeping observer mission as opposed to a peacekeeping force, in that it consisted of unarmed policemen and civilians rather than the lightly armed infantry units of a peacekeeping force.\textsuperscript{208} TIPH1 was markedly less ambitious than recent UN peacekeeping missions in former Yugoslavia, Somalia and Haiti. Consistent with its status as an observer mission, TIPH1 did not fulfill many of the traditional peacekeeping roles of UN missions, such as separating hostile forces, monitoring a ceasefire agreement, or maintaining neutral demilitarized zones.\textsuperscript{209} In seeking to improve both the welfare and the economic situation of the Palestinians, TIPH1 carried out a role more commonly associated with recent UN and regional civil missions.\textsuperscript{210}
Hebron. Further allegations were made that TIPH was used by terrorists to deliver threats of attacks on Jewish targets or to unwittingly assist in the ambush of IDF patrols. This conduct may have been the result of the terrorist threats against TIPH observers making tangible by the torching of one of their cars. TIPH withdrew from Hebron upon the expiration of its mandate on August 8, 1994, following the failure of the PLO and Israel to reach an agreement on its extension.

The Interim Agreement and the Hebron Protocol

The major transitional agreement in the Israeli-Palestinian peace process, the Interim Agreement on the West Bank and Gaza Strip ("Interim Agreement")
Hebron Protocol sitsuates Palestinian Police checkpoints in H-1, forming a buffer zone adjacent to H-2 "to enable the Palestinian Police, exercising their responsibilities under the Interim Agreement, to prevent entry of armed persons and demonstrators or other people threatening security and public order, into the above mentioned area."225

Various cooperative efforts, including "Joint Mobile Units" and "Joint Patrols," assist the checkpoints in preserving order along the line that divides H-1 from H-2 and on major roads.226 A "Joint Coordination Center," headed by senior officers of both sides, was established to coordinate the mutual security measures in the city.227 In addition, the Palestinian Police are authorized to create four "Rapid Response Teams" of up to 16 policemen each, to control special security situations arising in H-1.228

The Protocol also transfers to the PA certain civil powers and responsibilities for sanitation, health, postal delivery, traffic and education for all residents of Hebron except for the Israelis living in H-2.229 Also specified are limitations on construction in H-1 regarding the height of buildings, which might conceivably be used for sniping into H-2, and limitations on construction of factories that could adversely affect the environment.230

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225 Hebron Protocol, supra note 3, art. 3.b, at 6; Eric Silver, Hebron Deal Ends Months of Wrangling, The Jerusalem Post, Jan. 1, 1997, at 7. This has not proved to be an effective deterrent during the weeks of daily Palestinian rioting that followed the disagreement over Har Homa and the structure of security cooperation in the Protocol which is aimed at "preventing any provocation or friction that may affect the normal life in the city" (Hebron Protocol, supra note 3, art. 7.a, at 9) appears to have been ignored by the PA in permitting, and according to some reports, encouraging these riots.

226 See Jan Black, Nails Hammered into Coffin of Peace, THE GUARDIAN, Apr. 2, 1997, at 7. As regards security cooperation, Israel is apparently hedging its bets. Following shooting attacks by the Palestinian Police, the IDF has prepared contingency plans and carried out training exercises to prepare for entering the areas under Palestinian self-rule. (See Arieh O'Sullivan, IDF Training for War with PA, JERUSALEM POST, Sept. 28, 1997, at 1; avv. e.g., BBC Short Wave Broadcasts, Ha'aretz, Tel Aviv, Nov. 26, 1996) Although the government has rejected their assessment, Israeli Military Intelligence and the General Security Service have steadily warned of the likelihood of a new Palestinian uprising characterized by gun battles with Palestinian forces. See Arieh O'Sullivan, IDF Training for War with PA, JERUSALEM POST, Sept. 28, 1997, at 1.

227 Interim Agreement, supra note 206, Annex 1, art. III.4-5; art. 4.4-d, at 6-7; Silver, supra note 275.

228 Hebron Protocol, supra note 3, art. 4.f, at 7.

229 Id., art. 5.b, at 8; Silver, supra note 225, at 7.

230 See Hebron Protocol, supra note 3, art. 10.a-b, at 10.

231 Id., art. 11, at 11; Silver, supra note 225, at 7. Additional specific provisions apply to the jurisdiction such as the electricity grid and the flow of traffic on the roads (see Hebron Protocol, supra note 3, art. 12.13, at 12), municipal inspectors (id., art. 14, at 13), the location of offices of the Palestinian Council (id., art. 15, at 13) and the provision of municipal services (id., art. 16, at 14).
Norway had committed itself to participation in the TIPH2 mission through its vital involvement in the peace process from virtually the outset. During the months between the Interim Agreement and the Hebron Protocol, the PA and the government of Israel called on Norway to establish a TIPH2-style mission composed entirely of Norwegian personnel, to serve as an advance party ("Advance Party") in "anticipation of the Israeli redeployment in Hebron" and in preparation for the forthcoming TIPH2 mission, which was scheduled to commence upon the IDF's redeployment from H-1. The TIPH2 Advance Party was established in Jerusalem on April 29, 1996. It was comprised of twelve members and its Head of Mission was a police commissioner who had been appointed by the Norwegian Ministry of Foreign Affairs. Pursuant to an enabling agreement signed on May 9, 1996, the Advance Party undertook the planning and development of TIPH2 and began operating in Hebron on May 12, 1996. From the time the Advance Party's three month mandate expired on August 12, 1996, its authorization was renewed on a monthly basis five times.

Due to protracted negotiations over the terms of the Hebron Protocol, Israeli redeployment from H-1 did not take place until January 17, 1997.

The Nordic countries have been actively involved in peacekeeping since the early U.N-sponsored observer missions. Their commitment was initially partly due to the close connections between Nordic politicians and the UN Secretariat and partly to the wish of small nations to support multilateralism and collective security. With no great-power ambitions or colonial legacies the Nordic countries are well suited to peacekeeping. (The Nordic countries in this context include Denmark, Norway, Finland and Sweden. Iceland, which has no armed forces, is not included in the discussion.) During the past thirty years the Nordic countries have developed extensive institutional and operational cooperation in peacekeeping. Janna Karhilo, Redesigning Nordic Military Contributions to Multilateral Peace Operations: Security and Conflict 101 (1995).

A Presentation of TIPH, supra note 186, at 2. In early 1993 the Norwegian Foreign Minister in effect adopted the secret negotiations that led to the DOP. MAROVSKY, supra note 2, at 21-22. In addition, Norway was a state witness to the Interim Agreement. Interim Agreement, supra note 3, art. XXI at 29.


A Presentation of TIPH, supra note 186, at 2; Interview with Stein Ulrich (hereinafter Ulrich), former TIPH2 Head of Mission, in Hebron (Sept. 11, 1997). Ulrich was the TIPH2 Head of Mission from the inception of the presence until November 1997. When his term of duty finished he was replaced by Trond Prytz, also a police officer from Norway. NARFELD, supra note 205.

Ulrich(1), supra note 234.

Id.

Id.

A Presentation of TIPH, supra note 186, at 2.

1997. On January 21, 1997, a new agreement was signed between Israel and the PA which superseded the previous agreement of May 9, 1996. The Agreement called for Norway, Italy, Denmark, Sweden, Switzerland and Turkey to provide up to 180 personnel for TIPH2, with Norway retaining the role of coordinator. The Agreement also set the initial mandate period at three months, automatically renewable for an additional period of three months, unless otherwise agreed by the parties. With the consent of both sides, TIPH2 may extend the period or change the scope of its operations.

The TIPH2 Mandate

The TIPH2 Agreement, signed over two years after the Goldstein massacre and following the conclusion of the Interim Agreement and the Hebron Protocol, was negotiated in a vastly different atmosphere from that in which the TIPH1 mission was established. Thus, the TIPH2 Agreement acknowledges the increased stability in the city of Hebron since the Goldstein massacre, as well as the transfer of the greater part of the city from IDF to PA administration. The new agreement also demonstrates a more realistic expectation of TIPH1's role in the city, perhaps as a response to the mixed performance of TIPH1.
The TIPH2 Agreement outlines the tasks of TIPH2 personnel as follows:

a. to promote by their presence a feeling of security to the Palestinians of Hebron;
b. to help promote stability and an appropriate environment conducive to the enhancement of the well-being of the Palestinians of Hebron and their economic development;
c. to observe the enhancement of peace and prosperity among Palestinians;
d. to assist in the promotion and execution of projects initiated by the donor countries;
e. to encourage economic development and growth in Hebron;
f. to provide reports as set out in paragraph 7 [TIPH2 Agreement];
and
g. to co-ordinate its activities with the Israeli and Palestinian authorities in accordance with paragraph 7 [TIPH2 Agreement].

