

JENIN AND OTHER  
PALESTINIAN CITIES:  
OPERATION DEFENSIVE  
SHIELD

A PRESENTATION BY  
THE ISRAEL ACTION CENTRE

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## INTRODUCTION

There was no massacre.

That is the simple and dispositive answer to the central question that gave rise to the international outcry which prompted this inquiry by the United Nations. The widespread accusations of massacre – the alleged murder of hundreds, and even thousands, of Palestinians – proved wildly inaccurate. Those baseless assertions were at best an outgrowth of what the great 19<sup>th</sup> century military theoretician Carl von Clausewitz dubbed “the fog of war” – at worst, they were a bald-faced lie.

There having been no massacre, the objective of this inquiry has transmogrified into an exploration of whether there were other improprieties committed by the Government of Israel through its armed forces in connection with the military campaign it conducted in Jenin and other Palestinian cities between 28 March and 7 May 2002. This inquiry, of necessity, encompasses two inter-related questions:

- (1) Were the military incursions by the Israel Defense Forces (the “IDF”) justified by:  
(a) the fundamental inherent duty to defend Israeli citizens against the systematic and widespread terror that had been perpetrated against them with increasing severity since September 2000 – under international law and, more specifically, (b) the string of formal agreements reached with the Palestinian Authority (the “PA”) since 1993, together known as the Oslo accords?
- (2) During the military campaign, did the IDF conduct itself in conformity with international law and practice, particularly as to its treatment and regard for the safety of civilians, including allowing access to the International Committee of the Red Cross, the Palestinian Red Crescent and other humanitarian aid during the warfare?

When questions of such critical significance regarding security and human rights are being addressed by bodies on which international standing is conferred, the need for objectivity is paramount. Perceived bias – not only in reviewing the circumstances at issue here, but also in addressing and treating other situations of similar background and nature throughout the world – undermines the efficacy of this inquiry and reflects accordingly on the institutions involved.

## THE FACTS

### A. The Events Leading up to Operation Defensive Shield

#### 1. *The Oslo Accords*

The signing of the Oslo accords on the White House lawn in 1993 served as a breakthrough in the decades-old Arab-Israeli conflict. At core, those internationally supported agreements represented a formal and unqualified reciprocal commitment to negotiate and never again resort to violence in reaching a peaceful resolution of the conflict. These are the legendary words of PLO Chairman Yasser Arafat in his letter of 9 September 1993 to then Israeli Prime Minister Yitzchak Rabin:

“The PLO commits itself to the Middle East peace process, and to a peaceful resolution of the conflict between the two sides and declares that *all outstanding issues relating to permanent status will be resolved through negotiations*. The PLO considers that the signing of the Declaration of Principles constitutes a historic event, inaugurating a new epoch of peaceful coexistence, free from violence and all other acts which endanger peace and stability. Accordingly, *the PLO renounces the use of terrorism and other acts of violence* and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators.” (Emphasis added.)

Simply put, there would be no more war or violence, only peaceful talks.

Throughout the first seven years subsequent to the signing of the Oslo accords, much progress seemed to have been made. The Palestinian Authority (“PA”) was formed under the leadership of Yasser Arafat. Approximately 42% of the territories captured by Israel during the Six-Day War (the “Territories”) was transferred to the PA. By September 2000, approximately 98% of all Palestinians living in the Territories came under PA rule. Pursuant to the empowerment conferred by the Oslo accords, the PA established civil and administrative institutions and formed a comprehensive security apparatus; the PA pledged to:

- a. ensure that no rogue military or militia units would be permitted in the areas under its control,
- b. confiscate all unauthorized weapons and explosives,
- c. outlaw and dismantle all terrorist organizations and infrastructures,
- d. arrest perpetrators,
- e. prevent incitement – especially of children in schools – and
- f. act systematically against expressions or threats of terror or violence.

#### 2. *The Camp David and Taba Summits*

The Oslo accords left for last the negotiation of the most sensitive issues: Refugees; Jerusalem, including the Temple Mount; Settlements; Israelis in the Territories; and final borders. These became the subject of intense discussions during the Summer of 2000, involving primarily and personally the President of the United States, the Prime Minister of Israel and the Chairman of the PA.

No agreement, in principle or otherwise, was reached – despite the sustained negotiating intensity and pressure, especially during the 15-day Camp David summit in July 2000. The Israelis presented detailed plans designed to resolve all outstanding issues, which were flatly rejected by the Palestinians. In December in Taba, Egypt, the Americans presented what they termed a compromise proposal, which the Israelis fundamentally accepted, but the Palestinians did not. Ultimately, Israel offered to transfer to the PA 96%-97% of the Territories (including a swap of 2% from pre-1967 Israel territory) and eastern Jerusalem, and to provide a partial accommodation and meaningful compensation for the refugees. Arafat did not offer a counter proposal. “At the end of the day, there wasn’t any version of this that Arafat was prepared to do,” said a former senior Clinton official.<sup>1</sup> As one commentator concluded:

“How much was Yasser Arafat really to blame? Barak and Clinton were right: it was the Palestinian who made the strategic decision to reject any all-embracing deal — though he was promised, orally, as much as 96 percent of the West Bank. He never offered up a counterproposal, which incensed Clinton.”<sup>2</sup>

The most comprehensive description of what actually occurred was summarized in an interview of the Special US Envoy to the Middle East, Dennis Ross.<sup>3</sup> In Ross’ words:

“We put ideas on the table that would have affected the borders and would have affected Jerusalem. . . . Arafat could not accept any of that. In fact, during the 15 days there [at Camp David], he never himself raised a single idea. His negotiators did, to be fair to them, but he didn’t. The only new idea he raised at Camp David was that the temple didn’t exist in Jerusalem, it existed in Nablus.”

At the even more intense effort, in Taba, Egypt, Ross explained (*ibid.*):

“The ideas were presented on December 23 by the president, and they basically said the following: On borders, there would be about a 5 percent annexation in the West Bank for the Israelis and a 2 percent swap. So there would be a net 97 percent of the territory that would go to the Palestinians. On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capitol of the Palestinian state.

“On the issue of refugees, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of \$30 billion internationally that would be put together for either compensation or to cover repatriation, resettlement, rehabilitation costs. . . .

“And when it came to security, there would be an international presence, in place of the Israelis, in the Jordan Valley. These were ideas that were comprehensive, unprecedented, stretched very far, represented a culmination of an effort in our best judgment as to what each side could accept after thousands of hours of debate, discussion with each side.”

Arafat's reaction:

“Arafat came to the White House on January 2. Met with the president, and I was there in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give. . . . So every single one of the ideas that was asked of him he rejected.”

And why, in Ross' view, did Arafat reject everything?

“Because fundamentally I do not believe he can end the conflict. We had one critical clause in this agreement, and that clause was, this is the end of the conflict. . . . Arafat's whole life has been governed by struggle and a cause. Everything he has done as leader of the Palestinians is to always leave his options open, never close a door. He was being asked here, you've got to close the door. For him to end the conflict is to end himself.”

### 3. *The Outbreak of Hostilities*

What is now known as the Al Aqsa Intifada was launched between Arafat's rejection of the far-reaching peace proposals Israel made at Camp David and the Taba meetings in December.

Sequentially, the uprising began on 28 September 2000, immediately after then opposition leader Ariel Sharon's visit to the Temple Mount, an area encompassing the Al Aqsa mosque.<sup>a</sup> For several weeks thereafter, many in the international community believed that Sharon's visit spontaneously triggered a grass-roots Palestinian reaction involving some degree of limited violence, principally rock throwing and protests.

The misapprehension that the violence was an unplanned reaction to Sharon's visit was wholly negated as the Palestinian rock throwing swiftly became more violent and lethal. The intensity and sophistication of the uprising escalated, evolving into deadly attacks, including meticulously orchestrated shooting sprees at civilians, and the strategically planned detonations of car and pipe bombs, mortar and rocket attacks, and eventually suicide bombers. Especially revealing was the active participation by Palestinian security personnel.

Neither the international community nor Israel saw the PA take action to restrain the uprising, despite sporadic instances in which Arafat, speaking in English to the western media, condemned the death of civilians – always making reference to both Israelis and Palestinians. After rejecting all offers at Camp David, “Arafat came back to the embrace of thousands in Gaza City. Arafat began speaking in inflammatory terms in Arabic about taking Jerusalem, while still talking peace in English. The intifada was fueled by such rhetoric.”<sup>4</sup> Imad Al-Faluji, the PA communications minister, was reported on more than one occasion as saying that the intifada was a premeditated response to the Palestinians' failure to achieve their goals at Camp David. In his words excerpted from a speech he gave at the 'Ein Al-

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<sup>a</sup> The Temple Mount encompasses the area in which the two temples of the Jewish people stood – the first, King Solomon's temple, from approximately 950 B.C.E. to 587 B.C.E., and the second from 515 B.C.E. until 70 C.E., when Roman General Titus destroyed it along with the city of Jerusalem, and exiled the Jews. Several hundred years later, in the late Seventh century, the Al Aqsa Mosque and the Dome of the Rock were built by Abd el-Malik. See generally <http://www.templemount.org>.

Hilweh Palestinian refugee camp in Lebanon: “This Intifada was planned in advance, ever since President Arafat’s return from the Camp David negotiations, where he turned the table upside down on President Clinton. [Arafat] remained steadfast and challenged [Clinton]. He rejected the American terms and he did it in the heart of the US.”<sup>5</sup> In the words of Sakhr Habash, a Fatah official, in a December 2000 interview with the PA daily Al-Hayat Al-Jadida:

“The leadership of the PA remained the source of the authority, and it alone was the factor capable of leading the operations of the intifada throughout the homeland. I can say for certain that brother Abu-Ammar [Arafat] is the ultimate authority for all operations, and whoever thinks otherwise does not know what is going on . . . . In light of the information, [after] analyzing the political positions following the Camp David summit, and in accordance with what brother Abu Ammar [Arafat] said, it became clear to the Fatah movement that the next stage necessitates preparation for confrontation . . . .”<sup>6</sup>

#### 4. *Israel’s Response to the Escalating Violence*

In order to understand the evolution of Israel’s reactions during the 20 months between September 2000 and May 2002, it is imperative to set the context of each stage of the IDF’s actions. A twenty-month wave of Palestinian terror began on 29 September 2000. The attacks against Israel and its population, including Arab Israelis, were unprecedented in magnitude and savagery. The majority of the terror attacks occurred after leading Hamas, Islamic Jihad and other terrorists were released from PA prisons – in manifest breach of the Oslo accords. Suicide bombers actively sought out Israeli population centers, among them Jerusalem, Tel Aviv, Netanya and Hadera. Schools, private homes, restaurants, nightclubs, shopping malls, main streets and other crowded public locations were subjected to suicide bombings, shootings, rocket attacks and mortar fire.

Comparing the amount of attacks against Israelis by Palestinians before and after the “Al Aqsa Intifada” provides perspective on the virulence of those 20 months of terror. During the seven years (1993-2000) preceding this wave of Palestinian violence, there was a total of 793 recorded shooting incidents against civilians and IDF personnel; in the twenty months between 29 September 2000 and 6 May 2002, there were over 9,100 such shootings and a total of 12,830 terror attacks. In all, between September 2000 and 6 May 2002, 319 Israeli civilians and 155 servicemen were killed, 2,707 civilians and 1,144 servicemen were wounded. See “*The Ebb and Flow of Operation Defensive Shield*,” prepared by the IDF (accompanying CD).

In the early months, Israel’s reaction was gradual and measured in the hopes that Arafat would stand by his word, taking action to prevent terror. In its initial weeks, the uprising largely took the form of rock throwing and mass protests. Israeli security forces used tear gas and rubber bullets to disburse crowds, and restricted their resort to live ammunition as a response to shooting attacks from Palestinians.

By week three, the violence became gruesome and lethal. On 12 October 2000, two IDF reservists were brutally lynched by a Ramallah mob after taking a wrong turn on the way to their base. The body of one of the soldiers was tied to a car and dragged through the streets. The grizzly murders – and the masses of Palestinians literally reveling in the blood of the

victims – were captured on film by an Italian crew, who risked their lives to preserve the film in the face of Palestinian threats. These murders were followed by shooting attacks, missile launches, mortar attacks, car bombs – and eventually what became the cornerstone of the Palestinian murders, the homicidal suicide bombings. Palestinians also ransacked and desecrated at least two religious sites: Joseph’s tomb in Nablus and the ancient synagogue in Jericho. Yet, despite ten months of unabated violence, Israel’s response between December 2000 and until June 2001 remained effectively symbolic bombing of empty buildings typically serving the PA security apparatus – and always only after providing fair warning to the occupants directing them to evacuate.

The next turning point came on 2 June 2001, when a suicide murderer struck the Dolphinarium Disco in Tel Aviv, leaving 21 murdered and 106 injured – almost all teenagers. Still, Israel did not declare an all-out war against the terror or invade the PA-controlled territories, but restrained its response to aerial bombing, again of vacated buildings after providing advance warning to inhabitants. The US then intensified its involvement, dispatching CIA Director George Tenet to the region. Shortly thereafter, on 13 June, the Israelis and the Palestinians accepted a security document brokered by Tenet under which both sides committed to adhere to an immediate cease-fire and end the violence. Nonetheless, there was once again no unequivocal public call by the Palestinian leadership to end the violence and terror attacks – with predictable results.

Inevitably, attacks continued and intensified, culminating in the grisly 9 August 2001 suicide bombing in Sbarro, a Jerusalem pizzeria, killing 15 and wounding 90 – mostly teenagers and children. Notably, the murderer came from Jenin. At the same time, another flash point, the southern Jerusalem neighborhood of Gilo, was sustaining intensifying shooting attacks. Since the outbreak of the Palestinian violence, the Tanzim – a branch of Arafat’s Fatah paramilitary group – used the neighboring Christian-Arab town of Beit Jala to launch shooting and mortar bomb attacks against the residents of Gilo. By its provocative tactics, the Tanzim gunmen sought to draw Israeli fire against Christian households and religious sites in order to incite the population and bring international condemnation to Israel’s defensive actions. This time, in an effort to put a halt to suicide bombers and the unbridled shooting on the Gilo neighborhood, Israeli troops were compelled in late August to enter several PA-controlled cities, including Jenin and Beit Jala, for several days.

The violence did not subside. Less than two months later, Israeli cabinet minister Rehavam Ze’evi was murdered in a Jerusalem hotel room on 17 October 2001, after which the Israeli government decided again to enter several major Palestinian towns in “Area A” in order to fight the terrorists and their dispatchers. The terror attacks continued unabated, including the twin massive suicide murders killing 25 civilians within a 12-hour period in early December 2001 in Haifa and Jerusalem – while Prime Minister Sharon was visiting President Bush in Washington. January witnessed the capture of the now infamous Karine A cargo ship, loaded with 50 tons of deadly and illegal explosives – inextricably linking the PA to the terror operations.<sup>7</sup> At the end of the month, Pinhas Tokatli, aged 81, was killed and more than 100 people were injured when Wafa Idris exploded a bomb attached to herself in Jaffa Street, Jerusalem, an area of shops and restaurants. Wafa Idris was the first female Palestinian “suicide bomber”. *Notably, Idris served as a medical secretary with the Palestinian Red Crescent, and reportedly used that organization as a cover to enable her entry into central Israel with the explosives she utilized to commit murder, having been sent by Mohammed Hababa and Munzar Noor, both of whom worked for the Red Crescent.*<sup>8</sup>

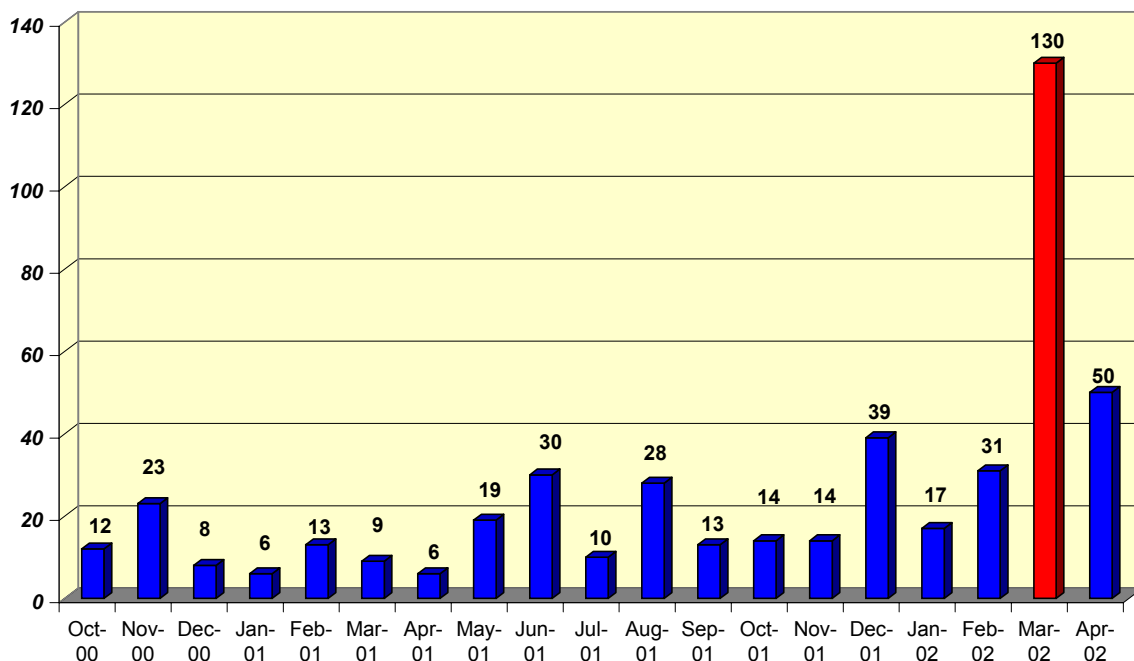


By the end of February 2002, after an escalating series of suicide and shooting murders, and the launching of Kassam rockets into core Israel,<sup>9</sup> the Government of Israel decided once again to send the IDF into the Palestinian cities and refugee camps, in which the terrorists operated freely and intermingled deliberately among the civilian population. On 28 February 2002, the IDF moved into these centers of terrorist activity, arresting terrorist suspects, and uncovering and confiscating huge Palestinian arms caches.

