

INSS Insight No. 1140, February 21, 2019

The Temporary International Presence in Hebron (TIPH):

Israel's Decision to End the Mandate

Pnina Sharvit Baruch and Lior Zur

In late January 2019, Prime Minister Benjamin Netanyahu decided not to renew the mandate of the Temporary International Presence in Hebron (TIPH). It is unclear what prompted the Prime Minister to reach the decision, although reportedly Hebron's Jewish population pressured the Prime Minister to terminate the TIPH mandate, and the forthcoming April elections also likely influenced the decision. While it is too early to assess the implications of the decision not to extend the TIPH mandate, concern was expressed by international elements that the decision, although permitted under the agreement, undermines one of the few established mechanisms for conflict resolution between Israelis and Palestinians. TIPH is another illustration of the limitations of international bodies in fulfilling a meaningful role in the implementation of agreements and in influencing the reality on the ground or making any progress in conflict resolution. Yet even if Israel has justified grievances against TIPH, the reality in Hebron is indeed complicated, and it would be wise to address seriously allegations about violations of the rights of the Palestinians in Hebron.

On January 28, 2019, Prime Minister Benjamin Netanyahu announced his decision not to renew the mandate of the Temporary International Presence in Hebron (TIPH). Netanyahu contended that at issue is a force "that operates against us." As a result of this decision, the TIPH mandate ended in January 31, 2019.

TIPH began operating in Hebron after the massacre by Baruch Goldstein at the Cave of the Patriarchs in February 1994 and following Security Council Resolution 904 of March 31, 1994, which called for measures to be taken to guarantee the safety of Palestinian civilians, including by a temporary international presence. Following negotiations, representatives of Israel and the PLO signed an agreement that provided the basis for the formation of the Temporary International Presence in Hebron in its initial configuration. Israel's consent was given, inter alia, due to its desire not to allow the massacre to disrupt and quash the negotiations with the Palestinians that were underway at that time within the framework of the Oslo process. TIPH operated from May until August 1994 and then withdrew from Hebron, after the parties did not agree on extending its mandate.

On September 28, 1995, the Israeli-Palestinian Interim Agreement was signed (Oslo II Accord), which prescribed (Annex I, article VII) that a temporary international presence would be stationed in Hebron, along with the redeployment of the Israel Defense Forces (IDF) from Hebron. The redeployment in Hebron was delayed, and in the meantime, as a result of a May 1996 agreement, a second TIPH team was stationed in Hebron, which was composed entirely of representatives from Norway and whose mandate was extended on a monthly basis. On January 17, 1997, the parties signed the Protocol Concerning the Redeployment in Hebron, which reiterated what was established in the Interim Agreement, namely, that a temporary international presence would be stationed in Hebron according to the modalities to be agreed upon between the parties. Four days later, the agreement was signed regarding the Temporary International Presence in Hebron, under which TIPH in its current configuration was formed, composed of observers from five countries that also fund the entity: Turkey, Sweden, Norway, Switzerland, and Italy. Israel, the PLO, and the five contributing countries signed the agreement.

Pursuant to the agreement, the TIPH mission is to monitor and report on the efforts to maintain normal life in Hebron, to create a feeling of security among Palestinians in Hebron, and to promote projects to enhance their well-being. TIPH is required to coordinate its activities with the Israeli and Palestinian authorities. The agreement clarifies that TIPH will not perform any military or police functions, and will not interfere in disputes, incidents, or activities of the Israeli security forces or of the Palestinian police. The main mission is to document and draft reports on the situation in Hebron generally and in relation to specific incidents. According to the TIPH website, it prepared two reports every week that were not made public, but rather, forwarded solely to the Israeli and Palestinian authorities and to the five contributing countries. According to the agreement, the consent of both parties is required in order to extend the TIPH mandate, and in practice, the mandate was extended by mutual consent every six months. However, without Israel's consent to renewal of the mandate, TIPH is prevented from continuing its activities, and therefore, following the Prime Minister's decision, TIPH stopped operating, after 22 years. This lack of consent to renew the mandate does not constitute a breach of the agreement, but rather, exercise of authority vested in both parties by the agreement.