Several modifications between the TIPH1 and the TIPH2 agreements are noteworthy. First, the TIPH2 Agreement contains a new provision not present in the TIPH1 agreement which states that TIPH2 personnel will not "interfere in disputes, incidents or the activities of the Israeli security forces or the Palestinian police." While the TIPH1 Agreement specified that TIPH1 personnel "shall have no military or police functions," the added provision contained in the later agreement highlights the Palestinian and Israeli desire to ensure that TIPH2 operates strictly as an observer force, without the authority to interfere in the work of officials from either side or the ability to act meaningfully in the event of disputes or incidents.

Second, rather than assigning TIPH2 the task - as stated in the TIPH1 Agreement - to "provide by their presence a feeling of security to the Palestinians of Hebron," the TIPH2 Agreement requires TIPH2 to "promote by their presence a feeling of security to the Palestinians of Hebron." While a seemingly minor variation in wording, this discrepancy in the two agreements may be seen as a recognition of TIPHs limited ability to significantly alter the situation of the Palestinian residents of Hebron, and the more realistic expectations that accompanied the inception of TIPH2.

Third, Article 1 of the TIPH2 Agreement states that "[i]n all its activities, TIPH will relate to Hebron as one city." This new stipulation is in response to the IDF redeployment in Hebron in January 1997. While providing security for the Jewish residents of Hebron, the continued, if much reduced, Israeli presence effectively divides the city between IDF and PA controlled areas. The requirement that TIPH2 relate to Hebron as a single city may reflect Palestinian fears that Israel views its redeployment in Hebron as a permanent solution. The Palestinians, who clearly cove control over all of the city of Hebron in any final settlement, do not want the establishment of TIPH2 to sanction the perpetuation of the status quo in the city, thereby prejudicing the Palestinians' future right to claim all of Hebron for themselves. Furthermore, the requirement that TIPH2 relate to Hebron as one city is also in keeping with the official government policies of the donor countries, who view the entire West Bank as occupied territory from which the IDF should redeploy under any final settlement, unless the PA agrees otherwise.

Article 5 of the TIPH2 Agreement confers a new role to the TIPH2 mission, not imparted to TIPH1, "to encourage economic development and growth in Hebron." TIPH2 acknowledges that it is not performing this part of its mission. Article 5(d) of the TIPH2 Agreement assigns TIPH2 the task "to assist in the promotion and execution of projects initiated by the donor countries." However, the donor countries have not provided TIPH2...
with any multinational projects to assist. Consequently, TIPH2 has taken it upon itself to introduce some small scale development programs financed by surplus funds diverted from the TIPH2 operating budget. Funding is directed towards voluntary, non-controversial programs for the underprivileged sectors of Palestinian society in Hebron, including women, the poor, and especially the Palestinian residents of H-2, which is the most impoverished and least developed section of the city.

Finally, the TIPH2 Agreement institutes changes in the composition of the JHC. In accordance with the new authority of the Palestinian police in the city of Hebron, the Palestinians are represented on the JHC by the Palestinian Police Commander in Hebron rather than the Mayor of Hebron, who is specified as the senior Palestinian representative in the TIPH1 Agreement. The removal of the Israeli Civil Administration from Hebron under the Interim Agreement is reflected in the Israeli representative to the JHC who is no longer drawn from the Israeli Civil Administration, as was the case under the TIPH1 Agreement, but rather from the Israeli military. It is important to note that under the TIPH2 Agreement, a TIPH2 representative is accorded membership on the JHC. The Agreement states in Article 7(b) that the JHC shall meet on a weekly basis or on the request of any of its members, which suggests that TIPH2 can request a meeting of the JHC on its own initiative. Furthermore, the JHC is required “to deal with any issues arising from the TIPH2 presence and the activity of the TIPH2 which cannot be dealt with by the DCO [District Coordination Office].”

The extended role accorded to TIPH2 on the JHC may have led to an increased confidence within the mission to play a more significant and central role as a permanent member on the JHC.

It should be noted that TIPH2's mandate is to monitor how the Palestinian residents are treated and not to improve or monitor the peace process or to criticize noncompliance by either side with the Hebron Protocol or earlier interim agreements. TIPH2 is intended to give the Palestinians in Hebron a feeling of security and stability, and its mandate allows them only to report what happens as clearly as possible. While the former TIPH2 Head of Mission, Stein Ulrich, admits that TIPH2 personnel are powerless to protect Palestinian residents against violence, they are able to "make them feel that they live in a place where they can be heard." In pursuit of this aim, the TIPH2 mission is two-fold: to observe and report the situation in the city, and to aid in rebuilding civil society. TIPH2 maintains contact with the Palestinian population on a daily basis by patrolling the streets of the city, usually in pairs, from 7:00 am to 10:00 pm, seven days a week. Approximately 40 observers, working in three shifts, crisscross both H-1 and H-2. The only part of the city they do not cover is the Tomb of the Patriarchs/al-Ibrahimi Mosque, which is in the hands of the IDF. These patrols give particular attention to Israeli checkpoints, which have often been sites of friction as Israel has imposed closures of

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259 While TIPH2 officials maintain that it is not within their mandate to comment on a possible solution to the tensions in Hebron, according to former IDF liaison with TIPH1, Captain Dave Ramati, "TIPH holds out absolutely no hope for peace" in Hebron. In a daily meeting between TIPH1 and the IDF, TIPH1 officials outlined the "neofunctional Norwegian stand" vis-a-vis the Jewish community: Kiriat Arba will be a ghetto surrounded by a large fence and patrolled by the IDF. Jews will only be allowed to travel to Jerusalem in heavily guarded convoys. The convoys will be allowed to leave Kiriat Arba only at specific times during the day. No one will be allowed to leave the convoy between Kiriat Arba and Jerusalem for any reason. The Hebron Jewish community will be disarmed. A joint Israeli, Scandinavian and Palestinian police force will be formed to police the Jewish areas of Hebron. A buffer force will separate the Kiriat Arba and Hebron Jews. This force will be made up of crack units of the IDF and will be responsible for preventing Jews from entering Hebron. Jews will be allowed access to the Jewish Holy Places in limited numbers. Ramati, supra note 183, at 6.

260 Ulrich(I), supra note 224; TIPH2 Agreement, supra note 241. TIPH2 observers may not conduct an investigation, but can collect extra information to compile a complete picture of the incident. This may include TIPH2 observers seeking additional data from sources not present at the incident. However, in its reports, TIPH2 endeavors to distinguish between first and second hand sources, i.e., what its observers have seen and what has been reported to them by other sources. Knusten, supra note 231.

261 Ramati, supra note 183, at 6.

262 M.

263 Id.

264 The Tomb of the Patriarchs/al-Ibrahimi Mosque is not mentioned in the TIPH2 Agreement, and the IDF interprets any TIPH2 presence there as a violation of the status quo. According to IDF Major General, while TIPH2 has produced reports on incidents allegedly occurring in the structure, all of which have been either baseless or a minor misunderstanding. Abramson told TIPH2 that the IDF is "not interested to deal with the Cave. If it is a big issue, I am prepared to deal with it on a bilateral basis," i.e., not through the TIPH2 Agreement.
freedom of movement...except when notified through the DCO of exceptional and temporary measures..." Furthermore, "members of TIPH2 will not enter privately held areas, or military camps and security installations without specific permission from the qualified individual or authorities as appropriate." Consequently, TIPH2 is not allowed to enter the area of the Tomb of the Patriarchs/al-Ibrahimi Mosque, which is a security installation. Nor are TIPH2 personnel permitted to enter police stations, military areas, prisons or private homes without the specific permission referred to in the Memorandum of Understanding.280

Despite these restrictions, Ulrich is confident that TIPH2's presence helps to reduce tensions in the city. Ulrich believes that the mere presence of foreign observers leads IDF soldiers to behave in a more professional manner, thereby reducing confrontations.281 However, TIPH2 is not mandated to prevent confrontations between the Palestinians and the Jewish residents of Hebron. These incidents repeat themselves in much the same manner, and include the throwing of rocks and garbage, and intimidation. Under the terms of its mandate, TIPH2 is only authorized to observe and report such incidents and is unable to interfere.282