On 14 March, the US special envoy General Anthony Zinni arrived in the region in an attempt to arrange a cease fire between Israel and the PA. Five days later, the IDF withdrew from all parts of “Area A” it had occupied previously, in an attempt to assist General Zinni’s mission. In the days following, there were attempts to get the cooperation of the PA in the search for a lasting peace. General Zinni requested Israel to instruct the IDF to reduce its activities in the Territories and show restraint concerning reactions to Palestinian attacks. On 28 March, General Zinni presented his proposal for a cease fire.

The Palestinian reaction was an escalation of the murderous terrorist attacks against Israel. During the course of March, over 800 Palestinian terrorist attacks were recorded against Israeli soldiers and civilians. As detailed below, two of the most horrific of these attacks occurred at the end of March. The first was the Passover eve massacre on 27 March, when a Palestinian suicide bomber entered a Netanya hotel and murdered 29 people in the midst of their observance of the Jewish holiday at the traditional Seder meal. The second was the 31 March Palestinian suicide murders at a Haifa restaurant that left 15 dead. With these horrific attacks, the month of March became the bloodiest month since the outbreak of the current round of ongoing Palestinian violence. In that month alone, 130 Israeli children, women and men were killed and 687 were wounded. The following graphically depicts what Israel was suffering when it decided to embark on the military campaign:

**Israelis Killed During Uprising**



In summary, notwithstanding the uninterrupted stream of increasingly brutal attacks on its civilians Israel persisted in making substantial efforts to restore calm without resorting to extensive military force. Several official cease-fires (some unilateral) were declared, in

addition to dozens of memoranda of understanding between senior IDF officers and their Palestinian counterparts.<sup>b</sup> All to no avail; in each case, Israel fulfilled its obligations under the agreements, but the Palestinians chose to continue the violence.

### 5. *The PA's Active Role in the Palestinian Violence*

It would extend beyond the scope of this submission to undertake an expansive investigation into the comprehensive role of the PA in the Palestinian violence directed at Israelis. Based on substantial intelligence information, including abundant documents captured by the Israelis from the PA headquarters during its military operations that are the subject of this report and the extensive weapons cache sought to be smuggled into the PA on the Karine A, the Israeli government (and more recently the US government) has concluded that the PA played a direct role in orchestrating, directing, encouraging and (at a minimum) ignoring the attacks perpetrated against civilians – all the while seeking to create an atmosphere of “plausible deniability”.

The general pattern was simple and consistent: to the Western media, Arafat and the PA said all the “right stuff”; to their people, in Arabic, their tone was more frank. Arafat himself was brutally blunt when addressing his people in their mother tongue. In his own words (in Arabic): “Kill a settler every day. . . . Shoot at settlers everywhere. . . . Woe to you if you let them reach their homes safely or travel safely on the roads. . . . I want you to kill as many settlers as possible. . . . Do not pay attention to what I say to the media, the television or public appearances. Pay attention only to the written instructions that you receive from me.”<sup>10</sup>

Those “instructions” were to fight. The Palestinian Information Ministry Director-General, Hassan Al-Kashef, explained why in the PA daily, *Al-Hayat Al-Jadida*:

“Today’s most effective negotiator is the fighter active in the West Bank, Gaza Strip, and Jerusalem. It is he who consciously and courageously targets soldiers and settlers. . . . The fighting negotiator, who opens fire [with] his national consciousness, with great accuracy and to great effect in the area to be liberated, demands our complete support.”<sup>11</sup>

There can be no doubt that these “instructions” were received and understood by the various militant organizations. Shortly after the Passover murders, a BBC correspondent interviewed a Hamas operative, Usama Hamdan, in Beirut.<sup>12</sup> This was their enlightening exchange:

*Interviewer:* “You certainly don’t listen to Yasser Arafat when he says stop the violence.”

*Hamas:* “Mr. Arafat didn’t say that.”

*Interviewer:* “He didn’t say stop the violence?”

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<sup>b</sup> These included, among others: the agreement reached in Paris on 5 October 2000, between former Prime Minister Barak, PA Chairman Arafat and former US Secretary of State Albright; the agreement reached at Sharm el-Sheikh on 17 October 2000 under the auspices of former US President Clinton, Egyptian President Mubarak and Jordan’s King Abdullah; the agreement reached on 2 November 2000, between Israeli Cabinet Minister Shimon Peres and Chairman Arafat; the unilateral cease-fire declared by Prime Minister Sharon on 22 May 2001 (which was responded to by continued shootings at Israeli vehicles and communities, throwing of hand grenades, planting of explosive charges and firing of mortar bombs – culminating with the infamous Dolphinarium nightclub murders of 21 youths on 1 June 2001), and the 13 June 2001 security document brokered by CIA Director George Tenet.

*Hamas:* “No, he didn’t say it.”

*Interviewer:* “That’s what he says!”

*Hamas:* “He says that the day after . . . the operation.”

*Interviewer:* “So he says one thing to the outside world and a different thing to you?”

*Hamas:* “Maybe.”

The PA used an assortment of methods to convey its “instructions” to the militant organizations who executed them. These included the following:

- Direct statements were made in speeches and interviews – all in Arabic – encouraging fighting and violence. *See generally* MEMRI: The Middle East Media Research Institute ([www.memri.org](http://www.memri.org)); Israel Ministry of Foreign Affairs ([www.israel-mfa.gov.il/mfa/home.asp](http://www.israel-mfa.gov.il/mfa/home.asp)).
- Suicide bombers were glorified; their pictures were published and displayed throughout the Palestinian cities and in official PA offices; families of the bombers were “rewarded” handsomely by the PA and other Arab countries. As Amnesty International concluded in its recently published report: “In Palestinian media and in public displays, there has been considerable praise for those who have been killed in the course of attacking Israelis even if the attacks were targeted against civilians. ‘Suicide bombers’ are commonly referred to as ‘martyrs’ and their actions as ‘martyrdom operations’.”<sup>13</sup> *See also* BBC footage of Jenin interviews conducted in August 2001, reproduced on the accompanying CD.
- Arafat repeatedly talked glowingly of civilian murderers as “shaheeds” [martyrs] – declaring that “there are millions of shaheeds marching towards Jerusalem,” and that he, too, wished to be a “shaheed.”<sup>14</sup>
- The PA fostered an atmosphere of incitement, especially of children (many of whom were below age 15), who were urged to become “martyrs” and suicide bombers. Summer camps were held in which young children were trained to hate and to use lethal weapons. More egregiously, the PA put out sickening, mesmeric television appeals glorifying the sacrifice of children who were urged to come forward and blow themselves up, and whose families were offered and paid blood money for the terrorist deaths of their brainwashed children.

This is but one example of a typically repugnant song glorified by the PA:<sup>15</sup>

*Male voice:*

How sweet is the fragrance of the Martyrs,  
How sweet is the fragrance of the earth,  
Its thirst quenched by the gush of blood flowing from the youthful body.  
Oh father, till we meet,  
Oh father, till we meet.

*Female voice:*

Till we meet my father,  
Till we meet,  
I shall go with no fear, no tears, how sweet is the fragrance of the Martyrs.

I shall go to my place in heaven,  
How sweet is the fragrance of the martyrs.

*Male voice:* Goodbye to the child, Muhammad.  
*Female voice:* Oh the children of the world say,  
*Male voice:* Goodbye to the child, Muhammad.  
*Female voice:* Till we meet oh Muhammad,  
*Male voice:* Till we meet oh Muhammad.

Here's another example of a "public service message" broadcast by the PA on its official television channel:<sup>16</sup>

[Interview of young child]  
Q: What do you want to do?  
A: To kill the Jews.  
Q: Why are they shooting at us?  
A: Because they are animals.  
[A slightly older boy wearing fatigues]  
Q: What are you holding in your hand?  
A: A rifle.  
Q: What are you going to do with it?  
A: Shoot the Jews.

And in yet another clip, from *Falestin*, 22 October 2000, Palestinian Broadcasting Corporation:<sup>17</sup>

[sign, held by Palestinian boy] We shall die, we shall die, we shall not surrender.  
– Continues with spirit and with blood, we shall redeem you, the martyrs.

[children in uniform marching with weapons] Ali! Hassan! Hussein! Shaheed!  
[Martyr]

[Young Palestinian boy, loudly] But if, but if I starve, I will eat the flesh of my conqueror! Beware of my hunger and rage!

This atmosphere was directly responsible for the ensuing attacks. As former US Special Envoy to the Middle East, Dennis Ross, opined:

"The thing that you have to do, more than anything else, is discredit the idea of suicide bombing as ever being legitimate. There is no way that people who carry out these kinds of attacks should be treated as martyrs. As long as they're glorified, as long as they're legitimized, you're not going to be able to successfully promote peace or fight terror."<sup>18</sup>

- There was a total and utter failure by the PA to dismantle terrorist and militant organizations or arrest (and keep confined in prison) their operatives and leaders.

One central point should be made clear: A homicidal suicide bomber does not wake up one morning, pick up an explosive belt, enter central Israel, and blow himself up. Mounting a suicide operation needs planning, logistics, surveillance, equipment, money, and post-

operation publicity – in short, an organization. Broad support throughout the PA – and the Arab world – was essential to enable the expansive operations that unfolded. There was, as there had to be, an infrastructure of terror that was nurtured, or at the very least facilitated and left undisturbed, by the PA.

#### 6. *Support from other Arab Countries*

The PA did not act alone. Israel recently made public a cache of documents, captured by its soldiers during Operation Defensive Shield, that detail the cash flows from the PA and other Arab countries to the suicide bombers and their families. As documented in an 85-page report by Israel's Minister of Parliamentary Affairs summarizing these materials,<sup>19</sup> Syria directly supplied Hamas and Islamic Jihad with funds enabling them to establish and operate the terrorist infrastructure in Jenin. Iraq's brazen financial support for and encouragement of suicide murderers has been most notorious; likewise, other "moderate" countries, including Saudi Arabia, the United Arab Emirates and Qatar, each provided money to support the families of the suicide bombers – and each heaped praise on the suicide murderers whom they glorified as martyrs.<sup>20</sup>

The documents captured by the IDF essentially corroborate what the Arab countries themselves boast about. The Saudi Arabia website for its Washington Embassy archives contains elaborate and extensive accounts, translated into English, about its funding of the Palestinian violence. An embassy press release from January 2001 describes how the "Saudi Committee for Support of the Al-Quds Intifada," chaired and administered by Prince Nayef bin Abdulaziz, the kingdom's interior minister, has distributed \$33 million to "deserving Palestinians," including "the families of 2,281 prisoners and 358 martyrs."<sup>21</sup> An embassy press release from March 2001 quotes Saudi finance minister Ibrahim al-Assaf reporting on the kingdom's \$50 million contribution to an international, pan-Arab fund designed "to educate the sons of martyrs and rehabilitate the injured" – this in addition to Prince Nayef's separate support committee, which has "pledged a sum of SR 20,000 (\$5,333) to each family that has suffered from martyrdom."<sup>22</sup> A subsequent release from April 2001 announces that "Prince Sultan Affirms [the] Kingdom's Support" for the Palestinian intifada, to the tune of \$40 million already disbursed "to the families of those martyred" and other worthies.<sup>23</sup> In general, Sheikh Muhammad bin Jubair, head of the Saudi delegation to the Second International Conference in Support of the Palestinian *Intifada* in Iran, declared that direct Saudi government aid "has over the years amounted to SR 6.88 billion [U.S. \$1.83 billion] while remittances from the people's committee for assisting the Palestinian *mujahideen* [Jihad warriors] have reached SR 1.71 billion [\$0.45 billion]."<sup>24</sup>

There is in fact a formal application process for those "martyrs" who are "entitled" to collect their payments. Several months ago, on 18 February, an organization called the "Psychological and Social Research Center for the Wounded Palestinian" ran a notice in Ramallah's Al Hayyat Al Jedida newspaper addressed to "families of the fatalities" scheduled to receive contributions from the "tenth payment cycle" of the Saudi Committee for Support of the Al-Quds Intifada.<sup>25</sup> Those families, the notice advised, should "apply to the Arab Bank branch near their residence" to receive payments of \$5,216.06 apiece – "in accordance with the instructions of the Emir Nayef bin Abdulaziz, Minister of the Interior and General Supervisor of the Committee." (*Ibid.*) According to Saudi government spreadsheets bearing the logo of the Saudi Committee for Support of the Al-Quds Intifada, that committee's aforementioned "tenth payment cycle" included among its beneficiaries the relatives of eight Palestinian terrorist bombers, all of them specifically and explicitly singled

out by Saudi bookkeepers for their participation in amaliah istishadiah: “suicide operations.”<sup>26</sup>

As it happens, all this talk of “martyrs” and “martyrdom” is not at all uncommon in Saudi Arabia. In April 2002, for example, the government-controlled daily Al-Jazeera published a hymn of praise to two recent Palestinian “martyrs” – both suicide bombers, one of them a 16-year-old girl. The poem, authored by the Saudi ambassador to London, Ghazi Al-Qusaibi, was published on 13 April 2002 in the London-based Arabic newspaper Al-Hayat: “May Allah witness that you are Martyrs, [May the] Prophet and Holy men witness to that You died to glorify the word of my God . . . .”

## 7. *The Passover Attacks*

On Passover eve, 27 March 2002, Arafat made one of his classic speeches to the Western media broadcast on CNN, purporting to extend an olive branch in offering well wishes to Israel and the Jewish people as the Passover Holiday commenced: “We would like to remember on this day. It is the first day of the Jewish holiday Passover. We would like to remind the Israelis, the Jews today, Happy Passover. . . . We want the peace for the brave for our children. And for their children as well. . . . We would like to say here, Glory to God in Heaven and Peace be on the people on earth.”