It is unclear what prompted the Prime Minister to reach the decision not to renew the mandate. Presumably this decision was influenced, inter alia, by an article in Haaretz in December 2018 regarding the TIPH report of late 2017, which summarizes twenty years of TIPH activities. According to the article, the report harshly criticizes Israel's activities in Hebron and recounts violations of international law by Israel, including violations of the Palestinians' human rights, particularly freedom of worship and freedom of

movement, and violations of the Geneva Convention. The report also attacks the legitimacy of the Jewish settlements and related Israeli policy.

In parallel, harsh criticism has been voiced by Jewish residents of Hebron, whereby TIPH is hostile toward them and hinders IDF forces from carrying out their mission to protect them. One incident documented a TIPH legal advisor slapping a 10-year-old Jewish child, and in another incident, a representative of TIPH was documented puncturing the tires of a vehicle in Hebron owned by a Jewish resident. Following the incidents, these individuals were sent back home and representatives of the contributing governments apologized. According to media reports, pressure was applied on the Prime Minister by Hebron's Jewish population to terminate the TIPH presence, and the forthcoming April elections also likely influenced Netanyahu's decision. Note that the possibility of terminating the TIPH mandate was also discussed in the past, for example, in 2010, when Avigdor Liberman served as Minister of Foreign Affairs.

In response to the Prime Minister's decision, the foreign ministers of the five contributing countries issued a joint statement that the decision not to renew the TIPH mandate constitutes a departure from the 1995 interim agreement. The ministers expressed their concern that the decision undermines one of the few established mechanisms for conflict resolution between Israelis and Palestinians, and emphasized Israel's obligation to protect the people in Hebron and remain accountable for violations. The ministers noted that the mandate was renewed continuously for years; they noted that TIPH performed its tasks appropriately and objected to the allegation that it acted against Israel. Announcements expressing concern due to the non-renewal of the mandate were also issued by the European Union and the German government, and the Secretary-General of the United Nations expressed his hope that an agreement can be found to preserve TIPH's contribution. PLO Secretary-General Saeb Erekat called on the United Nations to prevent Israel from implementing the decision, yet efforts to obtain a declaration in this regard from the United Nations Security Council were blocked by the United States.

It is too early to assess the implications of the decision not to extend the TIPH mandate. On the one hand, at issue is a body that was undoubtedly highly critical of Israel while identifying with the Palestinian side, as from its very formation, it was tasked to protect the rights and welfare of the Palestinians. Nor does it appear that TIPH assisted in "normalizing" the situation in Hebron. On the other hand, it is unclear what damage TIPH caused, beyond the friction with the Jewish residents of Hebron and with Israel's security forces, particularly since its reports were not publicly disclosed. Perhaps Israel is concerned that the scathing reports will reach the prosecutor of the International Criminal Court and influence her decision to open an investigation regarding the conduct of the Israeli security forces and government in Hebron. Beyond such considerations, Israel

should weigh the price that it will pay in the international arena as a consequence of its decision. The decision might be interpreted as another expression of Israel's shirking of the peace process or as an indication that it has something to conceal. The decision might also damage Israel's image as a country that honors multilateral institutions and operates within the framework of the international community. However, considering that TIPH lacks influential stature, it is doubtful that its cancellation will trigger substantive measures against Israel in the international arena.

In a broader sense, TIPH is another illustration of the limitations of international bodies in fulfilling a meaningful role in the implementation of agreements, which depends on the goodwill of the parties to the dispute, and in influencing the reality on the ground or making any progress in conflict resolution. In addition, even when at issue is a body that is not affiliated with the United Nations, but is rather composed of specific countries with which Israel has strong diplomatic relations, Israel's influence over the body's reports and mode of conduct is extremely limited. There is also no disputing that in the current reality, a body whose mandate is geared toward creating a sense of security for Palestinian residents will by definition be critical toward Israel.

At the same time, even if Israel has justified grievances against TIPH, the reality in Hebron is indeed complicated, and it would be wise to address seriously allegations about violations of the rights of the Palestinian residents of Hebron. Anyone who wants to resolve the Israeli-Palestinian conflict, whether by way of separation, and even more so, anyone who supports continuing the linkage and control over all territories in the West Bank as a permanent solution, must work hard to create a reality of people living in dignity, which takes into account the needs of the Palestinian residents. Hebron is a microcosm of a composite reality of two populations that are only nominally separated, and as such, is a model that arouses concern.