TIPH2 Reports

Several kinds of reports are produced by the TIPH2 mission: some for internal use; some which are submitted to committees where the PA, the Israeli Government and TIPH2 are represented; and some which are submitted to the governments of the participating countries. None of the reports are made public, and TIPH2 does not comment publicly on specific incidents mentioned in the reports.284

In accordance with Article B in the Memorandum of Understanding,285 the TIPH2 observers compile daily situation reports based on internationally recognized human rights standards.286 These situation reports are mainly concerned with the tension levels in public places and are

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279 Ulrich(1), supra note 234.
280 Id. at B(3).
281 Ulrich(1), supra note 234.
282 Ulrich(1), supra note 234. 283 This can avert problems, particularly as troops who have just been rotated from actual combat in Lebanon to police work in Hebron may be short-tempered. Id.
284 Id.
285 TIPH2 Agreement, supra note 241, art. 3; Ulrich(1), supra note 234. According to Ulrich, the Jewish residents of downtown Hebron are trying to squeeze out the neighboring Arabs. Ulrich(1), supra note 234. TIPH2 does present reports on the activities of the Jewish community of Hebron to the JDC, IDF Liaison Officer Majer Abranovits refers these reports involving illegal activity to the police. Abranovits(1), supra note 258.
286 Ulrich(1), supra note 234.
287 Memorandum of Understanding pursuant to the TIPH2 Agreement was signed in Oslo on January 30, 1997 by the six participating countries. A Presentation of TIPH2, supra note 186, at 2.
288 Memorandum of Understanding, supra note 248.
based on incident reports written by teams of TIPH personnel who have observed incidents they consider necessary to report. Some of these reports are used exclusively to update TIPH members on the situation in the city. Others are submitted to the JIC.\textsuperscript{287} In practice, TIPH incident reports are usually conveyed bilaterally to the party involved.\textsuperscript{288} If TIPH receives a "satisfactory" explanation or response to the report, the case will be closed.\textsuperscript{289}

General weekly reports and reports on special topics are submitted to the governments of the countries participating in TIPH.\textsuperscript{290} While the Monitoring and Steering Committee has not yet been established, periodic reports meant for the Monitoring and Steering Committee (as specified in the TIPH Agreement), are submitted to senior representatives of Israel and the PA.\textsuperscript{291}

**TIPH - A Unique Peacekeeping Mission**

Several factors render TIPH unusual among the plethora of peacekeeping missions around the world. One unique aspect of the TIPH mission is its community relations program. TIPH personnel stress the importance of community outreach as a way to build up support for the mission.\textsuperscript{292} According to Ulrich, observation makes little sense if the population does not know what TIPH is and does not feel free to talk to its observers.\textsuperscript{293} When the TIPH1 mission first began operating in Hebron, it received occasional negative reactions from the local civilian population, especially children, some of whom would throw stones at the patrol cars.\textsuperscript{294} TIPH personnel wanted to change the perception, prevalent especially among Palestinian children, that the mission was merely a replacement of the Israeli military presence. Consequently, TIPH established a community relations program with the "overriding" objective of disseminating information to the civilians of Hebron.\textsuperscript{295} The community relations project also aims to "develop the cooperation and deepen the relationship" between TIPH and the local Palestinian community through information programs at schools, universities, various institutions and organizations.

TIPH's egalitarian nature also distinguishes it from other peacekeeping missions. There are no insignia on the identical, grey uniforms which all TIPH members wear,\textsuperscript{296} and there are no ranks. To the outsider, TIPH personnel are all the same: observers.\textsuperscript{297} Hence, they resemble neither a military nor a police force and are readily distinguished from the various uniformed services of the PA and Israel. Moreover, the nationalities which make up the TIPH mission are mixed in the daily patrols, and TIPH personnel are encouraged to view themselves not as representing their donor countries, but as a single unified mission representing TIPH.\textsuperscript{298}

The fact that TIPH is outside the usual UN framework of peacekeeping makes the mission atypical. One TIPH member commented that TIPH's distinctiveness is drawn from the fact that it was the only form of international presence the two sides could agree on.\textsuperscript{299} Finally, according to IDF Major Rocky Abramson, whereas another mission might come with preconceived ideas and ways of operation, TIPH comes with a fresh and unique perspective. Because it is new, TIPH is a dynamic mission.\textsuperscript{300}

III. CHALLENGES AND PROBLEMS FACED BY TIPH

**Perspective of the Palestinian Authority**

According to the Head of Operations of the Palestinian Preventative Force in the West Bank, Colonel Jamal Qawasmeh, TIPH has been effective in helping to reduce tensions in Hebron, especially between Jewish and Palestinian residents.\textsuperscript{301} However, while welcoming TIPH's role, Qawasmeh believes that the mission has not had a significant effect on the...
security of the city's Palestinians.\footnote{Id.} However, although TIPH2's presence helps to modify the behavior of Israeli soldiers, Qawasmeh believes that the situation in the city will be substantially improved only through the advancement of the political process between Israel and the PA.\footnote{Id.}

Colonel Qawasmeh places particular importance on TIPH2's role as a "good player" between the Israelis and the PA. The fact that TIPH2 is viewed as non-aligned and honest by both parties, means that it can fulfill a significant co-ordinating function.\footnote{Id.} He stresses that TIPH2 personnel observe Palestinian as well as Israeli actions, and that TIPH2 has produced reports critical of the PA.\footnote{Id.}

The PA would like TIPH2 to be given greater authority to take on a role beyond that of a pure observer force.\footnote{Id.} Qawasmeh would like to see TIPH2 given the power to enter any area where there is tension, including buildings and military areas.\footnote{Id.} Furthermore, Qawasmeh suggests that a TIPH2 presence in place of the current deployment of Israeli soldiers in the Tomb of the Patriarchs/al-Ibrahimi Mosque, would provide a satisfactory solution to the problem of competing Jewish-Muslim claims to the holy site.\footnote{Id.}

Perspective of the IDF

IDF Major Rocky Abramson\footnote{Abramson(1), supra note 258.} believes that TIPH2 is a positive force in Hebron. The IDF recognizes that observation by an outside mission causes one to modify one's behavior, and TIPH2's presence creates greater self-consciousness in the way Israeli soldiers behave towards the Palestinians.\footnote{Lerner, supra note 187.} There is a continual flow of information from TIPH2 to the

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\end{itemize}

120 Former IDF liaison to TIPH1, Ramati, records that he met "daily" with his counterparts in TIPH1. Ramati, supra note 183, at 6. Abramson is in daily contact with TIPH2 members via e-mail. Lerner, supra note 187.

However, the flow of information between TIPH2 and the IDF is much more limited. Indeed, IDF personnel are instructed not to answer questions posed by TIPH2 personnel. Abramson(1), supra note 258. However, according to a TIPH2 observer who has served in both TIPH1 and TIPH2, the communication between TIPH2 observers and Israeli soldiers is much improved over what prevailed during the TIPH1 mandate. TIPH2 personnel can speak with soldiers. Sometimes the soldiers will answer their questions and sometimes they claim to be unable to speak English. Bugge, supra note 258.

Abramson(1), supra note 258. Abramson claims to receive every TIPH2 report he receives, usually by e-mail. On or until Sept. 15, 1997, the IDF was the Israeli representative at the JHC. However, in September this role was transferred to the Civil Administration. Lerner, supra note 187.

Memorandum of Understanding, supra note 248, art. 3(b); Abramson(1), supra note 258.

Under the TIPH2 Agreement, the IDF is permitted to create a closed military area into which TIPH2 personnel are allowed to enter only as a temporary and extraordinary measure. Major Abramson contends that this was the case on November 5, 1997, when the IDF created a closed military area for a period of approximately three hours in the area of the Cave of Machpelah for the purpose of carrying out ID checks on Palestinians. Telephone Interview with Major Rocky Abramson, Israeli head of the Hebron District Liaison Office, Dec. 2, 1997 [hereinafter Abramson(2)]. As reported in Jerusalem Post, the IDF said that on November 5, 1997, 168 Palestinians were rounded up in Hebron, then photographed and released in an action aimed at deterring further férom and pipe bombardments on troops." Margot Daudvatitch, IDF Detained 168 Palestinians in Hebron, JERUSALEM POST, Nov. 7, 1997, at 3. According to the IDF spokesman, the roundup was in response to an increasing number of assaults on soldiers on patrol in the Cuffan area. The Palestinians were photographed so they could be identified in the event any were involved in a future attack or clash. Nobody was arrested. Abramson maintains that as many as 300 people were rounded up in a two-hour action launched just before midnight. Id.