As the horrific events of the next few hours, and days, unfolded, the cynicism of that façade became apparent. *In the five days immediately following Arafat’s interview in which he called for “Peace,” six terrorist suicide attacks resulted in the deaths of 53 people and the wounding of over 258 others – all civilians.*

- 27.3.02, Park Hotel, coastal city of Netanya – During the traditional Passover meal (or Seder) for 250 guests, a 21-year old suicide bomber murdered a total of 29 people and injured 140 (20 seriously) – mostly elderly, in an especially gruesome and bloody attack. Hamas claimed responsibility for the attack; the murderer came from Jenin.
- 28.03.02, Elon Moreh – Four people – Rachel and David Gavish, 50, their son Avraham Gavish, 20, and Rachel’s father Yitzhak Kanner, 83 – were killed when a terrorist infiltrated the settlement community of Elon Moreh, entered their home and opened fire on its inhabitants. Hamas claimed responsibility for the attack.
- 29.03.02, Stabbing attack in Netzarim in the Gaza Strip – Tuvya Viesner, 79, from Tel Aviv and Michael Orlanski, 70, from Petah Tikva were stabbed to death while visiting relatives at the Israeli settlement of Netzarim in Gaza. Al-Quds Brigades, the military wing of Palestinian Islamic Jihad, claimed responsibility for what they described as an “heroic and courageous assault.”
- 29.03.02, Jerusalem Supermarket – A 17 year-old girl blew herself up in the Kiryat Yovel supermarket in Jerusalem, killing Rachel Levy, 17, and Haim Smadar, 55, the security guard, and injuring 28 people. The murders were committed by a member of the Al Aqsa Martyrs Brigade, a branch of Arafat’s Fatah movement.
- 30.03.02, Tel Aviv coffee shop – A terrorist exploded in a coffee shop located in a crowded downtown Tel-Aviv center: one woman was killed and 45 were wounded.

- 31.03.02, Haifa Restaurant – A suicide bomber killed 15 and injured 45 at the Arab-owned Matza restaurant of the gas station near the Grand Canyon shopping mall. Hamas claimed responsibility for the attack.

#### 8. *The “Setting” at the Inception of Israel’s Military Campaign*

The severity and scope of the Palestinian armed attacks were of such magnitude and pervasiveness that even humanitarian organizations most sympathetic to the Palestinian cause were revolted. The ordinarily reserved Amnesty International reached this unequivocal conclusion and condemnation:

“The attacks against civilians by Palestinian armed groups are widespread, systematic and in pursuit of an explicit policy to attack civilians. They therefore constitute crimes against humanity under international law. They may also constitute war crimes, depending on the legal characterisation of the hostilities and interpretation of the status of Palestinian armed groups and fighters under international humanitarian law.”<sup>27</sup>

The environment that existed as Israel decided to embark upon a military campaign at the end of March 2002, was aptly summarized by the U.S. Congress in a resolution adopted by its House of Representatives on 2 May 2002, H. Res. 392. The following are direct quotes:

- Yasir Arafat and members of the Palestinian leadership have failed to abide by their commitments to nonviolence made in the Israel-P.L.O. Declaration of Principles (the “Oslo accord”) of September 1993, including their pledges (1) to adhere strictly to “a peaceful resolution of the conflict,” (2) to resolve “all outstanding issues relating to permanent status through negotiations,” (3) to renounce “the use of terrorism and other acts of violence” and (4) to “assume responsibility over all P.L.O. elements and personnel in order to assure their compliance [with the commitment to nonviolence], prevent violence and discipline violators”;
- the continued terrorism and incitement committed and supported by official arms of the Palestinian Authority are a direct violation of these commitments;
- the Al Aqsa Martyrs Brigades, which is part of Arafat’s Fatah organization and has been designated a “foreign terrorist organization” by the United States government, and other Fatah forces have murdered scores of innocent Israelis;
- forces under Yasir Arafat’s direct control were involved in the Palestinian Authority’s thwarted attempt to obtain 50 tons of offensive weapons shipped from Iran in the Karine-A, an effort that irrefutably proved Arafat’s embrace of the use and escalation of violence;
- the Israeli government has documents found in the offices of the Palestinian Authority that demonstrate the crucial financial support the Palestinian Authority continues to provide for terrorist acts, including suicide bombers;
- the recent escalation of Palestinian attacks, killing 46 Israelis during the week of Passover, included a heinous suicide-bombing at a religious ceremony which killed

27 and wounded more than a hundred, many critically, and was perpetrated by a known terrorist whom Israel had previously asked Yasir Arafat to arrest;

- this suicide attack occurred at the very time United States envoy Gen. Anthony Zinni was attempting to negotiate a cease-fire that would lead to the resumption of Israeli-Palestinians political negotiations;
- just before the Passover attack, Israel had agreed to General Zinni's cease-fire proposals, whereas Yasir Arafat rejected them;
- Yasir Arafat continues to incite terror by, for example, saying of the Passover suicide bomber, "Oh God, give me a martyrdom like this";
- Yasir Arafat and the P.L.O. have a long history of making and breaking antiterrorism pledges.

## **B. Israel Embarks on Operation Defensive Shield**

### *1. The Inception of the Military Campaign*

In light of the PA's utter refusal to act against the ongoing terrorist attacks, and indeed the PA's active participation in aiding and abetting these attacks, the Government of Israel decided, as it was compelled by the circumstances, to take the necessary defensive steps to protect its own population. The Government of Israel declared PLO chairman Arafat an "enemy" and instructed the IDF to enter the main Palestinian cities in "Area A" to locate and disable the Palestinian terror apparatus – using force, as necessary. This included the arrest of those who participated in the terrorism, the dismantling of explosives laboratories and factories, and the confiscation of all illegal ammunition, explosives and other weapons. Again, in the words of the U.S. Congress in House Resolution 392:

"Israel's military operations are an effort to defend itself against the unspeakable horrors of ongoing terrorism and are aimed only at dismantling the terrorist infrastructure in the Palestinian areas, an obligation Arafat himself undertook but failed to carry out."

### *2. The IDF Incursion into the Palestinian Cities – Other than Jenin*

The military campaign into Palestinian cities other than Jenin involved some armed conflicts – but by and large the operation successfully yielded the detentions and arrests of numerous militants and terror group leaders; the discovery and demolition of extensive explosives "laboratories"; and the confiscation of massive amounts of illegal arms and counterfeiting machinery. At the same time, humanitarian aid flowed relatively smoothly to those in need, with good coordination maintained between the IDF and the humanitarian aid organizations. Summarized below are the salient details of what occurred, in chronological sequence.<sup>c</sup>

On the evening between 28 and 29 March, a large IDF force deployed in and around the Palestinian city of Ramallah, surrounding the "Moukata," or Arafat's office compound. In

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<sup>c</sup> The facts in this section are taken largely from an IDF report entitled, "The Battle of Jenin" (reproduced at *jenin IDF.pps* in the accompanying CD).



the first few days of the Ramallah operations, the IDF apprehended and detained over 500 Palestinian suspects. While IDF units searched the “Moukata” and other locations in Ramallah, large arms caches were uncovered, including large numbers of assault rifles, RPGs [Rocket Propelled Grenades], ammunition and other weaponry. The large amount of weaponry was held by the PA in violation of every agreement with Israel, bearing blatant witness to the direct connection between elements in the PA and terrorist operations against Israel. Additionally, a large number of counterfeit Israeli New Shekel notes in 100 and 200 shekel denominations were uncovered, along with plates for the counterfeiting of Israeli currency bills and coins. *See generally* film clips reproduced on the accompanying CD.

Over the next several days, IDF forces assumed control over Beit-Jala (following the launching of mortar bombs towards the neighboring Gilo neighborhood in Jerusalem); and encircled the PA Preventive Security Service HQ in Betunia. That afternoon more than 180 Palestinian men and women surrendered: about 150 of them members of the Preventive Security Service and the rest wanted suspects from various terror organizations. IDF reserve forces entered Tulkarem and Bethlehem, and took over the town of Qalkilya, encountering little resistance. During searches in the cities, several terror operatives were arrested and weapons were collected. In Qalkilya, dozens of improvised rifles, guns, bats, knives and stolen/forged Israeli license plates were discovered.

The Palestinian cities were all declared closed military areas, and all media personnel were asked to leave. Documents were found in Arafat’s offices showing a direct connection between him and the funding of the terror organizations. At the same time, Palestinian collaborators were lynched by militants and, in an ominous sign, Iranian-backed Hezbollah guerrillas in Lebanon fired a Katyusha rocket into Israel.

The incursion into Jenin began on 3 April, with IDF reserve forces assuming controlling positions throughout the city. The forces encountered strong Palestinian resistance – heavy fire was exchanged during which an IDF officer was killed. That incursion is the focus of the next several sections of this report.

Also, on 3 April, IDF forces raided the town of Salfit, and discovered an explosives factory containing large explosive devices, gunpowder barrels and assault rifles. Ziyad Ibrahim Id Amar, a preventive Security Service Officer and a military Fatah operative involved in attempts to smuggle terrorists into Israel, was killed in combat. Again, more rockets were fired into northern Israel by Hizbollah fighters on the Lebanese border.

The next day, some 40 Palestinian policemen, among them senior officers, turned themselves in around the Manara square in Ramallah. As the searches continued, an explosive laboratory was discovered in Tulkarem, and 15 Palestinian suspects were arrested. Inside the Casba in Nablus, hundreds of armed Palestinians were in hiding, among them members of the Security Service, Tanzim and Hamas members. IDF forces began entering the Casba in Nablus on 6 April. Eventually, the siege ended as 200 armed Palestinians surrendered on 8 April.

In Bethlehem, some 200 armed Palestinians and PA officials took refuge in the Church of the Nativity, abusing the sanctity of the sanctuary and holding Church officials hostage. IDF forces encircled the compound and initiated negotiations. Negotiations in the Church bore fruits for the first time on 5 April: five vicars and three nuns were extracted from the church and were transferred to Jerusalem at their request. A week later, the US and Israel worked

out a proposal under which Palestinian gunmen trapped in the armed standoff were offered the choice of surrendering and being tried in an Israeli military court, or going into exile. Eventually, that arrangement was accepted in early May, and the standoff was brought to a peaceful close when the last of the militants left the Church on 10 May.

The IDF forces began their pull-out of the PA cities, beginning with Tulkarem and Qalkilya on 9 April, and continuing on 11 April with withdrawals from 24 other villages. On 10 April, hundreds of Palestinians surrendered in al-Ayn refugee camp after 13 days of intense battles with Israeli troops. The next day, the IDF completed three arrests: near the village of Tubas, the head of the Tanzim military wing in the northern Territories, Ahmed Abu Jildeh; commander of the Al-Aqsa martyrs brigades, Nasser Aweis; and senior Jihad Islamic operative in Jenin, Thaabat Mardawi.

Meanwhile, a Palestinian suicide bomber from Hamas killed eight Israelis in an attack on a crowded bus near Haifa. Shortly thereafter, apparently timed to coincide with the visit of US Secretary of State Colin Powell, six people were killed when a suicide bomber detonated her bomb near a bus stop in central Jerusalem; 84 people were wounded. On 13 April, two explosive laboratories were discovered and demolished – one in Bethlehem and the other in Rafidia. Finally, in the worst violence in the area since Israel withdrew from southern Lebanon two years earlier, Hezbollah guerrillas exchange fire with Israeli troops and war planes along the Lebanese border.

Over the next several days, IDF forces arrested four Hamas operatives in Tulkarem and eight terror activity suspects in Bet-Fajar and Farah. In Betunia, Jamaal Tawil, Head of the Hamas in Ramallah, and Asraf Abu-Warda, commander of the Hamas military wing in the region, surrendered to IDF forces. Special units forces arrested Marwan Barghouti, commander in chief of the Tanzim organization in the West Bank who was directly involved in terror activities. During searches in the Omar mosque in Bethlehem, a powerful pipe bomb was found and disarmed by IDF forces.

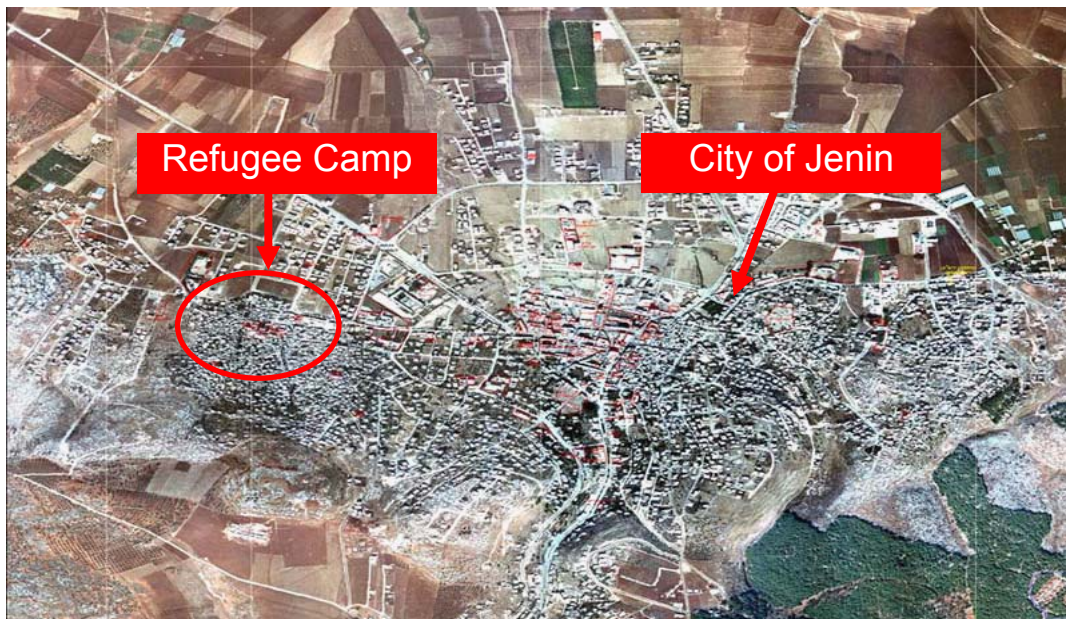
On 18 April, IDF forces left Jenin. Three days later, the IDF soldiers completed their mission in the cities of Nablus and Ramallah – except in the Moukata in Ramallah, where the impasse over Arafat's harboring of terrorist fugitives was eventually resolved some time later through diplomatic channels.

In summary, Operation Defensive Shield produced tangible results. Large amounts of weapons and explosive charges were found. *See* films clips reproduced in the accompanying CD. Some 5,000 Palestinians, including 2,900 wanted persons, were arrested and interrogated. Documents linking the PA and its leader were discovered, proving their connection to the planning, financing, and directing of terror attacks. In short, the IDF demonstrated that it is possible to fight terror. The Palestinian terror was dealt a severe – albeit not decisive – blow, and its capabilities were substantially diminished.

## C. The IDF Entry into Jenin

### 1. What is Jenin?

Jenin is comprised of a city and a refugee camp. The city has 37,000 residents and is comprised of 4,500 acres. The camp, which is administered by the United Nations Relief and Works Agency,<sup>d</sup> has existed since 1953; 13,055 registered refugees live in a square whose sides are about 600 meters long (about 113 acres). UNRWA funds and staffs the schools of Jenin, while municipal services, including water electricity sewage and transportation, are provided by the municipality. There are two schools (approximately 1,500 students) and a nursery school. Health services are provided by the UNRWA clinic, which includes a lab and pharmacy. Significantly, the camp has about 1,900 buildings.



Even by the standards of Palestinian refugee camps, Jenin is gruesomely special. Jenin was riddled with Palestinian militants ready and armed for suicide missions, deliberately making themselves indistinguishable from civilians. Since the start of the Al Aqsa intifada in September 2000, the camp's activists, drawn from the Al-Aqsa Martyrs Brigades, Islamic Jihad and Hamas, have orchestrated at least 28 suicide attacks on Israeli targets, killing more than 60, and wounding nearly 1,000. An internal document of Arafat's Fatah organization, written in September 2001 and captured by the Israelis during a recent sweep, characterized the camp's people as "ready for self-sacrifice with all their means . . . . It is not strange that Jenin has been termed the capital of suicide attackers."

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<sup>d</sup> The UNRWA is a subsidiary of the United Nations. Its commissioner-general, appointed by the UN secretary general, is the only head of a United Nations body authorized to report directly to the General Assembly. The UNRWA was founded by Resolution 302(IV) of 8 December 1949, and to this day remains unique within the world body as a relief agency assigned to serve only one class of people. All the world's other refugees are served by the United Nations High Commissioner for Refugees (UNHCR). UNHCR serves the needs of more than 21.8 million refugees in 120 countries ranging from the Balkans, Colombia, West Africa, and Chechnya to Afghanistan, Sri Lanka, Timor, and the Horn of Africa. Palestinian Arabs alone are under the aegis of the UNRWA, which operates 27 refugee camps in the West Bank and Gaza, and another 32 camps in neighboring Jordan, Lebanon, and Syria. In 2001 alone, UNRWA spent \$310 million on the camps.