TIPH2 complained that it was not notified in advance through the DCO of the IDF intention to create a closed military area, and that, therefore, the IDF action was a breach of the TIPH2 Agreement. Narfeld(2), supra note 214. Article B(3) of the Memorandum of Understanding states that TIPH2 personnel will "enjoy freedom of movement...except when notified through the DCO of exceptional and temporary measures..." [emphasis added] Memorandum of Understanding, supra note 248, at B(3).

However, Abramson claims that the IDF did not know in advance that the operation was going to take place. Furthermore, there was an IDF Colonel in the field who spoke to TIPH2 personnel and informed them of what was happening. Abramson(2), supra note 314.

However, a senior TIPH2 official contends that TIPH2 observers had to place a lot of pressure on Israeli soldiers in order to obtain any information about the closure. One patrol was eventually permitted to enter a small distance into the closed military area, however, the observers were unable to see what was happening to the Palestinians detained there. Narfeld(2), supra note 205. TIPH2 officials maintain regardless of what had happened at the scene, TIPH2 should have been informed of the closure through the DCO. Narfeld(2), supra note 214. However, Abramson says that TIPH2 and the IDF do not generally coordinate their activities through the DCO and the IDF sought not to be expected to do so in this case either. According to Abramson, the IDF has every right to create a closed military area. It is only when it has happened in eight months, it was in a small area and for a limited time. He explains that TIPH2 often sees things very simplistically, and that they need to understand that the situation in Hebron is different from the "whole world" in that they are going to carry on an operation. Abramson(1), supra note 258.
the IDF is able to operate effectively in the presence of TIPH2 personnel.\textsuperscript{315}

Abramson does not view the JHC meetings as necessarily a forum for problem solving, but rather as an opportunity for the IDF to receive feedback.\textsuperscript{316} To a certain extent, TIPH2 acts as a mediating force in the JHC. Despite fluctuations in the peace process, the Palestinians and the Israelis are forced to sit together with TIPH2 on the JHC. Even when Arafat suspended all negotiations with Israel as a protest against Israeli building at Har Homa, and the Palestinians were under constraint from above to cancel the JHC meetings, TIPH2 succeeded in pressuring both parties to continue with the meetings.\textsuperscript{317} It could be argued that TIPH2's presence as a mediating party in the JHC could reduce the possibility of Israel and the Palestinians developing a direct relationship. However, the JHC forces the Palestinians to come and sit with the Israelis, and thereby gives some continuity to the dialogue between Israel and the Palestinians. Discussions in the JHC are to the point and productive.\textsuperscript{318}

The publication of the first TIPH2 periodic report, however, highlighted problems between TIPH2 and the IDF in the interpretation of TIPH2's mandate. The report, which was submitted to the governments of all six host countries, was highly critical of IDF behavior and policies.\textsuperscript{319} Abramson gave several explanations for this criticism. First, when the report was written, the parties were still negotiating the interpretation of the TIPH2 Agreement, and the report mentioned issues that were not in the mandate, but which TIPH2 considered, at that time, to be within its directive.\textsuperscript{320} Second, the report evaluated the IDF according to international human rights standards, and not on the basis of IDF policies.\textsuperscript{321} This created

TIPH2 has received an apology from the IDF for the failure to notify TIPH2 in advance of the creation of a closed military area on Nov. 5, 1997. Knutsen, supra note 241. However, according to Narfeldt, TIPH2 remains unsatisfied, despite the apology, because the IDF has not ruled out the possibility of creating a closed military area in the same manner again. TIPH2 wants the IDF to acknowledge that it is required to inform TIPH2, through the DCO, of its intention to create a closed military area. However, Abramson has apparently informed TIPH2 that the IDF has no intention of acknowledging such an obligation. Narfeldt, supra note 205.

A closed military area was created at least once during the TIPH1 mandate. During the summer of 1994, Hebron was declared a closed military area following a terrorist attack on a Jewish family driving near Kibbutz Arba. TIPH1 was confined to their base for two days, while the IDF searched for the terrorists. Ramati, supra note 183, at 7.

\textsuperscript{315} Id. For example, TIPH2 may provide reports which show that the IDF is taking too long to carry out security checks on Palestinians wanting to cross Israeli checkpoints. Id.

\textsuperscript{316} Id. TIPH2 went to the Palestinians and said: "If you will not meet, we may as well go home as there is no use for us here." Id.

\textsuperscript{317} Ulrich1, supra note 234; Abramson, supra note 258.

\textsuperscript{318} Id., supra note 187.

\textsuperscript{319} Abramson, supra note 258. These issues have now been clarified. Id. Further, many of the

a problem for the IDF in Hebron, which operates within the parameters of a military occupation, pursuant to which certain limitations on human rights are required to maintain security.\textsuperscript{322} According to Abramson:

If TIPH(2) evaluates our actions on the basis of international human rights standards - we are in trouble. This is a military occupation. Of course, our policies are different here, in an occupied area, than elsewhere in Israel. Therefore, we come off looking bad, and there is not much we can do.

Abramson also criticizes TIPH2 for its failure to submit, even on an informal basis, the report to the IDF for feedback. If the IDF had been given an early opportunity to comment on the report, Abramson maintains, many of the issues could have been resolved before they were submitted to the host countries. Furthermore, according to Israeli Civil Administration Spokesman, Peter Lerner, the report was blatantly biased. The outcome was that TIPH2's credibility was put into question.\textsuperscript{323}

TIPH2 has recently completed its second periodic report. Despite a request by Abramson, TIPH2 decided against allowing the IDF or the PA to read and respond to the report before it was submitted to the host countries.\textsuperscript{324} Although conceding that the second periodic report contains fewer inaccuracies than the first, Abramson claims that the process of producing the report has not improved and the latest report contained inaccurate reporting and numerous mistakes of fact, all of which were made at Israel's expense. Furthermore, TIPH2 continued to report on things that were not in its mandate. Abramson claims that, even if the issue is not
within its area of responsibility, if TIPH2 considers it to be important, it will be included in the periodic report. Abramson laments the fact that TIPH2 continues to write about things which are not within its mandate and continues to include inaccurate reporting in its periodic report, and the IDF is not even given the opportunity to read and respond to the report before its publication.

**Perspective of the Israel Foreign Ministry**

Historically, Israel has had a negative attitude towards proposals to create international peacekeeping forces on its borders. This attitude is attributable to repeated efforts of the Palestinians and the various Arab states to internationalize their conflicts with Israel, as well as decades of almost automatic one-sided anti-Israeli bias of the UN General Assembly and Security Council, and a range of other UN agencies.

Most Israelis and many other observers discount the UN's assessments in matters involving Israel. Even after the repeal of the resolution equating Zionism with racism in 1991, the UN has continually demonstrated blatant animus towards Israel. Moreover, as has consistently been demonstrated in Lebanon with UNIFIL, the interposition of international forces can make it more difficult both operationally and politically for the IDF to pursue the perpetrators of hit-and-run attacks that emanate from behind the lines of the peacekeepers.

Nevertheless, despite misgivings, Israel agreed to the placement of an international presence in Hebron and even to its repeated renewal. TIPH1 was seen as a way to restart the negotiations which Arafat had boycotted in the aftermath of the Goldstein massacre. Israel insisted, however, that TIPH1 would have no political role, that it would not have a public relations role (i.e., by briefing journalists) and that it would not interfere with Israeli security efforts. Indicative of its limited role, the "P" in TIPH stands for "presence" which is a less military-sounding designation than "force," a term which is frequently used in other international peacekeeping missions. Likewise the head of TIPH does not employ a military title, such as "general" or "colone." Rather, he is simply referred to as "Head of Mission." Moreover, the members of TIPH are permitted by their mandate to carry only handguns for the purpose of self-defense and even these are not carried pursuant to a decision of the participating countries.

Notwithstanding its apprehensions, in the view of the Foreign Ministry, Israel's overall experience with TIPH1 and the Advance Party was satisfactory. Thereafter, when the peace process moved to a new stage, Israel conceded to the Palestinian demand to create a somewhat larger presence with an expanded mandate and to place it in Hebron for a

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325 Abramson(C), supra note 314.
326 Id. A senior TIPH2 official responded angrily to Abramson's complaint concerning TIPH2's decision not to allow the IDF to read the periodic report before publication. He said that the periodic report has nothing to do with the IDF, who is not a recipient of the report, and more specifically, nothing to do with Abramson, who is "just the liaison officer." Narsfield(h), supra note 205. He also linked TIPH2's refusal to allow the IDF to read the periodic report with the IDF's refusal to comply with art. 5(8) of the Memorandum of Understanding. If Abramson is not willing to comply with the provision contained in art. 5(8) that requires the IDF to notify TIPH2 in advance concerning the creation of a closed military area, "why should TIPH2 allow the IDF to read the periodic report when it has no obligation to do so?" Id.; see Memorandum of Understanding, supra note 248, at art. 5(8).
327 Israel Ministry of Foreign Affairs official, supra note 239.
328 See Schonberg, supra note 86, at 251-327. A critic of the world body noted: In spite of the multitude of wars, atrocities, and terrorist acts, many of which have been sponsored by terrorist states, the UN Security Council has still managed to devote some 50 percent of its meetings, and a full one-third of its resolutions to Israel. Strangely, until the time of the recent Gulf War, the Security Council had never warned, censured, or condemned a single Arab state. ... To this point the UN Security Council has issued 31 expressions of concern, seven warnings, and 49 condemnations against Israel.

Id.

329 For example, one critic noted that "by equating Israel's temporary deportations with very permanent ethnic massacres in Bosnia, or with Iraq's territorial marauding, persecution of Kurds and continuous military defiance of the UN, the UN members and the Secretary-General are convoking in a distortion of history, reality and morality." A.M. Rosenthal, Donces With Wolves, N.Y. TIMES, Jan. 29, 1993 at A6; see also, Mortimer B. Zuckerman, The PLO as Image Maker, U.S. NEWS AND WORLD REP., Jan. 22, 1990, at 76.
longer period. After almost a year of experience with TIPH2 peacekeepers on the ground in Hebron, a senior Israeli Foreign Ministry official was willing to give them a grade of 100 percent for effort.

**Perspective of the Hebron Municipality**

The municipality of Hebron views TIPH's role in the city as very positive. According to Hebron municipality spokesman, Nidal Al-Tamimi, TIPH2's presence helps to reduce ethnic tensions in the city, especially in the Old City and along Al-Shuhadah Street. Al-Tamimi believes that the TIPH2 presence acts to modify the behavior of Israeli soldiers towards Palestinian residents, by forcing the soldiers to answer questions about their actions.

Al-Tamimi claims that TIPH2 is welcomed and appreciated by the Palestinian residents of Hebron. He attests that through their community relations program, TIPH2 members have established a good relationship with the Palestinian community. However, while TIPH2 is viewed as a necessary and welcomed force in the interim period of the peace process, Al-Tamimi expresses the hope that one day the Palestinians will have a Palestinian state which they will govern independently of any outside presence.

**Perspective of Palestinian Residents**

TIPH2's primary purpose is to promote a sense of security for the Palestinian residents of Hebron. However, upon its arrival in Hebron, TIPH1 encountered mixed reactions from the Palestinian community they were there to assist. Presumably mistaking TIPH1 vehicles for those of Israelis, TIPH1 patrols were occasionally stoned. It seems that Palestinian residents were initially misled regarding the mandate of TIPH1, and were expecting the mission to be armed and authorized to confront IDF soldiers. Consequently, the Palestinian residents of Hebron were disappointed by how little TIPH1 could do to change their situation.

TIPH2 has, therefore, gone to considerable lengths to gain the respect and trust of the Palestinians. One of its major ventures, the

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*Id. Hebron Mayor Mustafa Natweh has demanded that the Israeli settlers be removed for fear that their actions would lead to bloodshed and torpedo the peace process. Fadel Atuwah, Hebron: Shuhada Street Split, JERUSALEM TIMES, Apr. 17, 1997, at 1.

See TIPH2 Agreement, supra note 241; Ulrich(1), supra note 224.

Ulrich(1), supra note 224. Two TIPH1 vehicles were set on fire by Palestinian youths. Interview with Captain David Ramai, former IDF Liaison with TIPH1, in Jerusalem (November 11, 1997).

Buggs, supra note 206. According to one former TIPH1 observer, TIPH1 personnel were initially told to shoot at the IDF by Palestinian residents. Id.

TIPH has commissioned three public opinion polls among the Palestinians in Hebron to ascertain the grass roots reaction to their efforts. At the outset, it is worthy of mention that the very commissioning of these polls reflects TIPH's attentiveness to the needs of the public. However, TIPH2 has decided not to publish the results of the most recent poll, prepared by the Palestinian Center for Public Opinion, due to its arguably non-scientific methodology. This, in turn, raises doubts concerning the findings of the first two polls, which were also conducted by the Palestinian Center for Public Opinion. Narfield, supra note 214. Consequently, TIPH2 intends to carry a further public opinion poll using a different surveyor. Id. The most recent published poll concerns the performance of the Arafat Party in Hebron and was conducted during January 5-8, 1997. The study is considered as an update of the July, 1994 poll, which was conducted to probe the consciousness of Hebron residents vis-a-vis the TIPH presence. Taken before TIPH2 was deployed in full force, the newer survey revealed that 24.5 percent supported extending the stay of TIPH missions in Hebron. 64.5 percent were in opposition and 10.6 percent were undecided. Of those polled, 23 percent believed that the TIPH2 presence provided a sense of security to the Palestinians, while 67.9 percent believed it had not, and 9.1 percent expressed no opinion. Only 18.4 percent agreed that the TIPH missions had already decreased the number of incidents between Palestinians and Israelis, whereas 68.3 percent believed the opposite, and 13.3 percent expressed no opinion. Despite these mixed responses, the poll revealed that a majority of those surveyed, 60 percent, believe that there is a measure of understanding and intimacy between the TIPH missions and the Palestinians of Hebron, compared to 23.3 percent who disagreed, and 16.7 percent who were undecided. Dr. Nabil Kukali, A Poll Conducted by the Palestinian Center for Public Opinion about the TIPH Forces Presence in the City of Hebron (Jan., 1997) [hereinafter Poll about TIPH's Existence in Hebron].
Community Relations Division, endeavors to "disseminate information about TIPH to the citizens of Hebron" and thereby "to develop the cooperation and deepen the relationship with the local community, that is, schools, the university, various institutions and organizations."\textsuperscript{35} TIPH has even funded educational, sports, art and cultural projects, mostly for children, teenagers and women.\textsuperscript{34}

For both pragmatic and political reasons, the Palestinians do not want the mandate of TIPH to be balanced vis-a-vis offering assistance to the Jews of Hebron. They want the unlimited power of TIPH to assist them in their interaction with Israel, i.e., they don't want TIPH to have a relationship with the Jews because it would imply that they are equally legitimate residents of Hebron, not an alien body implanted by force.\textsuperscript{35}.

\textbf{Perspective of the Jewish Residents and Community Leadership of Hebron}

Often referred to pejoratively in the media as "settlers,"\textsuperscript{36} the Jewish residents of Hebron view themselves as a new link in the chain of Jewish residence in the city of Abraham, the first Jew, and their most famous king, David. Living as a small and vulnerable minority in a hostile and threatening environment, they claim to seek coexistence with the Palestinians but not with the PLO, which they consider to be an unconstructed terrorist organization masquerading as a legitimate political entity.\textsuperscript{37} The Netanyahu government asserts it is committed to preserving and consolidating the Jewish presence in that Hebron. Convinced that the Palestinians wish to drive them out of the city,\textsuperscript{38} however, the Jews are fearful that the government of Israel will agree to remove them from Hebron in exchange for paper promises of peace.\textsuperscript{39}

\textsuperscript{35} IMPRESSUM (TIPH Community Relations Division), Aug. 1997, at 1.
\textsuperscript{36} See Interview with Asad Hashlam, TIPH Community Relations Department, in Hebron (Sept. 11, 1997); TIPH Community Relations, supra note 353, at 1-2.
\textsuperscript{37} Israel Ministry of Foreign Affairs official, supra note 239.
\textsuperscript{38} D'Addis, supra note 10.
\textsuperscript{39} Interview with Noam Arnon, Spokesman for the Jewish Community of Hebron, in Jerusalem (Sept. 30, 1997).
\textsuperscript{40} According to Al-Tamimi, there can never be co-existence between the Palestinian residents of Hebron and the Jewish community because the Jewish "settlers" are "not human. All the settlers are fanatics, lunatics, but the ones living in the Old City are the lowest." Al-Tamimi, supra note 272.
\textsuperscript{41} Arnon, supra note 357. The Prime Minister asserted in his speech to the Knesset on the Hebron Protocol:


\textit{http://bttpock.nokti/l-/llo/d/governl0.html.}

\textsuperscript{42} Arnon, supra note 357.