Jenin has been for years what the Palestinians call “a’simat al-istashidin,” the “suicides’ capital,” serving as the center of the terrorist infrastructure that enabled the execution of the suicide bombing activities. Some important facts:

- While all major terrorist groups operated there, Palestinian Islamic Jihad’s strongest presence was in Jenin. That group was led by Mahmoud Tawalbe, “Nursi” (reported killed in the recent fighting); Ali Suleiman al-Saadi, known as Ali Safouri; and Thaabat Mardawi (now under arrest). The latter two were responsible for numerous attacks, including 9 by suicide bombers – Mardawi was behind a March 20 suicide bomb that killed seven Israelis on a bus, while Safouri had planned a November shooting that killed two Israelis.
- Qeis Adwan (killed in the recent fighting), the Hamas leader in Jenin, and his deputy, Jamal Abu al-Hija’, were involved in several suicide attacks, including the massacres at Sbarro pizza in Jerusalem (9 August 2001, 15 murdered) and Matza restaurant in Haifa (31 March 2002, also 15 murdered). Adwan was also linked to the Passover massacre in Netanya (27 March 2002, 29 murdered).

The Jenin camp had long been at the center of violence between Israeli forces and Palestinian gunmen. In August 2001, in response to a wave of suicide murders stemming from Jenin – including the murder of 15 people in early August in a Jerusalem pizzeria – the IDF raided the town for approximately four hours. One writer reported from Jenin that when the Israeli tanks rolled into town in August 2001, “some residents of the camp strapped on belts of explosives ready to attack if they penetrated the warren of narrow streets and back alleys. Others hauled gas cylinders on to rooftops as improvised bombs.”<sup>28</sup> In the office of the Jenin District Administration, Haider Irsheid, the deputy governor, told the reporter how delighted local people were about their community’s “frontline role” in Palestinian resistance.<sup>29</sup>

In February 2002, Israeli forces entered Jenin twice, following a series of Palestinian terror attacks in Israel (including an attack on a young girl’s Bat Mitzvah celebration). As a result of the operation, Israel uncovered illegal arms caches, bomb factories, and a plant manufacturing the new Kassam-2 rocket, designed to reach Israeli population centers from the West Bank and Gaza.

Against this backdrop, and in direct response to the Passover murders, the Israeli government was constrained to use military force in dismantling the terror infrastructure centered in Jenin. The fierceness of the ensuing battle served only to confirm Jenin’s significance to the Palestinian terror organizations and the degree to which that city had become saturated in militant fighters.

## 2. *What Happened in Jenin?*

The simple truth was this: There was a battle in Jenin. It was real urban warfare, as an army met an armed and prepared group of militants intimately familiar with the local terrain. In the end, there was devastation. That was inevitable; war is not pleasant. What follows is the brutal story in blunt detail.<sup>e</sup>

In February 2002, Israeli soldiers entered Jenin twice. Arriving each time along a single route and with limited force, they had encountered heavy resistance and departed quickly. This time the IDF planned to send in troops from three directions. The 5th Infantry Brigade would close in through the town of Jenin, which abuts the camp to the north. From the southeast and southwest would come two thrusts, one led by a company from the Nahal Brigade, the other by Battalion 51 of the Golani Brigade – 1,000 troops in all. The force included units of navy seals, tanks, engineers to handle the roadside bombs that military intelligence predicted would line the alleys of the camp, and heavily armored bulldozers to carve paths for tanks. The army ruled out an air attack, to avoid mass civilian casualties.

On 30 March, the 5th Brigade was mobilized. The 5th Brigade was comprised of reservists mostly in their late 20s and early 30s. The soldiers were supposed to head for Jenin on 1 April, but rain and delays in shipping equipment forced the troops to wait until Tuesday, 2 April. Around midnight, in the early morning hours of 3 April, the Israeli tanks, which had massed west of the town, started to move in.

The Palestinians had made their own preparations. Booby traps had been laid in the streets of both the camp and the town, ready to be triggered if an Israeli foot or vehicle snagged a tripwire. Some of the bombs were huge – as much as 110 KGs of explosives. A core group of terrorists took up positions in the refugee camp – augmented by gunmen from the PA security forces. Well in advance, they fortified the camp, using dozens of explosive devices in waste containers and the like, and preparing other obstacles, such as downed electricity poles. Thousands of smaller bombs and booby-traps were scattered in streets and (populated) houses throughout the "fortified" area.

On Day 2 of the battle, when the town had been secured but the fight in the camp was just beginning, a huge Caterpillar D-9 bulldozer rolled along a three-quarter-mile stretch of the main street to clear booby traps. An Israeli engineering-corps officer logged 124 separate explosions set off by the vehicle. In the camp, the explosive charges were even more densely packed, and tunnels had been dug between houses so that Palestinians could move around without exposing themselves on the street. Early on, the terrorists fell back to one area – the Hawashin neighborhood – while other areas were untouched by the fighting. Much of the population fled before fighting started, but some were held by the militants. Few stayed in the battle zone after 10 April. That left about 1,300 people inside the camp. According to leaders of Islamic Jihad, around 100 of those remaining were armed militants.

The battle took shape in the environment that soldiers like least, in and around pinched alleys and houses, with ample hiding places and sniper positions used by the militants to conceal their positions among the civilian population. Inevitably, civilians were caught in the fray.

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<sup>e</sup> Much of the facts recited below is derived from a special *Time Magazine* investigative report entitled, "The Battle of Jenin," by Matt Rees, 5 May 2002, and a presentation prepared by the IDF, "The Battle of Jenin," *jenin IDF.pps* (reproduced in the accompanying CD).

The Israelis offered – as they did to large degree of success in virtually every other Palestinian city they entered – the Palestinians in Jenin safe passage if they surrendered. The army gave clear warnings to all inhabitants, civilians and armed militias alike, before entering any house. The Israelis also were said to have used camp residents to knock on doors to persuade people to come out and surrender.<sup>f</sup> Unlike in the other Palestinian cities, however, the terrorists in Jenin had booby-trapped their houses and fought fiercely in their determination to make a deadly last stand.

Three days into the operation, as of 6 April, the Palestinians were still dug in. The Israelis had already lost seven men, but as they advanced, the Palestinian militants retreated to the Hawashin district at the camp's center, where their defenses were strongest. The Israeli Foreign Office described the key events of that day as follows:

“IDF soldiers are approached by five Palestinians in the Jenin refugee camp. The Israeli soldiers call on the Palestinians to stop. When they do not heed this call the soldiers open fire on the group, according to the regulations for arresting suspects. One of the Palestinians detonates an explosive belt he is wearing. The terrorist and two other Palestinians who are with him are killed in the explosion. Two other Palestinians are apprehended and brought in for questioning by Israeli security forces.”<sup>30</sup>

The Palestinian casualties were terrorist activists. One, Mustafa Abdallah Rahim Yunis Shalbi, was a military Democratic Front activist who took part in shooting at IDF soldiers. Another was Ashraf Mahmoud Yusuf Abu Al Hija, a 23 year old Hamas activist who was the assistant to Qeis Adwan – one of the head Hamas operatives killed.<sup>31</sup> Both were killed in battle.<sup>g</sup>

Cobra attack helicopters attacked rooftop Palestinian positions. But the Israelis' most effective weapon was unconventional: the huge, armored D-9 bulldozer, over six meters tall and weighing more than 50 tons. Eventually, a dozen of them went into action, clearing paths for the tanks and detonating booby traps. Undoubtedly, the D-9s destroyed houses, but they certainly could not have buried as many people as Palestinian officials have alleged. It takes the D-9 at least half an hour to fully wreck a building. Israeli soldiers say they always called to residents to come out before the bulldozers went in. But even if the innocents were

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<sup>f</sup> This practice has been condemned by Human Rights Watch in its report as a violation of international humanitarian law. Amnesty International echoed these sentiments in its report. Far from constituting a war crime or human rights violation, this practice was a very humane and ethical gesture, made in a special effort to avoid using force where occupants initially refused – for whatever reason – to heed Israeli calls for them to leave their homes and surrender. There was no way to determine in advance whether the occupants were militants, and the alternative therefore would have been to use loudspeakers to advise people to leave or be subjected to bombardment that would destroy the buildings and all occupants who remained. If at all, the meticulous door-to-door searches served to put at risk the safety of the Israeli soldiers conducting them – not that of the civilians who cooperated, nor that of the occupants who didn't. There is no evidence that civilians who participated in the searches were injured in the effort.

<sup>g</sup> Two other terrorist operatives were killed on unknown dates. One was Toha Mohammad Abdalla-Rahan Zbidi, a 25-year-old military Fatah operative who served as an assistant to operatives from all the organizations. Also known as an Islamic Jihad operative, Zbidi provided explosives and bombs to other operatives. While being questioned, Thaabat Mardawi had said that Zbidi had hid with him inside the house from which they shot and wounded IDF soldiers and was killed during that activity. Another was Mahmoud Ali Mohammad Halwa, a 31 year old operative killed by “friendly fire” from other Palestinians after mistakenly being identified as an IDF soldier. See [www.idf.il/english/news/jeninkilled.stm](http://www.idf.il/english/news/jeninkilled.stm).

too frightened initially to leave, most would surely have done so as soon as the D-9 started its work. *Time Magazine* reported that it was told by a senior Palestinian military officer that it was probably the gunmen's own booby traps that buried some civilians and militants alive. There were bombs that were certainly big enough to wreck a cinder-block refugee house more devastatingly than a D-9 ever could.

As might be expected in light of its strategic decision to put its forces at risk in order to reduce Palestinian casualties, the IDF also suffered substantial losses. On Day 7, a 34 year-old Sergeant Major with 14 years of service in the reserves, was ordered into a house overlooking an alley where a platoon of the 5th Brigade had been ambushed. Gunmen were firing at the Israelis from a building above the alley. With Lieut. Eyal Yoel, an officer from a kibbutz outside Jerusalem, the Sergeant Major went into a half-built house to provide covering fire for the injured. Yoel crossed the room and tripped the wire of a booby trap; the explosion knocked him unconscious and set him on fire. The Sergeant Major, who had been protected from the blast by a pillar, was unhurt and ran to Yoel just as another bomb was thrown through a window. Shrapnel wounded the Sergeant Major in the legs and face, but he got out and ran 50 meters back to the medic unit. "Eyal is lying in there burning!" he shouted to the medics. "There are a lot of others you need to rescue." But nine men caught in the initial ambush died, as did Yoel and three others of their would-be rescuers. A few hours later, a Golani Brigade soldier was shot on the edge of the camp.

With 14 dead, Day 7 became the Israeli army's worst day of combat casualties since 1985. But even then, the Israelis did not call in an aerial assault that would have killed far more Palestinians while protecting Israelis. Instead they sent in bulldozers, which demolished homes and created the ugly photos carried by the press, but also carried greater risk of Israeli casualties. After eight days of fighting, 23 Israeli soldiers were dead, making Jenin among Israel's bloodiest military operations since 1973. At least one additional Palestinian terrorist died that day, too, Husni Ali Ahmad Amar, a 45-year-old operative, who told the people around him before he died that he was beaten by Arabs.<sup>32</sup>

The D-9s rumbled further into the heart of the camp, flattening an area 200 meters square; Human Rights Watch reports that 140 buildings were leveled, and more than 200 were severely damaged. The IDF states that 130 buildings were leveled – of the 1,900 that initially stood in the camp.<sup>33</sup> As a result, on Day 9, 37 gunmen surrendered in Hawashin, the center of the camp.<sup>h</sup>

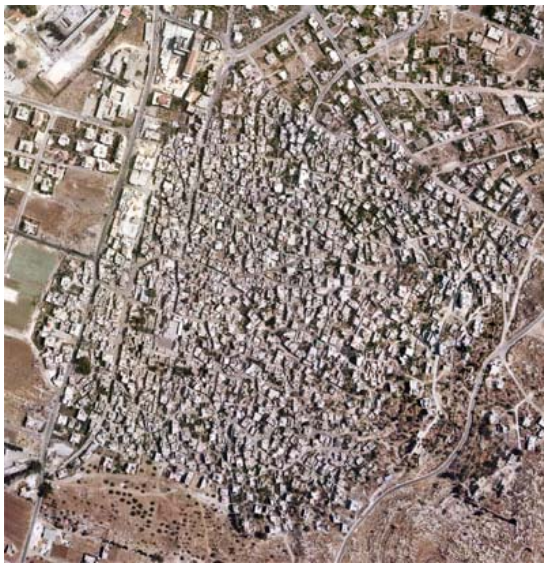
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<sup>h</sup> One of the key Jenin-based terrorists apprehended during the operation was Abd al Karim ("Nasser") Aweis, a senior operative belonging to the Fatah. Aweis admitted during questioning that a number of days before his arrest, he was ordered by Tawfik Tirawi, head of the Palestinian General Intelligence Service, to Arafat's Moukata compound in Ramallah and was questioned about individuals suspected of planning to carry out suicide attacks. Aweis stated that he was personally involved in arming a young suicide bomber from the Jenin refugee camp, dressing him in an explosive belt, and driving the bomber to Jerusalem. Israel Ministry of Foreign Affairs, [www.mfa.gov.il](http://www.mfa.gov.il). Another key arrest was of Ahmed Hussein Muhammad Abu Jildeh, a Tanzim operative and resident of the Jenin refugee camp. During questioning, Abu Jildeh admitted his involvement in the Tanzim, including his participation in numerous terrorist attacks. He further described the network of links between PA National Security and Tanzim members, adding that the former instructed the Tanzim operatives in preparing bombs and even supervised their actions. During the fighting in Jenin, Abu Jildeh, along with other senior Tanzim operatives, prepared bombs which were used against IDF forces. They purchased the chemicals for several of the bombs with funds supplied by senior Tanzim member Jamal Ahweil, who was also arrested in the course of the operation. Press Release communicated by Prime Minister Ariel Sharon's Media Advisor, "Palestinian Authority Security Services were involved in directing attacks and preparing bombs by Tanzim operatives in the Jenin refugee camp," reprinted at [www.mfa.gov.il](http://www.mfa.gov.il), May 2002.

Human Rights Watch, in its comprehensive report (which was not complimentary to the IDF), had this to say about the use of bulldozers:

“Based on detailed maps in which individual buildings can be identified, Human Rights Watch counted a total of 140 completely destroyed buildings in the camp—many multi-family dwellings—of which more than one hundred were located in the completely razed area of the Hawashin district. While there is no doubt that Palestinian fighters in the Hawashin district had set up obstacles and risks to IDF soldiers, the wholesale leveling of the entire district extended well beyond any conceivable purpose of gaining access to fighters, and was vastly disproportionate to the military objectives pursued.”

HRW’s conclusion that the building demolition “extended well beyond any conceivable purpose of gaining access to fighters” is, with all due respect, reached without any stated support by qualified military experts. The position of the IDF is that the demolition of these buildings was deemed to be a far more humane alternative to aerial or other bombardment, designed to ensure that the militants – who refused to capitulate and had killed tens of soldiers – were neutralized and that bomb-making facilities were eliminated. It was a necessity dictated by the circumstances in which the Palestinian militants placed themselves. After-the-fact second-guessing is not a sufficient basis to condemn – certainly not a military decision in the heat of battle involving at worst a close judgment call. This is especially true given that, overall, the damage to Jenin was relatively limited, as is clearly depicted in these two aerial photos:



**Before**



**After**

As detailed in a presentation by the IDF (Operation Defensive Shield.ppt, reproduced in the accompanying CD), the refugee camp comprises only about 20% of Jenin proper. The area in which building demolition occurred was roughly the size of a single city block, which is less than 10% of the total refugee camp area within Jenin and less than 1% of the total area of Jenin. Indeed, within that section, as seen above, only selected buildings were destroyed, as necessary to neutralize the militants.



In summary, scores of well-armed Palestinians were ready when the Israelis moved in on the morning of 3 April. They had burrowed tunnels, booby-trapped doors and set up snipers. Palestinian militants also placed the civilians of the camp, including children and women, directly and deliberately in harm's way as human shields. Homes became their bunkers. One Islamic Jihad commander told the Palestinian press that, "Believe me, there are children stationed in the houses with explosive belts at their sides."<sup>34</sup>

The IDF met fierce resistance every step of the way from the Palestinian gunmen hunkered down in narrow alleys, and from the master bomb-makers in the camp, who rigged up an elaborate system of tripwires all over the camp, with exploding houses, sewage covers, and even trees. They also handed out belts of explosives to would-be suicide bombers – Israel's Chief of Staff, Shaul Mofaz, said that five Palestinians, including a woman, had blown themselves up while pretending to surrender to Israeli forces.

The tragedy in all this is the fact that because Arafat's PA refused to suppress the terrorists, Israel was compelled to use military force in a dense, urban area. As United States Senate Foreign Relations Committee Chairman Joseph Biden put it,

"There is a world of difference between the deliberate targeting of civilians and the unintentional and inevitable casualties that were bound to occur in a place like Jenin, where terrorists deliberately hid themselves among civilians. . . . Would any other democratic country behave any differently than Israel?"<sup>35</sup>

Jenin wasn't a crime. It was another tragically bloody battle in a war started by the Palestinians 21 months ago.

*a. Statements from the Palestinians*

The most impressive evidence of what occurred comes from the remarkably frank boasting by the Palestinians themselves – all as reported in the Arab-language media. The media quote an impressive number of leading terrorist commandos speaking, during and immediately after the fighting, about what exactly went on.<sup>36</sup>

None of the survivors of those terrible days in April spoke unprompted of a massacre. Most saw it as a heroic battle. One terrorist from the Iranian-backed Islamic Jihad said: "Israel defeated all the Arab armies in six days in the 1967 war. We fought for nine days and gave up only when our ammunition ran out."<sup>37</sup>

Palestinian gunmen described the fighting to the Arab press. They openly bragged about mining roads, setting thousands of explosive devices to booby-trap houses, and having "children stationed in the houses with explosive belts at their sides."<sup>38</sup> Captive senior operative of Islamic Jihad, Thaabat Mardawi, was excited by Israel's decision not to bomb out the 100 Palestinian militants he said were defending the camp. "It was like hunting . . . . The Israelis knew that any soldier that went into the camp like that was going to get killed."<sup>39</sup> The militants, he said, used guns and locally made bombs and booby traps. "There were different sizes, big ones for tanks, a few dozen of those, and others the size of a water bottle. Anti-personnel bombs, maybe 1,000 maybe 2,000 spread out throughout the camp." This made for "a very hard fight. We fought at close quarters, sometimes just a matter of a few meters in between us. Sometimes even in the same house."

Perhaps the most vivid account of how the armed militia prepared for the battle in Jenin was reported by the Egyptian government-sponsored *Al-Ahram Weekly*, which ran an interview with “Omar,” a young, one-armed Islamic Jihad bomb maker known as an “engineer.” *Al-Ahram Weekly Online, Issue No. 582, 18-24 April 2002*. Omar discussed how the Palestinians booby-trapped Jenin, including the participation of women and children in the battles. “He is a member of the Islamic Jihad, but says in Jenin all the factions were loyal to only one cause: liberation or death . . . .’ Of all the fighters in the West Bank we were the best prepared,’ he says. ‘We started working on our plan: to trap the invading soldiers and blow them up from the moment the Israeli tanks pulled out of Jenin last month.’”

The newspaper continued (*ibid.*):

“Omar and other ‘engineers’ made hundreds of explosive devices and carefully chose their locations. ‘We had more than 50 houses booby-trapped around the camp. We chose old and empty buildings and the houses of men who were wanted by Israel because we knew the soldiers would search for them,’ [Omar] said. ‘We cut off lengths of main water pipes and packed them with explosives and nails. Then we placed them about four meters apart throughout the houses – in cupboards, under sinks, in sofas.’ The fighters hoped to disable the Israeli army’s tanks with much more powerful bombs placed inside garbage bins on the street. More explosives were hidden inside the cars of Jenin’s most wanted men. Connected by wires, the bombs were set off remotely, triggered by the current from a car battery. . . .

“And what about the explosion and ambush last Tuesday which killed 13 soldiers? ‘They were lured there,’ he says. ‘We all stopped shooting and the women went out to tell the soldiers that we had run out of bullets and were leaving.’ The women alerted the fighters as the soldiers reached the booby-trapped area. ‘When the senior officers realized what had happened, they shouted through megaphones that they wanted an immediate cease-fire. We let them approach to retrieve the men and then opened fire. Some of the soldiers were so shocked and frightened that they mistakenly ran towards us.’”

Consistent with Omar’s recitation of the events, the children themselves confirmed that they were not innocents caught in the melee: A 14-year-old boy with braces on his teeth, Abdel-Rahman Saadi, who carried grenades around the camp for the fighters, said perversely: “We massacred the Israelis.” His friend Munir, 16, added: “We don’t care how many we lost. We go to paradise and the Israelis go to hell.”<sup>40</sup>

Sheikh Jamal Abu Al-Hija, the commander of the Hamas Izz Al-Din Al-Qassam Brigades in the Jenin refugee camp, told the Hamas website in an interview that the members of the various factions, “along with volunteers from the Palestinian security forces,” prepared in advance for the Israeli incursion.<sup>41</sup> Sheikh Abu Al-Hija provided more details on the fighting by phone to the Qatari television channel Al-Jazeera, saying,

“[We placed] explosive devices on the roads and in the houses; surprises [await] the occupation forces. In several places, there are clashes between the *Mujahideen* [Jihad warriors] and the occupation forces. . . . The

occupation forces flee in panic from the Jenin camp – but they escalate by using tractors, airplanes, and tanks against the camp. The truth is that the fighting is being conducted from neighborhood to neighborhood, like guerilla warfare. The *Mujahideen* are using automatic rifles, explosive devices, and hand grenades. . . .”<sup>42</sup>

The London based Arabic-language daily *Al-Sharq Al-Awsat* quoted Sheikh Abu Al-Hija as saying, “The fighting forces, from all the factions in the camp, have been equipped with explosive belts and grenades.”<sup>43</sup> Sheikh Abu-Al-Hija told the Jordanian weekly *Al-Sabil*, “The *Mujahideen* managed to besiege nine Zionist soldiers inside one of the houses, and attacked them using hand grenades and bombs until the entire house went up in flames with the soldiers of the occupation inside. Witnesses said that the occupation forces extracted the soldiers charred and burned.”<sup>44</sup>

Ali Safouri, a commander of Islamic Jihad’s Al-Quds Brigades in the Jenin camp, reported to the Islamic Jihad website in the early days of the fighting: “We have prepared unexpected surprises for the enemy. We are determined to pay him back double, and teach him a lesson he will not forget. . . . We . . . have prepared a special graveyard in the Jenin camp for them. . . . We call on the soldiers of Sharon to refuse his orders, because entering the [Jenin] camp . . . the capital of the martyrs’ [operations], will, Allah willing, be the last thing they do in their lives.”<sup>45</sup>

The Islamic Jihad commander in the Jenin refugee camp, Abu Jandal, was interviewed several times by Al-Jazeera during the fighting.<sup>46</sup> In one conversation, Abu Jandal said:

“This is the second successive day that the Israeli occupation forces are trying [to enter the camp] with the help of Apache helicopters and tanks. But the steadfastness of the fighters, who swore at the beginning of the battle not to permit [the IDF] to advance towards this camp, defends the honor of the Arab nation from the alleys of the Jenin refugee camp. . . . The truth is that our fighters have switched to an offensive; today we went on the offensive. The Israeli unit commander was killed this morning, 50 meters from the place from which I am speaking to you. I, the commander of the battle of the Jenin camp, have chosen for myself the name ‘The Martyr Abu Jandal,’ because all the fighters around me are martyrs.”

What of the “civilians” – the women and children? Those that stayed took an active role in the fighting. Young children used to scout, carry explosives and throw small “*kwa*” devices (improvised pipe bombs). Several accounts made clear that Palestinians themselves were eagerly placing “civilians” in harm’s way. Abu Jandal had this to say:

“Believe me, there are children stationed in the houses with explosive belts at their sides. . . . Today, one of the children came to me with his school bag. I asked him what he wanted, and he replied, ‘Instead of books, I want an explosive device, in order to attack.’”<sup>47</sup>

Sheikh Abu Al-Hija confirmed this account, “Some of the youths stood fast, and filled their school bags with explosive devices.”<sup>48</sup> And they were effective. Jamal Huweil, an Al-Aqsa Martyrs Brigades commander in the Jenin camp, told the London-based Arabic-language daily *Al-Hayat* that “four Israeli soldiers were killed and [the Palestinians] took their

automatic weapons. The youths with the explosive devices also put four Israeli tanks out of commission.”<sup>49</sup>

Women were also active participants, along with the children. Al-Sharq Al-Awsat reported that in Jenin, a Palestinian woman named Ilham ‘Ali Dasouqi had blown herself up among Israeli soldiers, killing two and wounding six. The paper quoted a source in the Al-Aqsa Martyrs Brigades, who said that she had “followed the path of Nasser Aweis,” who the paper said had blown himself up near soldiers in Nablus.<sup>50</sup> However, Aweis, the commander of Fatah’s Al-Aqsa Martyrs Brigades in Samaria, was in fact arrested several days later. The reports of his death in a suicide bombing were apparently an attempt to facilitate his escape.

Sheikh Abu Al-Hija summed it up as follows:

“Even the youths had a significant role in the uprising. They refused to leave the camp before the incursion, and most of them are now under arrest by the occupation forces. . . . No one was asked [by us] to stay or go; no instructions were issued to the residents by the fighters, and the choice remained in their own hands. It was necessary for some of the women to remain [in the camp] to provide services for the fighters. The behavior of the residents was honorable; they were determined to remain, to go through everything the *Mujahideen* are going through, and to provide them with services.”

“ . . . When some *Mujahideen* ran out of ammunition, they leapt onto the tanks in an attempt to grab weapons from the soldiers, who were hiding inside the tanks. As a result, some of them engaged in barehanded combat with the Zionist soldiers. Some of the youths steadfastly filled their school bags with explosive devices; some of the boys remained without food or water for four days. Although the women knew how bad the situation was, a large portion of them preferred to remain, to prepare food for the *Mujahideen*, to risk their lives by bringing water for them, and to raise morale – something that greatly encouraged [their] steadfastness.”<sup>51</sup>

The fighting was fierce and the consequences severe, not only as a result of the terrain, but of the resolve of the Palestinian militants not to surrender. All of the Palestinians who were interviewed emphasized their intent to fight to the death, even in the last days of the battle.

- Raed ‘Abbas, a militant from the Democratic Front for the Liberation of Palestine (DFLP) in the Jenin camp, told *Al-Hayat*, “All the fighters were sworn to fight to the end. . . . We have no choice but to fight, and this is the decision of all the fighters. [The soldiers] have failed in all their attempts to advance, and our fighters are blowing themselves up in front of them and planting explosive devices on the roads. The situation is extremely dire. The [Israeli] air force is continuing its bombing. A few moments ago they launched several missiles, which set fire to many houses.”<sup>52</sup>
- Sheikh Abu Al-Hija was quoted by the United Arab Emirate (UAE) daily *Al-Bayan* as saying, “After these days of steadfastness and unique resistance, the fighters in Jenin reiterate their motto: ‘No surrender – either victory or martyrdom.’ Our strength lies in our being true *Mujahideen* in the face of the new Nazis.”<sup>53</sup> Unidentified Palestinian sources added, “The ammunition of the fighters in the camp

has run out, and they have chosen martyrdom. They are fighting with knives and stones, and blowing themselves up in front of the soldiers of the occupation.”<sup>54</sup>

- Haj ‘Ali, a commander of the Islamic Jihad’s Al-Quds Brigades, said that the Palestinian resistance persists in its intense fighting, and will not permit the soldiers of the occupation to take over the camp.<sup>55</sup>

This strategy also found expression in the refusal of civilians to evacuate, when the Israeli soldiers directed them to do so for their own safety. Palestinian militants confirmed their pride in their successful efforts to “persuade” civilian resistance against evacuation. On 10 April, Islamic Jihad’s website announced that its top man in Jenin, Muhammad Tawalbe, before blowing himself up inside his own home on 6 April as Israeli commandos moved to arrest him, had acted to prevent Palestinian civilians from fleeing the camp for their own safety. Tawalbe, *jihadonline.org* was pleased to report, “had thwarted all attempts by the occupation to evacuate the camp residents to make it easier for the Israelis to destroy [the camp] on the heads of the fighters.”<sup>56</sup>

Although as the commander of Hamas in the Jenin camp, Jamal ‘Abd Al-Salam, said, many “women, children, and elderly had left the camp,”<sup>57</sup> and another man, Abu Muhammad, reported to Al-Jazeera from Jenin that the Israelis “have sent away most of the civilians [from the refugee camp],” it is clear that there remained “still a large number of civilians inside the camp.”<sup>58</sup> This, despite that fact that the “army is evacuating the [residents of the] camp forcibly, in order to close in more and more on the fighters,” according to Raed ‘Abbas, the DFLP commander.<sup>59</sup>

Here is how Islamic Jihad leader Dr. Ramadan Abdallah Shalah, summarized the lessons of Jenin in an interview with Al-Manar, the Hezbollah television channel:

“The fighters in the [Jenin] camp told us that this is a ‘hit-and-not-run’ battle, and that they are fighting to the last drop of blood and to the last bullet – and that is what they did. The Zionist enemy thinks he is creating a Palestinian Masada for us – that is, that we have chosen to commit suicide – but we say to him that he is mistaken. We are not creating a Palestinian Masada, but a Palestinian *Karbala*,<sup>60</sup> which will hasten the second Jewish Masada . . . until the Zionist entity ceases to exist. . . . Today the Jenin camp was reborn, not destroyed.”<sup>61</sup>

In the end what defeated the Palestinians was the armored bulldozer. Israel concluded that the houses were so heavily booby-trapped that no sapper could neutralize the explosives without being killed. Before the houses were destroyed, the Israelis used loudspeakers to warn anyone inside to leave. In Thaabat Mardawi’s words:

“That huge bulldozer came in and we were in destroyed houses. There were no soldiers or tanks. There was nothing I could do against that bulldozer. I had a gun, the driver probably would not have heard the shooting. What could I do, I either surrendered or be buried under the rubble.”

In contrast to the fierce battles with the armed militants, civilians who stayed out of harm’s way – as the Israelis directed – were treated well. As one reporter observed: “Families

living in houses directly opposite the destroyed area have told *The Washington Times* that Israeli soldiers, who temporarily occupied their houses just before the final battle began, treated them without violence and assured them: ‘You will not be harmed.’ They confined the 36 members of the Abu Khalil family to two rooms, allowing them out one by one, and set up a snipers’ point upstairs through two holes in the wall – under a family framed message in Arabic: ‘There is No God but Allah and Mohammed is His Messenger.’ They confiscated identity cards but left them on the table before slipping out during the night.”<sup>62</sup>

An eye-witness report from an Israeli-American author and screenwriter who visited Jenin shortly after the incursion ended had this to say:

“Before one enters the refugee camp, one passes through the very pleasant little town of Jenin. The entrance to the camp is roughly 100 meters from the rest of the town, which has handsome single-family homes and yards, businesses and apartments. Not a one of those buildings appears to be touched – no bullet holes from Israeli machine guns, not one house bulldozed; indeed, not even a broken window anywhere in sight. All this only 100 meters away from the scene of the fighting.

“The reason there is no devastation here is quite simple: No one was shooting at the Israeli reservists from these buildings, and so, quite properly, they did not shoot back.

“And who lives in these suburban homes? Are they of a different racial stock, perhaps, and thus were spared? Are they Swiss? No. They are the Palestinian Arab residents of the town of Jenin.

“The difference between them and those waiting for the reservists in the booby-trapped camp was a very simple one. They were not terrorists. They were not fighters. Those waiting for the reservists in the camp were.”<sup>63</sup>

Although anecdotal, the story of how the highly wanted Mahmoud Tawalbe eventually was killed in the Jenin fighting is revealing. Tawalbe headed the local Islamic Jihad cell and had launched numerous attacks against Israelis, including a shooting last October that killed four Israeli women on the main street of Hadera, a town north of Tel Aviv. Here’s how he ended his life as reported by *Time Magazine*:

“[Tawalbe] took a quick break from the fighting on Day 7 to visit his mother Tuffahah and his brother Ahmed. Ahmed told *Time* Mahmoud looked pleased with his work: camp lore holds that Mahmoud killed 13 Israelis in the fighting. He and his crew of about 50 Islamic Jihad fighters were hitting the Israelis hard. On Day 6, two more Israeli soldiers had been slain. ‘Don’t worry about me,’ Mahmoud told his mother. ‘I feel strong.’