\textsuperscript{43} Id. Arnon likens TIPH to a hunter, waiting for an incident to occur. Id. A senior TIPH official disputes Arnon's claim that TIPH concentrates its observers in the Israeli-controlled area of Hebron. H-1 and H-2 are considered equally important and the TIPH patrol route is designed to have 80 percent of observers in H-1 and 20 percent of observers in H-2 during observation hours. TIPH observers are also stationed at the Palestinian check point at Armon Junction. However, because more incidents occur in the H-2 area, follow-up TIPH patrols are often sent to the Israeli controlled sections of the city. More Israeli as opposed to Palestinian checkpoints are monitored by TIPH patrols, but this is because there are fewer Palestinian checkpoints and most of the Israeli checkpoints are on the border between H-1 and H-2. Nafzild(e), supra note 205.

\textsuperscript{44} Arnon, supra note 357. Contrary to Arnon's opinion, TIPH officials are anxious to debunk the widely-held impression that TIPH is biased towards or an instrument of the PA. Consequently, TIPH officials are keen to produce incident reports on the behavior of the Palestinian Police and not on the IDF. See Nafzild(e), supra note 205. According to Nafzild(e), TIPH observers produced incident reports on episodes involving Jews being detained at Palestinian checkpoints. Id.

\textsuperscript{45} Arnon, supra note 357. According to Abramson, Jews are prevented by the IDF from entering into H-1 areas for security reasons. The IDF provides security escorts for Jewish groups wanting to visit the four religious sites located in H-1, but it is technically impossible for the IDF to provide this assistance every time a Jew wants to enter H-1. According to the Hebron Agreement, the Palestinians do not refuse entry into H-1 areas to Jews, but they can and often do detain them at checkpoints. Abramson, supra note 258.\textsuperscript{46}
sympathetic governments the grievances of the Palestinians against Israel.264
Given the generally negative international attitude towards what are termed
"Jewish settlements," the Jewish residents of Hebron cannot be under any
illusion that they will gain a sympathetic response from foreign
governments. However, the Jews in Hebron have good connections with the
IDE266 and right wing Israeli politicians, which are far more influential
contacts than TIPH2 could ever be. With such support, it is not clear what
meaningful assistance TIPH2 could furnish.267

The Jewish residents of Hebron contend that they, and not the
Palestinians, are the ones being victimized, and that it is quite unrealistic
that TIPH2 is here to protect the Palestinian community when it is clear
that the Jews are the ones that need to be protected.268 However, despite
claiming to be the victims of continued Arab and PA harassment, the Jewish
residents very rarely complain to TIPH2, as they believe that TIPH2's biased
nature renders such protests useless.269 As proof of TIPH2's ineffectiveness,
Aronn points out to what he considered the mission's inability to prevent, stop
or in any way influence the Palestinians in Hebron who engaged in the
widespread rioting of June and July 1997.270

264 Israel Ministry of Foreign Affairs official, supra note 239.
265 A senior Israeli Foreign Ministry official who participated in the drafting of all the TIPH
agreements believes that the Jewish community prefers to rely on the IDF rather than to look to TIPH
for assistance. Id.
266 Abramson believes that a TIPH-like mission could contribute little to the security of the Jewish
community in Hebron. By reporting on Israeli incursions at Palestinian checkpoints, TIPH2 would not
be providing security to Israelis, and TIPH2 could not prevent a Jew from getting shot. Abramson(l),
supra note 258.
267 Id., supra note 257. Abramson points out that the Goldstein massacre was just one incident
against the Arabs by a single individual, whereas the Jews have been attacked hundreds of times in
organized incidents of terror. Id.
268 Id. In the summer of 1994, when several "young Jews" were being held by Israel in
administrative detention, "TIPH1 refused to consider their request for assistance, even though the Jews
were officially members of the Hebron community and definitely within the boundaries set up for TIPH1
regarding its authority to investigate human rights violations. Evidently Jews have no human rights in
Hebron." Ramati, supra note 183, at 8. In the opinion of one reviewer, these views reflect
misunderstandings of TIPH1's mandate.
269 Id. Armiti acknowledges his being under the illusion that the rioting in Hebron during the spring
The former TIPH1 Head of Mission, Stein Ulrich, disagrees that TIPH was ineffective. Ulrich did
pressure the Palestinians to stop the rioting in Hebron in July 1997. While the Palestinians claimed that
they could not control the rioters, this seems unlikely given the 400 plus Palestinian policemen stationed
in Hebron. A more likely explanation is that the PA wanted the riots in order to put pressure on the
Israeli government. In a courageous speech to the JHC on July 13, 1997, Ulrich termed the riot a "minor
public order problem." As a senior police officer Ulrich told the Palestinians that it should be easy for
them "to get the children off the street with 20 or 50 police officers." Confidential minutes of JHC
meeting, July 13, 1997. According to a senior TIPH2 official, just two hours after Ulrich's comments
were made, Palestinian police were deployed on the street and the riots were stopped. In the opinion of
the official, the PA's decision to stop the riots could be directly linked to TIPH2's pressure at the JHC
meeting. (Interview with TIPH2 official, July 12, 1997) [hereafter TIPH2 official]. However, Abramson believes that the order to stop the riots was given by the Palestinian
leadership from outside Hebron, and was not due to Ulrich's speech. However, once the intensity of the

IV. HOW TIPH2 COULD BE MADE MORE EFFECTIVE

An Expansion of the TIPH Mandate

TIPH2 is a relatively young and inexperienced mission. Its dynamic
character is due in part to its need to continually adapt to the changes taking
place in Hebron, Israel, the PA, and the Middle East. However, it has been
suggested by TIPH2 personnel that their effectiveness is compromised by
certain limitations in their mandate.271 First, TIPH2's lack of access to
buildings and military areas creates follow-up problems.272 For example,
TIPH2 personnel may observe the detention or arrest of an individual on the
street, but if the individual is taken inside a military area, they have no
authority to enter the building and observe what follows.273 Further, TIPH2

1. Abramson(l), supra note 258.
2. Colonel Qamsneh attributes the end of the rioting to high level meetings between PA and Israeli
officials. Qamsneh, supra note 301. He insists that the riots were caused by a settler shooting a
Palestinian with a pistol, and continued each day because the settlers threw stones at the Palestinian
residents. He claims the riots stopped when the settlers stopped throwing stones. Id.
3. Ulrich(l), supra note 255.
4. Armiti(l), supra note 214.
5. Armiti(2), supra note 255.
6. Id.
7. See supra note 279.
8. Consequently, TIPH2 is unable to verify accusations made by Palestinians that they have been
created by Israelis in military areas. Ulrich(l), supra note 255. TIPH2 launched the idea of renegotiating
the mandate to give it greater access to sensitive areas when the TIPH2 mandate comes up for
discussion between the six contributing countries in early 1997; however, the political climate was not
right. Entry to military areas is a very sensitive issue, and TIPH2 is unlikely to gain access in the immediate future.
personnel have no right to enter the Tomb of the Patriarchs/al-Ibrahimi Mosque, which is considered by many to be the most tension-filled area of Hebron. Increased freedom of movement would allow TIPH2 to fulfill its observation role more fully, and perhaps would provide a greater feeling of security to the Palestinian residents of Hebron. However, increased access would also bestow an investigative function on the mission, which has no authority to carry out under the existing mandate.

Second, TIPH2’s effectiveness is hindered by its lack of access to information and its inability to interfere in disputes. Following from its lack of investigative powers, TIPH2 has no right to know if any proceedings, criminal or otherwise, follow from the incidents on which its members have observed and reported. Such limitations in TIPH2’s authority may have led to the widespread opinion, especially amongst the Palestinian residents of Hebron, that the mission, while perhaps important symbolically and politically, is of little practical importance in reducing the frequency of incidents in the city or in improving the everyday life of its residents.