“A day later, he was dead. *Time* visited the rubble of the house where Tawalbe died. The three-story structure shows signs of attack from two directions. One wall was charred by fire; the wall on the other side had collapsed. David Holley, a British military expert working in the camp for

Amnesty International, deduces from the bomb craters and tank tracks that *Tawalbe and the two fighters who accompanied him went into the house to get close enough to a tank or D-9 to plant explosives on it; the Palestinians' bombs, says Holley, were useless unless they were placed directly on the armor of a vehicle. Holley surmises that the bulldozer driver saw the Palestinians and rammed the wall down on top of Tawalbe.*" (Emphasis added)

In summary, from the mouths of the Palestinians themselves (in their mother tongue), we learn that: (1) those Palestinians who remained in the Jenin camp did so intentionally for the purpose of battling – with guns, explosives, and booby-traps – the Israeli troops; (2) civilians were offered (indeed, directed) to leave the camp to avoid casualties and almost all did; those who stayed, including women and children, chose to do so, principally to participate actively in the fighting and to support the Palestinian side in battle; (3) civilians who complied with IDF directives and stayed away from the fighting were left unharmed and treated fairly; (4) the actual fighting by the Palestinians was fierce and determined, inflicting substantial casualties on the IDF; (5) armed Palestinian terrorists deliberately located themselves among civilians and placed civilians in harm's way – in blatant violation of international law and the laws of armed conflict – thus making it extremely difficult the IDF to isolate civilians from the battles; (6) many of the Palestinian casualties were self-inflicted by their direct participation in the fighting and through explosions caused by Palestinian booby-traps and mines; and (7) Palestinian property – homes – were destroyed only as a necessary last resort to bring the fighting to an end, the choice having been made in an effort to limit potential civilian casualties.

*b. Statements from Israeli soldiers and medics*

The reports from Israeli soldiers of what occurred largely parallel and corroborate the accounts of the Palestinian militants. A 48-year old lawyer from a Tel Aviv suburb, a Sergeant, was one of the reservists called upon by the IDF to engage in the Jenin battle. He "described scenes of ferocious resistance by the Palestinians as the Israeli army fought street by street, house by house, room by room. He said the Palestinians had been preparing for weeks and had turned the refugee camp into a 'military fortress'."<sup>64</sup> Far from being too belligerent, the reserves soldier described the self-inflicted dangers the IDF imposed to uphold its ethics:

"I am an old soldier. If there is something I can blame the army for in Jenin, it was that it did not use its force. It put too many restraints on its power and by this put its soldiers in big danger. This is why we lost so many casualties. If we had used only a small part of our real power – planes, cannons and tanks, though we did use tanks, though only hesitantly – if we had used all that power, we could have saved the lives of our soldiers. . . . I remember when we got near Beirut, we began training to get in there. We trained for bulldozers to go in on their own and 155mm cannon to go in there. Only after that, it was the infantry. This time, the infantry went first and put their heads on the block. We went to clear the camp house by house with infantry."<sup>65</sup>

The IDF faced exactly what the Palestinian militants promised when its forces entered the refugee camp. The reservist explained that, as the infantry fought its way into the Jenin

camp, they were confronted by “booby traps, in the houses, in the yards, in the roads, in places between the houses, in the garbage cans. They had put dynamite in the walls and sealed them up again. They activated them and it came down on the heads on the soldiers. A built-up area is the most difficult place to fight. You cannot identify where you are being shot from. They built special holes for their guns for firing from.”<sup>66</sup>

The reservist also gainsays the contention that civilians were not appropriately advised to leave. He said loudspeaker announcements had been made before the attack saying that civilians could leave and that there had been regular such announcements at two-hour intervals after that. Most left but he said that the civilians who remained did so from their own free will to help provide shelter, food and medical treatment for the militants, and he praised them for it, saying he would expect the same from Israeli civilians if he had been fighting in Israel.<sup>67</sup>

Dr. David Zangen, a senior pediatrician at Hadassah Hospital in Jerusalem, received his mobilization order for army service in Jenin, and treated both wounded Israelis and Palestinians with great dedication. He had this to say from his perspective as a senior army doctor on site:

“I was there during the fighting, and I saw close up what was happening. I know that the IDF did everything it could to prevent civilian casualties. It is clear to everyone that if the IDF had resorted to aerial bombardment or heavy artillery, we would have completed [our mission] in the refugee camp within half a day, without suffering any casualties on our side. We did not adopt that policy, and we took risks in the fighting, in an attempt to rescue those innocent civilians that were caught up in the battles. . . . IDF soldiers did not enter the Jenin hospital, and ensured that the hospital could operate without disruption. No IDF soldier set foot in the hospital. The Palestinians hid there in the knowledge that we would not enter.”<sup>68</sup>

Zangen said he was “infuriated by the claims of a massacre in Jenin”:

“The paramedics and I risked our lives to treat the wounded Palestinians. As well as the wounded, we also treated the sick. The Palestinian doctors did not come to their aid, and we could not leave them without medical treatment. The Palestinian doctors were unable to reach a girl who had an attack of appendicitis. The soldiers brought the girl over to us and we treated her. In another case, a youngster came to us with a neck wound. We saved his life, in spite of his Islamic Jihad tattoo. We tried to provide full treatment for every Palestinian, and I am proud of it. I am in no doubt: the Americans would not have taken such risks, and would have acted differently. We acted in this way, simply to avoid civilian casualties.”  
(*Ibid.*)

Hodi Broker from Haifa, a 30 year-old teaching assistant from Technion university, who served as a paramedic in a field hospital, confirmed Zangen’s statements about the treatment of the Palestinians: “[A]n elderly person who was wounded in the refugee camp came to us. We treated him, and we wanted to send him back to Jenin, but there was nowhere for him [to receive treatment]. The ‘Red Crescent’ refused to take him. We took pity on him and we transported him to a hospital in Israel. I hope he is well.” (*Ibid.*)



Zangen further confirmed the Palestinian exploitation of children during battle: “It was difficult for me to witness soldiers being hit by mass murderers who have no red lines, and who are even prepared to exploit children. I saw pictures of children who were ready to carry out suicide attacks. As a pediatrician, it was terrible to see such a thing, and I am appalled by the very thought of a killing machine that exploits innocent children. For instance, soldiers encountered a six year-old boy who ran into the street with a bag. They wanted to check the contents of the bag, and he threw the bag at them. There were three pipe bombs in the bag.” (*Ibid.*)

Others relayed similar battle experiences. A 30 year-old reservist described how his platoon had been lured into a cramped courtyard between several houses destroyed in an earlier action. “Suddenly the air was sprayed with bullets, massive fire coming at us from all directions at a range of only 20 meters,” he said. Another of the wounded, a 34 year-old Sergeant Major, spoke of seeing an officer “falling face down with his clothes on fire.”<sup>69</sup> The unit’s company commander, Major Oded Golomb, 32, a decorated veteran of Israel’s war in Lebanon was among the first to be killed in what a senior army officer later acknowledged was “a textbook ambush in house-to-house fighting by guerrillas who knew every inch of their own terrain.”<sup>70</sup>

Finally, as would be expected, the massive loss of 13 soldiers in a single, clinically executed attack in the narrow, twisting back alleys of the camp was shocking. As one reporter wrote: “Senior officers looked on in horror as the killings were filmed before their eyes by a drone swooping low above the scene of what one injured survivor called ‘an ambush carried out just like the training manuals teach us.’”<sup>71</sup>

*c. Humanitarian aid during the military campaign*

Once the wild allegation of “massacre” was proven a vicious lie, much of the inquiry became diverted to questions about the supply of humanitarian aid, particularly the accessibility by various humanitarian organizations, such as the International Committee of the Red Cross (ICRC) and the Palestinian Red Crescent (PRC). The picture that emerges is not perfectly clear, but the basic facts about the provision of humanitarian aid are not in dispute.

The Accusations:

Most of the accusations in this regard are contained in reports prepared by Amnesty International and Human Rights Watch, and in various comments made by UN representatives such as Peter Hanson. Below is a summary of the key points made:

*Amnesty International:*

- “The IDF entered and occupied those houses and apartment blocks which appeared to be in strategically advantageous positions. . . . The soldiers occupying flats systematically trashed them, opening drawers and wardrobes and scattering their contents, tearing clothes, damaging pictures, throwing televisions or computers down stairs. There were reports of looting from many areas; sometimes victims complained to the IDF who took no action.”

- “In Jenin on 6 April the IDF demolished Palestinian houses over the heads of people who remained inside. Reports from Palestinians within Jenin Refugee Camp were confirmed by a reporter accompanying the IDF. The report of Ron Leshem of the Israeli newspaper *Yediot Ahronot*, was quoted by *Agence France Presse*: ‘Two bulldozers demolish homes and sometimes bury beneath them those who refused to surrender. Pillars of smoke climb out of the camp’.”
- “The Israeli invasions of the past six weeks have seen an unprecedented attack on medical personnel. The IDF’s consistent fire on ambulances traveling to the injured halted ambulances for days at a time.”

*Peter Hanson (Commissioner General of UNWRA in a teleconference with journalists):*

*Journalist to Hanson:* “There are dead people in the camps and elsewhere who have not been buried until now. Would you appeal to the religious leadership of the world to exert pressure on Israel to allow at least the dead to be buried in decency?”

*Hanson:* “Yes I think it is particularly appalling that religious observance in connection with death and burial have been so grossly violated. And I do appeal to everybody to respect the basic religious [inaudible], something that the Israeli population of Judaic tradition can understand very well. I hope that it can be respected, but the incidences of mass graves, of people dying in houses, bleeding to death, and then being impossible to remove them. I spoke to a family in a camp recently where they had to make the burial in their own little courtyard within their shelter. These are conditions which remind me of the worst days in Angola where people in besieged cities had to bury their dead in the small piece of land still available.”<sup>72</sup>

On 7 April, Hanson continued to accuse and condemn. In his hyperbolic words:

“The Israeli Defense Force has made a hellish battleground among the civilians in the Balata and Jenin refugee camps. We are getting reports of pure horror – that helicopters are strafing civilian residential areas; that systematic shelling by tanks has created hundreds of wounded; that bulldozers are razing refugee homes to the ground and that food and medicine will soon run out. . . . The world is watching and Israel needs to end this pitiless assault on civilian refugee camps.”<sup>73</sup>

Hanson had this to add a few days later, as reported in a UNRWA Press Release, 18 April 2002:

“Asked by one camp resident about his own impression of what he witnessed in the camp, the Commissioner-General said: ‘I had hoped that the horror stories of Jenin were exaggerated and influenced by the emotions engaged but I am afraid these were not exaggerated and that Jenin camp residents lived through a human catastrophe that have few parallels in recent history.’”

Not to be outdone, the following statement was issued in a UN Press Release dated 11 April 2002, by the heads of the UN Office for the Coordination of Humanitarian Affairs; the UN Development Programme, the UN Population Fund; the UN Children's Fund; UNHCR; the World Food Programme; the World Health Organization; and UNRWA: "This is a humanitarian crisis without precedent in its destructive impact on the Palestinian people and their institutions." Terje Roed-Larson, UN Special Coordinator to the Middle East, echoed these sentiments the next day, calling the Israeli actions illegitimate and morally repugnant: "Combating terrorism does not give a blank check to kill civilians. However just the cause is, there are illegitimate means, and the means that have been used here are illegitimate and morally repugnant."

Omitting the rhetoric, the list of accusations is summarized below:

- Failure to give civilians warning or time to evacuate Jenin refugee camp before Apache helicopters launched their first attacks;
- Failure by the Israeli Defense Forces to protect the people of the refugee camp, who are "protected people" under the Geneva Convention;
- Allegations of extra judicial executions;
- Failure to allow humanitarian assistance to the people in the camp who were trapped in the rubble of demolished houses or running out of food and water;
- Denial of medical assistance to the wounded in the refugee camp and deliberate targeting of ambulances;
- Excessive use of lethal force and using civilians as "human shields";
- Ill-treatment, including beatings and degrading treatment, of Palestinian detainees; and,
- Extensive damage to property with no apparent military necessity.

#### The Israeli Position:

With the possible exception of isolated mishaps – which while unfortunate are themselves virtually inevitable incidents in the heat of battle – Israel rejects the accusations. Even while the battles raged on 8 April, Major Daniel Beaudoin, Deputy Head of the IDF Foreign Relations Branch, explained:

"Our greatest challenge is the policy of granting humanitarian assistance. The distribution of humanitarian aid is difficult because of continued terrorist shooting at IDF checkpoints and of DCO [District Coordination Office] officers, who have also been targeted. We are in close cooperation with the Red Cross to transfer blood donations, blankets, medical supplies and toys. Israel has transferred donations to the Palestinians from countries with whom it does not have relations. Hundreds of transactions of humanitarian aid are taking place and are not getting media coverage.

“Ten dialysis patients have been taken by the Red Cross to Jenin Hospital; twelve patients were taken to Augusta Victoria hospital and some patients have been transferred to hospitals in Israel. . . . There are intermittent electricity problems. We have transmitted generators to Jenin, Hebron and other areas of need. Regarding oxygen supplies: in conjunction with the Red Cross we have transmitted 19 oxygen tanks to the Palestinian Authority. The IDF has played a major part in this transmission.

“The problem of safe passage is critical – terrorists have planted landmines and booby traps on roads and it is almost impossible to transfer supplies to some areas. . . . Tons of medical supplies, immunizations and powdered milk have been transferred to the Ministry of Health in the PA.”<sup>74</sup>

More generally, the IDF stated:

“From the very beginning of the fighting, residents of the Jenin refugee camp were called upon to leave the battle zone. Many residents did leave, taking up temporary residence locally where they received supplies and humanitarian aid from the IDF and other donors.

“No curfew was imposed on the refugee camp itself – indeed, camp residents were constantly urged to leave their houses for their own safety. However, the fierce fighting in the camp did prevent free movement.”<sup>75</sup>

The hard statistical data essentially disprove the accusations. First, as to food and other essential supplies:

“Throughout Operation Defensive Shield, a relatively high supply of food was maintained in the city of Jenin and there were no reports of want. Israeli officials had conducted a survey of food supplies and needs among the main suppliers in the city and found that stocks were full.

“During the course of the operation: 245 truckloads of food were brought into the Jenin area, while in the weeks previous to the operation (March 1-22), less than 160 truckloads arrived. The Jalameh trucking terminal remained open and trucks came there on most days. 200 truckloads of food and basic supplies passed through this terminal alone, as did dozens of trucks loaded with humanitarian aid. 807 thousand liters of fuel and 150 tons of gas were brought to the Jenin area. . . .

“The particularly large amount of food that was brought into the Jenin area was due, in part, to emergency shipments sent by international organizations (UNWRA, the Red Cross, AIDA) and donations from Arab Israelis. Israel also sent in a truckload of army rations, which was distributed by the IDF.

“Food and humanitarian aid was distributed in the Jenin refugee camp on April 16th. The curfew in the city of Jenin was lifted 5 times between April 3-18 to allow the city’s residents to stock up on food and medicines. When the curfew was lifted, residents were able to stock up in an efficient

manner due to careful pre-planning – stores had already been supplied from warehouses, bakeries and pharmacies were opened early, and the movement of suppliers and store owners was coordinated ahead of time.

“During the events in Jenin, constant contact was maintained with Palestinian officials, including: the deputy governor of Jenin, the Palestinian Authority’s deputy head of health services, the deputy water commissioner, the mayor of Jenin, the city engineer, and the director of the government hospital in Jenin and ‘Red Crescent’ workers. Contacts with these Palestinian officials concentrated on finding solutions to humanitarian issues as they arose.”<sup>76</sup>

As to access by ambulances and the provision of other medical aid:

“Contacts were maintained with international representatives both in the field as well as at the headquarters of the Civil Administration and the Coordinator of Government Activities in the Territories. Contacts with the international representatives focused on humanitarian issues, particularly the movement of ambulances, evacuation of the dead and injured, as well as the delivery of food shipments.

“Israeli authorities maintained continuous contact with Palestinian health officials. According to Dr. Mundar Sharif, the Palestinian Authority’s deputy head of health services: 257 injured Palestinians were evacuated to the hospital in Jenin for treatment (till April 18th); until April 23rd, 48 bodies of Palestinians were found. (This figure was updated on April 30th to 52 bodies). . . .

“During the events in Jenin, injured persons were evacuated to local and Israeli hospitals. Between April 3-24, 78 people were evacuated from Jenin to hospitals in Israel, while an additional 21 Palestinians injured in the fighting in Jenin were also evacuated to Israeli hospitals. Travel to local dialysis machines was arranged for kidney patients needing treatment.

“There were no shortages of oxygen, medicine, blood supplies or medical equipment in the local hospital. Truckloads of these supplies were brought to the hospital in coordination with Israel. When Israeli blood donations were rejected, Israel arranged for blood to be helicoptered from Jordan. Israel brought a large emergency generator to the hospital in Jenin in order to insure a continuous supply of electricity to the hospital.”<sup>77</sup>

Finally, as to infrastructure issues – electricity, water and communication:

“Activities to maintain and repair infrastructures were concentrated on the areas of electricity, water and communication. Assistance included: coordinating with local workers in the field; coordinating assistance from Israeli workers and providing equipment from companies such as Mekorot (the Israeli water company), the Israel Electric Company and the East Jerusalem Electric Company; and municipal workers were assisted in

coordinating their movements to allow them to deal with specific problems in water, electrical and communication infrastructures.

“Special emphasis was placed on maintaining essential infrastructures, such as water wells, as well as those infrastructures vital to the operation of the hospital in Jenin. When shortages of fuel in the hospital and wells were discovered, the problem was solved in coordination with Israeli authorities. It should be noted that after the IDF withdrew from the Jenin refugee camp, Israel offered the local governor and mayor assistance in repairing damaged infrastructures in the camp. The offer was refused.”<sup>78</sup>

Questions also have been raised about burials of Palestinian casualties. The following statement was made by an IDF Spokesman on 3 April, with regard to Palestinian mass burials in Ramallah:

“Two days ago, during the course of cooperation between Israeli and Palestinian civilian elements in Ramallah, the Palestinians were given the opportunity to arrange for the proper burial of their dead. During the two days since these arrangements were allowed for, no word was received from the Palestinian coordination elements. The IDF allows for the burial of the dead during the lifting of curfews, but today, after the curfew was temporarily lifted, the Palestinians chose to bury their dead in a mass grave, and not in individual graves as the IDF had allowed.”<sup>79</sup>

As to access by humanitarian aid vehicles, the reserve Sergeant explained that the Red Cross were told they could only use one entrance to the Jenin camp and that the vehicles would have to be checked going in and out in case they were taking in ammunition or taking militants out. “There were very few times vehicles went in to take people out,” he said.<sup>80</sup> The IDF demanded, as permitted by the Geneva Convention, specific advance coordination with ICRC and Red Crescent vehicles; often-times, however, vehicles arrived seeking entry without prior coordination and were required to wait while approvals were obtained with the appropriate authorities. Also, the IDF was compelled to conduct extensive searches of the vehicles to ensure that they were not carrying weapons or explosives – an unfortunately all too frequent occurrence during the conflict. Finally, access to the Jenin camp was entirely precluded for several days because of the pervasive mining and booby-trapping of the only access route, which could not be cleared by IDF engineers until the fighting subsided.

For the most part, the inevitability of civilian casualties and the difficulty of access for humanitarian aid were brought about by the actions of the Palestinian militants and their deliberate intermingling among the civilian population, including.<sup>81</sup>

- Instances of homicidal suicide bombers pretending to surrender, then detonating their charge;
- Deceptive use of uniforms – caches of IDF uniforms found meant to disguise shooting/bombing terrorists carrying out attacks in Israel, as done in Afula and other attacks by Jenin-based terrorists;
- Improper use of the emblems of the Geneva Convention – specifically, abuse of ambulances (*see* photographs reproduced on the accompanying CD);

- Illegal use of mines and booby traps, an extensive practice in the Jenin refugee camp;
- Wanton deployment of explosive devices, delaying relief and causing civilian casualties;
- Booby-trapped bodies – further constraining humanitarian efforts;
- Shielding behind civilians: There were specific cases of gunmen, even a suicide bomber, advancing (in one case opening fire, wounding two IDF soldiers) behind or with civilians; hiding bomb “factories” in a densely populated refugee camp and in civilian buildings; and initiating attacks from populated areas;
- Cynical abuse and manipulation of Palestinian children through their active participation in the hostilities; and
- Sacrilegious abuse of the sanctity of houses of worship.

*d. Physical evidence: videos and pictures*

Two CDs are appended to this report. One, prepared by the IDF, is a presentation entitled, “The Ebb and Flow of Operation Defensive Shield.” The other is a collection of materials gathered and prepared by the IDF, including the following film clips, photographs and presentations:

1. IDF discovering and neutralizing suicide bomb/explosives belt hidden in stretcher of PRC ambulance (26/4/02)
2. Weapons laboratory in Jenin (8/4/02)
3. BBC report on Jenin (August 2001) – glorification of martyrs, coordination of terrorist group heads with Fatah leader, preparation of booby traps
4. PA-sanctioned broadcasts of incitement of children
5. CNN interview in Kishon prison of Thaabat Mardawi, Islamic Jihad terrorist who surrendered in Jenin
6. Palestinian lynchings of collaborators; crowd resists ambulance crew; news organizations prevented from filming
7. Excerpts from Al Jazeera TV (8 April) and Israel Channel 2 news: Jamal al Hija, terrorist stating how Palestinians booby trapped Jenin; Israeli film of booby traps and booby trapped corpses
8. Exchange between pilot and ground troops ascertaining source of sniper fire in minaret of mosque, but IDF refraining from shooting at mosque
9. Israeli TV interview of older Palestinian man stating he wasn’t afraid of the soldiers because I’m “clean,” no pistol or machine gun, didn’t throw one stone
10. Interview of Usama Hamdan, Hamas, Beirut – BBC World
11. IDF providing warnings to militants to leave homes with hands up and no weapons
12. “Million shaheeds” speech – Arafat
13. BBC film: Palestinian militants, bragging that Israelis recognize their effectiveness as snipers. Shows weapons-making factory. “Engineer of death” shows how bombs are made. Includes special mines that generate heat intense enough to destroy a tank. Explosives belt used by martyrs. Jamaal Hawed interview. Jenin is the greatest source of suicide bombers; “nest of angels” – capital of martyrs.

14. Weapons in Arafat's compound (30/3/02)
15. Counterfeit currency in Arafat offices (31/3/02)
16. Supply of food and medicine to Arafat's offices (2/4/02)
17. Father Jack's testimony about Palestinian takeover of Church of St. Mary (03/04/02)
18. Palestinian shooting, Church of Nativity (3/4/02)
19. Eight Palestinians surrendering via Red Cross, Bethlehem (03/04/02)
20. Supplying food to Tulkarem orphanage (4/4/02)
21. Discovery of explosives laboratory in Nablus (5/4/02)
22. Supply of humanitarian assistance to Ramallah and Tulkarem (5/4/02)
23. Food supplied to Church personnel (5/4/02).
24. Seizure of weapons in Bethlehem (4/4/02)
25. Large explosive device placed in Church of Nativity sewer system (6/4/02)
26. Nablus explosives laboratory; suicide belt (5/4/02)
27. Qalkilya: controlled detonation of car bomb (6/4/02)
28. Ramallah: weaponry found in a mosque (6/4/02)
29. Salfit: seizure of weapons laboratory (4/4/02)
30. Tulkarem: seizure of weapons factory (8/4/02)
31. Palestinian walking onto death stretcher for fake funeral (20.4.02)
32. Staged funeral film clip
33. Electric generator supplied to hospital
34. Supply of humanitarian aid
35. Exchange between UN human aid workers and IDF officers, wherein the UN representatives thank the IDF for their help and cooperation.
36. Exchange between IDF and Red Cross workers, where IDF was explaining something (in Arabic) to latter when letting them into refugee camp.
37. Incitement sermon on PA TV: very explicit
38. Pictures of Kassam rockets found in West Bank
39. Glorification of martyrs, song and film
40. Glorification of martyrs and violent uprising
41. Several films of Kassam rockets by Palestinians, demonstrating use.

## ANALYSIS

### **A. The Israeli Military Incursion Was a Proportionate and Justified Response to Organized Palestinian Terror**

Two undeniable facts are of controlling significance: As of 29 March 2002, Israel had suffered through 20 months of unabated organized terror against its civilians, and all means short of a sustained military incursion – including incessant pleas and demands from the entire international community to the PA to restrain the terror activities – failed. Jenin was the center of much of these terrorist activities, and the Palestinian militants who were behind the terror activities had taken up positions there to combat the IDF when it entered the town. As Amnesty International recently concluded,

“Armed groups reportedly claimed responsibility for about half of the lethal attacks on [Israeli] civilians (65) of the 128 attacks surveyed by Amnesty International. Claims were commonly made in phone calls or faxed statements to the media and in messages posted on websites. Sometimes more than one group claimed an attack. The main groups



involved were: *Izz al-Din al-Qassam Brigades (Hamas)* – 23; *Al-Aqsa Martyrs Brigade* – 23; *Palestinian Islamic Jihad* – 11; and the *Popular Front for the Liberation of Palestine (PFLP)* – five.”<sup>82</sup>

All of these groups were heavily represented in Jenin.

Under these circumstances, logic, morality and the fundamental duties of government all compel the conclusion that Israel was justified in undertaking a military response in self-defense to eradicate these threats to its citizens. Even Amnesty International was uncharacteristically direct and unequivocal:

“Attacks on civilians by Palestinian armed groups and individuals violate both domestic law and international law. Amnesty International’s position is that there must be no impunity for human rights abuses by armed groups and individuals. The Palestinian Authority and the Israeli government have a duty to take measures to prevent attacks on civilians and to bring to justice those who order, plan and carry out such attacks.”<sup>83</sup>

Equally clear, there is no justification for distinguishing between attacks against civilians in central Israel and those against people who live in settlements in the Territories. Not only was it stipulated explicitly in the Oslo accords that the PA was duty-bound to “to prevent such hostile acts directed against the Settlements” (see page 40 below), but the issue is not a debatable point under international law. As Amnesty International concluded: “[T]he unlawful status of Israeli settlements does not affect the civilian status of settlers. Settlers, like any other civilians, cannot be targeted and only lose their protection from attack if and for such time as they take a direct part in hostilities (Article 51 (3) Protocol 1). . . . [A]ttacks on civilians would violate international humanitarian law and would constitute war crimes (see Article 85 (3) of Additional Protocol 1 and Article 8(2) of the Rome Statute of the International Criminal Court). The deliberate killing of Israeli civilians by Palestinian armed groups amounts to crimes against humanity.”<sup>84</sup>

1. *The Military Incursion Was a Necessary and Appropriate Response to the PA’s Blatant Violations of the Oslo Accords*

The essence of the Oslo accords was the commitment by the Palestinian leadership to renounce the resort to all violence and terror as a means of achieving political aims – however legitimate such objectives may be – including the attainment of Palestinian autonomy and independence in the Territories. The Palestinian leadership repeatedly committed to this central goal in the various agreements and memoranda it signed, each of which reaffirmed the parties’ “determination to put an end to decades of confrontation and to live in peaceful coexistence, mutual dignity and security, while recognizing their mutual legitimate and political rights” and “their desire to achieve a just, lasting and comprehensive peace settlement and historic reconciliation through the agreed political process.” See, e.g., *Interim Agreement on the West Bank and Gaza Strip (Oslo II)*, Preamble, 28 September 1995.

This linchpin commitment by the Palestinians was embodied in a series of provisions, which became enhanced over time, as it became more apparent that they were not being adhered to. The first substantive implementation accord, which established the PA, was the *Gaza-Jericho Agreement* of 4 May 1994. Article III(2) provided that “[e]xcept for the Palestinian Police

referred to in this Article and the Israeli military forces, no other armed forces shall be established or operate in the Gaza Strip or the Jericho Area.” III(3) added: “Except for the arms, ammunition and equipment of the Palestinian Police described in Annex I, Article III, and those of the Israeli military forces, no organization or individual in the Gaza Strip and the Jericho Area shall manufacture, sell, acquire, possess, import or otherwise introduce into the Gaza Strip or the Jericho Area any firearms, ammunition, weapons, explosives, gunpowder or any related equipment, unless otherwise provided for in Annex I.”

The Gaza-Jericho Agreement also addressed directly the issue of terrorism in Article XVIII, entitled “Prevention of Hostile Acts,” requiring that “[b]oth sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's authority and against their property, and shall take legal measures against offenders.” *Signally, the PA specifically agreed to “take all measures necessary to prevent such hostile acts directed against the Settlements, the infrastructure serving them and the Military Installation Area . . . .” Ibid.* (emphasis added).

A few months later, in the Agreement on Preparatory Transfer of Powers and Responsibilities of 29 August 1994, the Palestinian leadership agreed again to “prevent any activities with a military orientation within each of the Spheres” (Art. VI(3)), and further to “refrain from the introduction of any motifs that could adversely affect the process of reconciliation” (Art. XII). This second commitment, which was intended to eliminate incitement, was expanded upon in the Interim Agreement on the West Bank and Gaza Strip of 28 September 1995. Article XIV(3)-(4) of that Agreement reaffirmed the commitment to eliminate all “other armed forces . . . in the West Bank and the Gaza Strip,” and to preclude any “organization, group or individual in the West Bank and the Gaza Strip” from the manufacture, sale, acquisition or possession of “any firearms, ammunition, weapons, explosives, gunpowder or any related equipment . . . .” The agreement went on to delineate the twin obligations of fighting terror and preventing incitement. Article XV provided:

“Prevention of Hostile Acts

“Both sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's authority and against their property, and shall take legal measures against offenders.”

This was followed by Article XXII:

“Relations between Israel and the [Palestinian Legislative] Council

- “1. Israel and the Council shall seek to foster mutual understanding and tolerance and shall accordingly abstain from incitement, including hostile propaganda, against each other and, without derogating from the principle of freedom of expression, shall take legal measures to prevent such incitement by any organizations, groups or individuals within their jurisdiction.
- “2. Israel and the Council will ensure that their respective educational systems contribute to the peace between the Israeli and Palestinian peoples and to peace in the entire region, and will refrain from the

introduction of any motifs that could adversely affect the process of reconciliation.”

Annex I, Article II sets out specific obligations of the Palestinian police in the field of maintaining security, including combating terrorism and violence, confiscating illegal weapons and preventing incitement to violence and terrorism. Annex I, Article IV limits the size of the PA police force to 12,000 in the West Bank and 18,000 in the Gaza Strip, and specifies precisely the type and quantity of permitted weapons and ammunitions for police use. Annex IV, Article II(7) contains detailed provisions regarding the transfer of terrorist suspects between the two sides.

The issues of terrorism and incitement were addressed most comprehensively in the Wye River Memorandum of 23 October 1998. Article II, entitled Security, speaks prophetically to what occurred two years later:

“In the provisions on security arrangements of the Interim Agreement [28 September 1995], the Palestinian side agreed to take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against the Israeli side, against individuals falling under the Israeli side’s authority and against their property, just as the Israeli side agreed to take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against the Palestinian side, against individuals falling under the Palestinian side’s authority and against their property. The two sides also agreed to take legal measures against offenders within their jurisdiction and to prevent incitement against each other by any organizations, groups or individuals within their jurisdiction.

“Both sides recognize that it is in their vital interests to combat terrorism and fight violence in accordance with Annex I of the Interim Agreement and the Note for the Record [17 January 1997]. They also recognize that the struggle against terror and violence must be comprehensive in that it deals with terrorists, the terror support structure, and the environment conducive to the support of terror. It must be continuous and constant over a long-term, in that there can be no pauses in the work against terrorists and their structure. It must be cooperative in that no effort can be fully effective without Israeli-Palestinian cooperation and the continuous exchange of information, concepts, and actions.”

Specifically, the following requirements were imposed on the Palestinian leadership to fight terror organizations (Art. II(A)(1)):

1. The Palestinian side will make known its policy of zero tolerance for terror and violence against both sides.
2. A work plan developed by the Palestinian side will be shared with the U.S. and thereafter implementation will begin immediately to ensure the systematic and effective combat of terrorist organizations and their infrastructure.

3. In addition to the bilateral Israeli-Palestinian security cooperation, a U.S.-Palestinian committee will meet biweekly to review the steps being taken to eliminate terrorist cells and the support structure that plans, finances, supplies and abets terror. In these meetings, the Palestinian side will inform the U.S. fully of the actions it has taken to outlaw all organizations (or wings of organizations, as appropriate) of a military, terrorist or violent character and their support structure and to prevent them from operating in areas under its jurisdiction.
4. The Palestinian side will apprehend the specific individuals suspected of perpetrating acts of violence and terror for the purpose of further investigation, and prosecution and punishment of all persons involved in acts of violence and terror.