However, any significant expansion of the TIPH2 mandate would effectively alter the character of the mission, and thereby diminish its political acceptability to Israel. An important component of TIPH2’s success is its low-key and nonconfrontational approach to peacekeeping. Such an approach is essential given that the ability of the mission to operate effectively is largely dependent on the willingness of the Israeli authorities to cooperate. Currently, the IDF and TIPH2 enjoy positive cooperation. However, the IDF is willing to work with TIPH2 only as long as its presence does not significantly interfere with IDF activities in Hebron. It is unlikely that such cooperation would be forthcoming should TIPH2 personnel be given the authority to enter military areas or carry out investigations. Moreover former TIPH2 Head of Mission, Ulrich, is well aware that such cooperation is contingent on TIPH2 maintaining a modest and diplomatic approach to its peacekeeping activities, in light of the bias inherent in its mandate.

The Publication of TIPH Reports

Consistent with TIPH2’s low profile approach, TIPH2 generally does not comment on incidents to the media. Nor are TIPH2 reports made public, except to the members of the JHC, who receive incident reports, and the governments of the contributing countries, which receive weekly summary reports and periodic reports. This nonconfrontational approach helps to increase the willingness of both the Israeli authorities and the PA to respond positively and effectively to TIPH2 reports. Rather than antagonize either the FA or Israel by publicly criticizing their behavior, TIPH2 needs to solicit their cooperation in improving the situation of the Palestinian residents of Hebron.

Israel is especially sensitive to public criticism against its policies issued by foreign governments or NGOs. Condemnation is likely to place
Israel on the defensive, thereby contributing to an attitude of reproach, dismissal and denial, rather than a constructive attitude which is conducive to progress. The private human rights organization, Amnesty International ("AI"), for example, has been extremely contentious in its approach towards Israel. Often relying on unproven allegations and various unsubstantiated media reports, AI has frequently criticized Israel in press conferences, news releases, reports, statements, lectures, newsletters and in video film. By apparently in order to justify its existence and attract attention and funding, AI has often focused on and sensationalized the worst examples of alleged Israeli human rights abuses. Such an aggressive approach, rather than forcing Israel to address AI complaints, prompted the Human Rights Division of the Israel Justice Ministry and other governmental departments to issue rebuttals accusing AI of bias, reliance on politically motivated sources, distortion of history, ignoring context, misuse of international law and unwillingness to consider Israel’s difficult security situation.

By contrast, for twenty years Israel has enjoyed a very constructive relationship with the International Committee of the Red Cross ("ICRC") whereby its Swiss delegates are permitted to meet with all security detainees in absolute privacy, even while those detainees are still undergoing interrogation. The ICRC generally does not publish reports on its work in Israel and the Occupied Territories. Rather, its delegates meet periodically with senior Israeli government authorities and are empowered to raise any issues regarding the treatment of prisoners and prison conditions. The ICRC is perceived by the Israeli government to be operating in a constructive and professional manner, and consequently, its complaints are taken seriously and given substantial consideration.

Similarly, TIPH2 is perceived by the IDF as a positive presence in Hebron because its approach to fulfilling its mandate is professional and low-key. The IDF is willing to cooperate fully with TIPH2 because of their shared interest in providing the Palestinian residents of Hebron with a sense of security and normalization as well as an improved economy. However,

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388. Id. at 255.
389. See Justus Weiner, Terrorism: Israel’s Legal Responses, 14 SYRACUSE J. INT’L L. & COM. 183, 200-201 (1987). The visit to each detainee occurs no later than fourteen days after his arrest, and subsequent visits to the detained individual may be made as frequently as every two weeks (at the discretion of the ICRC) as long as he remains in custody. The reviewer has read, but for reasons of confidentiality cannot reveal, the letter agreement between the Minister of Defense of Israel and the President of the International Committee of the Red Cross. See id.
389A. See id. at 205-01.
389B. Abramson, supra note 258. However, the adoption of a more aggressive approach to peacekeeping by TIPH2, possibly including the publication of its reports in the media and an expansion of its mandate to allow entry into buildings and military areas, would, in all likelihood, lead to sharply increased tension has been created between TIPH2 and the IDF in relation to TIPH2’s publication of its periodic reports. According to one TIPH2 official, Lars Nafeldt, the mission could achieve greater success in the area of problem solving if it did not produce periodic reports at all, but rather discussed problems in the forum of the Monitoring and Steering Committee.

A More Professional Staff

The former Head of Mission, Ulrich, concedes that while he is generally happy with the level of TIPH2 personnel, the mission could be improved through the recruitment of a more professional staff. It seems that the professionalism of the mission could be enhanced by the creation of a more permanent staff base, or the extension of the usual period of duty from three to six months. There is also a need for a greater number of Hebrew and Arabic speakers, and increased expertise in human rights. However, the recruitment of a more professional staff would require a substantial increase in the salaries paid to personnel. As the expenses of TIPH2 are borne by the participating countries, and in most cases, funded by money deducted from the host countries’ general aid package for the Palestinians, the PA would prefer that the extra funds be spent directly on economic and social programs.
Fewer Contributing Countries

There are also indications that TIPH2 would function more effectively if it were comprised of personnel from one or two countries rather than the current six.\textsuperscript{399} A senior TIPH2 official concedes that the mission's efficiency has been compromised somewhat by the language and cultural problems associated with the participation of so many nationalities.\textsuperscript{400} English is the official working language of the mission,\textsuperscript{401} but in the first six months of operation, TIPH2 encountered problems arising from the poor English level of some of the personnel. In response, TIPH2 adopted an English language proficiency examination to be administered to applicants. However, this examination was taken only after the candidate had arrived in Hebron, and a TIPH2 member who failed the test the first, the second or even the third time was unlikely to be sent home given the diplomatic and political problems this would have created with the host country.\textsuperscript{402}

Furthermore, a reduction in the number of contributing countries would allow TIPH2 to operate a more streamlined mission. Diplomatic niceties dictate that each of the six countries be represented in all five TIPH2 divisions,\textsuperscript{403} which, in the words of one senior TIPH2 official, has created a problem of "too many chiefs and not enough Indians."\textsuperscript{404} Fewer host countries would give TIPH2 greater flexibility in placing personnel where they are most needed.\textsuperscript{405}

However, TIPH2 officials contend that the benefits to the TIPH2 mission of having six contributing countries far outweighs the practical difficulties. They stress that the political clout gained by having the backing of six host governments is more important than alleviating the "minor"\textsuperscript{406}

\textsuperscript{399} Several further countries have explored the possibility of contributing personnel to TIPH2, including Japan and Greece. Knutzen, supra note 241; Narfeld(4), supra note 205.
\textsuperscript{400} Confidential Interview with TIPH2 official, supra note 370.
\textsuperscript{401} The Memorandum of Understanding, supra note 248, at art. A(8).
\textsuperscript{402} Confidential Interview with TIPH2 official, supra note 370.
\textsuperscript{403} The TIPH2 divisions are: Operations Division, Security Division, Community Relations Division, Administration Division, Research-Analyses-Information Division. Presentation of TIPH, supra note 186, at 4.
\textsuperscript{404} Confidential Interview with TIPH2 official, supra note 370.
\textsuperscript{405} According to a senior official at the Israel Foreign Ministry, the Norwegian government was not pleased with having to absorb small contingents from the five additional contributing countries because it necessitated finding or creating positions to be staffed according to diplomatic protocol rather than according to the true needs of the presence. Israel Ministry of Foreign Affairs official, supra note 239.
\textsuperscript{406} According to TIPH2 officials, the communication problems were solved in the first three months of TIPH2 and had no effect on the effectiveness of the mission. The host countries now have an obligation to send only English-speaking personnel. Narfeld(2), supra note 214. Furthermore,
incidents of sexual harassment against women within the mission.\textsuperscript{414} There is little question regarding the important contribution of women to the TIPH2 mission. The participation of women in TIPH2 patrols is especially important given that many local Palestinian women do not feel comfortable talking to male TIPH2 observers.\textsuperscript{415} Furthermore, if more women were hired, TIPH2 would be more representative of the society which it serves.\textsuperscript{416} Although there is no TIPH2 policy on the hiring of women, the mission is currently conducting research on the recruitment of more policewomen.\textsuperscript{417}

V. THE UTILITY OF MODELLING OTHER PEACEKEEPING MISSIONS ON TIPH2

The larger question is whether TIPH2 could serve as a model for additional peacekeeping missions. For instance, a TIPH2-like mission, perhaps called "TIPJ," could assist the Palestinian residents of Jerusalem.\textsuperscript{418} Another possible usage of such a mission could be to give security to Israeli Jews, whose neighborhoods are located in the midst of a future Palestinian state.\textsuperscript{419} It is not difficult to envisage such a force, perhaps called TIPH3,

\textsuperscript{414} Hansensten, supra note 241. Hansensten knows of one TIPH2 member who was sent home in relation to one such incident. Id.

\textsuperscript{415} Id. Consequently, the relatively small number of women in the mission is a problem and TIPH2 would prefer to see more women observers out on the streets of Hebron. Knutsen, supra note 241.

\textsuperscript{416} Hansensten, supra note 241.

\textsuperscript{417} Id. Hansensten also believes that it is important that women are represented in the senior posts within the TIPH2 mission. At one time, women held the positions of Chief of Research and Analysis, Head of Personnel, and the TIPH2 director. As of December 25, 1997, there were no women in senior positions. Female TIPH2 members held senior positions in the past apparently faced difficulties in being the only woman in staff meetings lacking the police background of the majority of the senior male members of TIPH2. The majority of the female TIPH2 members have academic backgrounds and are hired for their language skills. Id.

\textsuperscript{418} In the opinion of the reviewer, another possible site for the future placement of a TIPH2-like presence would be in Jerusalem. Although by legislative act Israel regards the entire city, within its expanded 1967 municipal borders, as its eternal and undivided capital (Basic Law: Jerusalem, Capital of Israel, 34 LAWS OF THE STATE OF ISRAEL, 209 (1980)), the PA asserts that the part of the city Israel captured in the 1967 War should become the future capital of a Palestinian State. Clearly Israel's starting position would be that no international missions are needed in its capital city. Confidential interview with senior Israel Ministry of Foreign Affairs official, Jerusalem, Nov. 1, 1997. Yet, despite the stalled peace process, it is possible to envisage the formation of a Temporary International Presence in Jerusalem to smooth relations between Palestinians living under Israeli administration or, if parts of the city were turned over to the PA, Jews living therein. Al-Tamimi, however, believes that a TIPH2-like mission is not needed to provide security to the Arab residents of Jerusalem or elsewhere in Israel, as these communities have their own representation on municipal councils or in the Israeli parliament. Al-Tamimi, supra note 272.

\textsuperscript{419} The reviewer asked if a prospective TIPH3 presence could be useful in the event that a final

\textsuperscript{420} Many of the Jews living in Hebron and elsewhere in the Occupied Territories are fearful of what would happen if the area in which they live were to come under the control of the PA. One Israeli described their concerns:

A good test is Hebron. If the Palestinians were Canadians, it would be reasonable to rely on them to continue praying in the Cave of the Patriarchs. But they aren't. And the Palestinians make no bones about it. For as Palestinian Authority Minister of Waqf and Religious Affairs, Hassan Tabbooh, told me, the Cave of the Patriarchs is also the Ibrahim Mosque. And Jews cannot pray in mosques. In fact, they can't pray next to one. Take the example of the Western Wall in Jerusalem. The Palestinians consider it part of Al Aksa Mosque and thus maintain that, under their rule, Jewish prayer will be prohibited within two meters of the wall.


\textsuperscript{421} See supra notes 170-81.

\textsuperscript{422} See supra note 1187.
reduce the willingness of the Palestinian authorities to agree to its placement and cooperate with its presence.

Moreover, it is difficult to imagine a TIP2H-like operation in a war zone or a very dangerous area, unless the personnel are more suitably equipped. Thus, the mission, in its current form, requires a relatively civil and stable society within which to operate.465 According to the IDF, TIP2H is intended to monitor the peace process, and there were no peace process to monitor, TIP2H would be unable to function.467 IDF Major Abramson notes that TIP2H failed to produce a single incident report detailing the February–March 1997 rioting in Hebron, and concludes that "when there is chaos and bilateral clashes, TIP2H[2] is pretty much paralysed."468 According to Abramson, TIP2H reporting during this time gave no indication that riots were even taking place.469 Furthermore, he stated that in the case of fighting, the IDF is given more leeway in how it fulfills its task and international criticism becomes less relevant.470 TIP2H officials insist that TIP2H did produce a number of reports during the rioting of February–March 1997.471 Detailed reports on the riots were contained in subsequent summary reports and the first periodic report, however, they were not contemporary with the events.472 A senior TIP2H official admits that TIP2H reporting during this time was unprofessional and incompetent because TIP2H observers focused on the activities of the stone-throwers rather than on the behavior of the IDF and the PA.473

One Israeli official opined that TIP2H can be a useful but limited

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465 Ulrich(2), supra note 255.
466 Abramson(1), supra note 258.
467 Id. A senior TIP2H official admitted that TIP2H was partially paralysed by the rioting in Hebron in February–March 1997. There was debate within TIP2H over how to react to the rioting: some argued that to report on the riots was outside TIP2H's mandate, while others maintained that the riots required TIP2H personnel to monitor the situation even more closely than usual. However, the TIP2H officials claimed that such paralysis did not occur during the subsequent June–July 1997 rioting. At this time, TIP2H was better organized, and many reports were produced. Interview with TIP official, Hebron, Oct. 12, 1997. Abramson agrees that TIP2H functioned more effectively during the second period of rioting in June–July 1997. Abramson(2), supra note 314.
468 According to another TIP2H official, however, there was never any discussion within TIP2H over whether to report on the February–March 1997 rioting. Rather, there was disagreement over whether to continue to deal with the two parties - the Israelis and the Palestinians - and whether to continue to bring the two sides together during a period of open conflict. There was no such incoherence during the June–July 1997 rioting, and TIP2H assumed a more active role in bringing the IDF and the PA together in the JHC. Kasten, supra note 241. Consequently, in June–July 1997, there was a distinct difference in TIP2H's official behavior in relation to how the mission dealt with the IDF and the PA during the period of rioting compared to the February–March 1997 riots, the JHC often did not meet. During the riots of June–July 1997, TIP2H informed the parties that the JHC did not continue to meet regularly, there was no point in TIP2H remaining in Hebron.) Id; Ulrich(1), supra note 234.
469 Abramson(2), supra note 314.
470 Abramson(1), supra note 258.
471 Narfidi(4), supra note 205.
472 Id. Perhaps this explains Abramson's opinion that no reports were produced during this time.
VI. CONCLUSIONS AND OUTLOOK

The partial thaw in the personal chemistry between Arafat and Netanyahu has largely frozen over. Immediately after the Hebron Protocol and the TIPH2 Agreement the two leaders began to refer to each other in more positive terms, using expressions such as "partner" and "friend." Within days, however, Arafat gave a speech to a group of students in Hebron propounding a provocative theme he has frequently touched upon before Arab audiences, "Holy Jerusalem is the capital of the State of Palestine, come what may! Anyone who does not like this can drink from the Dead Sea." Since then the always uncertain effort of promoting a final peace has sustained major setbacks, including Palestinian Islamist suicide bombings, controversial Jewish construction and challenges to the leadership of Netanyahu and Arafat.

Despite the doubtful future of the Israeli-Palestinian peace process, it has borne fruit in the form of a unique international peacekeeping mission in the troubled and often violent city of Hebron. Even if the TIPH2 mission does not outlive the likely denouement of the Oslo peace process, it can be viewed as an example, in the region and elsewhere, for assisting hostile ethnic groups living in close proximity, especially where the local government or military occupation is partial to one of the groups. It is therefore useful to gain a full understanding of why and how TIPH2 functions.

Moreover, to improve the chances for peace between Israel and the Palestinians, it is essential to resolve problems before they fester. In an environment like Hebron, where grudges are nursed for decades and even centuries and where revenge is a common motivation, it is critically important to avoid bloodshed. While peace is not made by peacekeepers, they can contribute to the reduction of tension which, in turn, makes it possible for the political process to move forward. Thus, in the opinion of the reviewer, if even one attack like the Beit Hadassah ambush or the Goldstein massacre is averted by the presence of TIPH2, its cost is well justified.