Focus also was placed on prohibiting legal weapons (Art. II(A)(2)):

...

2. The Palestinian side will ensure an effective legal framework is in place to criminalize, in conformity with the prior agreements, any importation, manufacturing or unlicensed sale, acquisition or possession of firearms, ammunition or weapons in areas under Palestinian jurisdiction.
3. In addition, the Palestinian side will establish and vigorously and continuously implement a systematic program for the collection and appropriate handling of all such illegal items in accordance with the prior agreements. . . .
4. A U.S.-Palestinian-Israeli committee will be established to assist and enhance cooperation in preventing the smuggling or other unauthorized introduction of weapons or explosive materials into areas under Palestinian jurisdiction.

Finally, specific duties were imposed to prevent incitement (Art. II(A)(3)):

- “1. Drawing on relevant international practice and pursuant to Article XXII (1) of the Interim Agreement and the Note for the Record, the Palestinian side will issue a decree prohibiting all forms of incitement to violence or terror, and establishing mechanisms for acting systematically against all expressions or threats of violence or terror. This decree will be comparable to the existing Israeli legislation which deals with the same subject.
- “2. A U.S.- Palestinian-Israeli committee will meet on a regular basis to monitor cases of possible incitement to violence or terror and to make recommendations and reports on how to prevent such incitement. The Israeli, Palestinian and U.S. sides will each appoint a media specialist, a law enforcement representative, an educational specialist and a current or former elected official to the committee.”

With terror and incitement continuing to be neglected by the PA, the Sharm el-Sheikh Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations of 4 September 1999, once

again highlighted these paramount responsibilities. Section 8 requires the PA “to implement its responsibilities for security, security cooperation, on-going obligations and other issues emanating from the prior agreements, including, in particular, the following obligations emanating from the Wye River Memorandum: 1. continuation of the program for the collection of the illegal weapons . . . [and] 2. apprehension of suspects . . . .”

The events of the 20 months in question demonstrate wholesale abdication of these core principles by the PA: terror groups roamed freely throughout the areas under PA control; illegal arms were smuggled into the Territories with PA sanction; those who committed terror attacks were not detained, tried or imprisoned; incitement – even by official media arms of the PA – was rampant; violence, suicide murders and attacks against civilians were glorified as holy acts of martyrdom. These fundamental and repeated breaches were unforgivable and wholly unjustified – blatantly undermining the essence of the entire Oslo accords process.

Nothing could possibly justify the Palestinian activities that prompted the Israeli response. Not “occupation”, not alleged civil and human rights violations by Israel and not the argument that settlers are legitimate targets. Again, the Amnesty International report is right on point:

“Contrary to these assertions [by Palestinian organizations], attacks on civilians are not permitted under any internationally recognized standard of law, whether they are committed in the context of a struggle against military occupation or any other context. Not only are they considered murder under general principles of law in every national legal system, they are contrary to fundamental principles of humanity which are reflected in international humanitarian law. In the manner in which they are being committed in Israel and the Occupied Territories, they also amount to crimes against humanity. Amnesty International condemns such killings unreservedly and calls on armed groups to end them immediately.”<sup>85</sup>

2. *The Military Campaign Was a Legitimate Response to the Scourge of Terrorist Acts Against Israel Being Condoned by the PA*

There is no dearth of international law requiring all peoples to combat by all means acts of terror and their perpetrators, and allowing – indeed demanding – that member states defend their citizens against such threats. The circumstances in Israel over the 20 months preceding Operation Defensive Shield were exemplary of conditions demanding strong military action – especially once it became clear that more moderate steps were ineffective and that the sovereign power was condoning, if not actively encouraging and financing, the terror activities and their sponsors.

The nations of the world uniformly have reaffirmed their “unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed.” United Nations Security Council Resolution (UNSCR) 1377 (12 November 2001). Equally clear, “the financing, planning and preparation of as well as any other form of support for acts of international terrorism are similarly contrary to the purposes and principles of the Charter of the United Nations.” *Ibid.* This declaration reaffirmed the Security Council pronouncement several weeks earlier that “acts, methods, and practices of terrorism are

contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations.” UNSCR 1373 (28 September 2001). *Cf.* International Convention for the Suppression of Terrorist Bombing, adopted by the UN General Assembly, 15 December 1997, Article V (not yet signed by the State of Israel):

“Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.”

Where terror persists, each State retains “the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations<sup>i</sup> as reiterated in resolution 1368 (2001), [and] . . . the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts.” UNSCR 1373 (28 September 2001).

In exercising its jurisdiction over designated areas in the Territories, the PA had “the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts.” *Ibid.* The PA violated the following duties set forth in UNSCR 1373(2):

- “(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;
- “(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;
- “(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;
- “(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;
- “(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious

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<sup>i</sup> Article 51 of the Charter of the United Nations provides: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”

criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

“(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

“(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents . . . .”

As set forth above, the PA’s violations of these provisions – along with their brazen breaches of the Oslo accords – could hardly be more manifest and pervasive. Having sought unsuccessfully for over 20 months to resolve these violations through less drastic measures, Israel was duty-bound to undertake the painful military steps it did.

## **B. The IDF Conducted Itself in Conformity with Internationally Recognized Standards and Conventions in Executing Its Military Campaign**

The plain facts are the IDF engaged in hand-to-hand, door-to-door combat, in an intensely built-up shantytown, among dozens of houses booby-trapped by Palestinian militants, yielding a handful of civilian casualties. That incredible result testifies to the extraordinary scrupulousness of the Israeli army, which sacrificed 23 soldiers in battle, precisely so as to spare Palestinian civilian casualties that inevitably would be inflicted by massive aerial bombardment or artillery attacks. The IDF ought to be commended, not condemned. Each of the various items as to which accusations have been leveled are addressed in turn.

### Civilian Casualties:

Naturally, one of the cornerstones of international law is the duty to take all reasonable measures to protect the civilian population and civilian objects. *See generally Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 U.N.T.S. 3, entered into force Dec. 7, 1978, Chapter II, Articles 50-51, Chapter III, Articles 52-54, Chapter IV, Article 57. The rule is not without its limits, however, as civilian casualties are inevitable in any military conflict. “An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof” is permissible where such attack is not “excessive in relation to the concrete and direct military advantage anticipated.” Article 51(5)(b); *see also* Article 57(2)(a)(iii). In such cases, “[e]ffective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit,” and “[w]hen a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.” Article 57(2)(c),(3).

These provisions are of special significance here in light of the insidious, pervasive actions by the Palestinian terrorists to hide among civilians and put the latter in harm’s way – exploiting the presence of the civilians in an effort to shield themselves and their military

activities. All of these factors impacted the ability of the IDF to protect civilians, and each constituted a flagrant violation of international law and grave breaches of the laws of armed conflict by the Palestinian militants.

“The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”

Article 51(7) of the Fourth Geneva Convention. This conduct directly violated the dictate in Article 58 that parties to a “conflict shall, to the maximum extent feasible:

- “(a) Without prejudice to Article 49 of the Fourth Convention, endeavour to remove the civilian population, individual civilians and civilian objects under their control from the vicinity of military objectives;
- “(b) Avoid locating military objectives within or near densely populated areas;
- “(c) Take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations.”

There is a special complexity to conducting military operations in densely-populated areas. The typical approach of most armies is to heavily bombard the area first – literally to root out enemy positions – and then to send in infantry and tanks. Israel chose the more humane, but far more dangerous (to its forces), route: sending in tanks and infantry and engaging in door-to-door combat. The environment in Jenin was characterized by the following:

- Difficulty in striking enemy targets, when the enemy purposely envelops itself with a civilian population;
- Diversity of enemy concealment sites and firing positions;
- Uncertainty in distinguishing between friend and foe;
- Inability to appraise combat situations of forces entering closed structures; and
- Complexity caused by combat in urban environments, obscuring the distinction between terrorists and civilians, and between terrorists and friendly forces – both by day and by night.<sup>86</sup>

Taken together, these gave rise to an assortment of difficulties, which made some degree of civilian casualties inescapable – especially with regard to “civilians” who participated actively and directly in the fighting. The IDF explained:



“The lack of a clear ‘front line’ in a built-up area is liable to cause operational misjudgments, leading to the superfluous use of firepower, and incidents of ‘friendly fire’. The risk of superfluous use of firepower stems from terrorists taking up position within a civilian refugee camp, fighting without uniforms, concealing their weapons and disguising themselves as innocent civilians. In order to ‘clean out’ a built-up area with minimum risk to civilians, forces must enter every house and every room. Consequently, the risk of incurring casualties increases, due to the short ranges and numerous possibilities for enemy concealment.”<sup>87</sup>

The truly remarkable aspect of the whole operation was in fact how *few* civilian casualties were suffered.

Likewise, the use of bulldozers was based on a decision made to minimize civilian casualties. “When the use of infantry is no longer possible, the use of bulldozers is preferable to other alternatives, such as aerial bombardment, artillery barrage or the use of flamethrowers. The decision to use bulldozers in the final hours of the battle stemmed from the IDF’s preference to cause repairable structural damage to buildings – rather than irreparable physical damage to individuals.”<sup>88</sup>

This approach was perfectly consistent with international law. Article 53 of the Fourth Geneva Convention prohibits “[a]ny destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations . . . *except where such destruction is rendered absolutely necessary by military operations.*” *Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War*, 75 U.N.T.S. 287, entered into force Oct. 21, 1950, Article 53 (emphasis added). *See also Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 U.N.T.S. 3, entered into force Dec. 7, 1978, Article 52: “[M]ilitary objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military of advantage.”

#### Humanitarian Aid:

Much has been said of the IDF’s impeding of access to the Jenin camp by humanitarian aid organizations. In fact, the IDF played an active role in facilitating humanitarian aid and medical relief, throughout the Territories. (See detailed discussion above pp. 34-36.) Overall, coordination among the various entities was good, particularly considering all the circumstances. There were, as detailed above, two special problems with the Jenin camp:

- (1) The only entry to the camp from the city was heavily booby-trapped and impassable. It was not until after the Palestinian militants were subdued and defeated that the IDF engineers were in a position to neutralize the mines and explosives on the road. These circumstances essentially prevented the entry of non-military vehicles into the camp until after the fighting subsided.

- (2) The Palestinians committed repeated instances of “perfidy” by using UN insignia and Red Crescent ambulances to transport arms and explosives in the Territories.<sup>j</sup> The IDF in fact filmed at least one instance where an explosives belt used by suicide bombers was discovered hidden in an ambulance stretcher and later detonated. Likewise, one of the more celebrated suicide bombers, Wafa Idris, used the cover of her work for the Red Crescent as the means for gaining entry to Israel with her explosives. These incidents compelled the IDF to require advance coordination with the various humanitarian organizations to permit entry of all such vehicles into Jenin, and it required the IDF to carefully search all vehicles and their contents before any were allowed to pass.

The IDF conduct conformed to international law. *Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War*, 75 U.N.T.S. 287, entered into force Oct. 21, 1950, Article 19, provides: “The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy.” Similarly, while Article 23 requires that an adversary “allow the free passage of all consignments of medical and hospital stores . . . intended only for civilians” and “likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases,” this duty “is subject to the condition that this Party is satisfied that there are no serious reasons for fearing . . . (c) That a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.”

Article 59 specifically requires that parties allow “the free passage” of “consignments of foodstuffs, medical supplies and clothing” undertaken “by impartial humanitarian organizations such as the International Committee of the Red Cross,” but confers upon the party being asked to allow such passage “the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.”

In the final analysis, the IDF summed up the campaign as a successful effort of legitimate defense of Israeli citizens:<sup>89</sup>

“Jenin was the ‘capital’ of suicide bombers and the IDF operation there was unavoidable. Palestinian terrorists purposely prepared their battleground in a civilian camp, in violation of international and humanitarian law. The IDF defeated terrorists while doing its utmost to minimize civilian casualties. Israel provided unceasing assistance to the civilian population, despite the difficult conditions. The ‘massacre in

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<sup>j</sup> “Perfidy” is defined as follows: “Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy. The following acts are examples of perfidy: . . . (c) The feigning of civilian, non-combatant status; and (d) The feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict. . . . It is prohibited to make improper use of the distinctive emblem of the red cross, red crescent or red lion and sun or of other emblems, signs or signals provided for by the Conventions or by this Protocol.” *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 U.N.T.S. 3, entered into force Dec. 7, 1978, Articles 37 & 38.

Jenin' is yet another Palestinian-made myth. The operation greatly reduced the capability of terrorists to launch attacks, thus increasing the chance of renewing the peace process."

## CONCLUSION

The hysterical, irresponsible and vicious accusations of massacre were never based on fact. Shortly after Israel withdrew its forces and neutralized the Palestinian booby-traps so as to enable outsider observers to enter the camp, even its detractors were compelled to agree:

*"Jenin Camp Is a Scene of Devastation But Yields No Evidence of a Massacre."*

- **Headline, front page, The Washington Post, April 16**

*"There is simply no evidence of a massacre."*

- **Peter Bouckaert, senior researcher, Human Rights Watch, Jenin, Jerusalem Post, April 28**

*"Holley told Agence France-Presse that he did not see 'any evidence of a massacre. The Israeli army was fighting against some desperate [Palestinian] fighters here.'"*

- **Agence France-Presse, quoting Maj. David Holley, British military adviser to Amnesty International, April 28**

*"Palestinian Authority allegations. . . appear to be crumbling under the weight of eyewitness accounts from Palestinian fighters who participated in the battle and camp residents who remained in their homes until the final hours of the fighting. . . . All said they were allowed to surrender or evacuate."*

- **Boston Globe, April 29**

*"A Time investigation concludes that there was no wanton massacre in Jenin, no deliberate slaughter of Palestinians by Israeli soldiers. . . . No matter whose figures one accepts, 'there was no massacre,' concludes Amnesty's Holley."*

*"That said, Jenin was awful; all wars are."*

- **Time Magazine, The Battle of Jenin, 5 May 2002**

Why, then, does this issue linger – why are the UN and other international bodies persisting in their quest to conduct special investigations into Israeli behavior during the military incursion? This query – not the already resolved question that there was no massacre – should become the central issue, and it demands a meaningful answer.

While condemning the use of suicide bombers and other acts of terror against Israeli civilians, the UN has never even considered investigating the well-supported allegations that the PA, including its most senior members and Chairman, as well as other nations (including Iran, Iraq and Saudi Arabia), directly and indirectly encouraged and promoted these

repugnant activities, which undoubtedly violate all basic rules and conventions of human rights.

This question becomes all the more acute – and troubling – as the events here are contrasted with far more egregious circumstances that received little or no world attention, and certainly no UN inquiry. The UN has been silent on violations in places like China, Syria, Yemen, Iran, and others. It did not utter a murmur about Syria’s mass murder of 20,000 people at Hama in 1982. It never protests the violations by Arafat’s corrupt tyranny.

There has been a genocide in Rwanda, an ethnic cleansing in Yugoslavia, periodic and horrifying communal “strife” in Indonesia’s East Timor, the “disappearance” of a few hundred thousand refugees in the Congo, a decades-long and culturally devastating occupation of Tibet by the People’s Republic of China; but none of those UN member states has ever been subjected to the rebuke of a General Assembly “emergency special session” – ten of which have been convened since the UN was formed, six about Israel. Israel has been censured repeatedly, largely for seeking to defend itself in the face of terrorist attacks that have killed hundreds and injured thousands of its citizens.

Add to this indefensible discrimination by UNRWA. That agency was originally established to assist Palestinian refugees and managed, funded, and administered the refugee camps. But these camps have become hotbeds of terrorists and bases for suicide murderers. UNRWA-financed schools there teach children that all of Palestine, from the Jordan River to the Mediterranean Sea, including Israel, belongs to them. Jenin food warehouses administered by UNRWA serve as munitions dumps. Explosives and counterfeit currency factories are housed in the public shelters UNRWA constructed.

The UN leadership in the region is symbolic of where that bureaucracy’s sympathies lie. UNRWA commissioner general, Peter Hanson, described the recent battle of Jenin as “wholesale obliteration,” a “human catastrophe that ha[s] few parallels in human history,” with some 300 to 400 Palestinians killed.<sup>90</sup> He told CNN, “I had, first of all, hoped the horror stories coming out were exaggerations, as you often hear in this part of the world, but they were all too true.”<sup>91</sup> Hundreds of Palestinians were not killed. Even Palestinian officials on the ground verified the Israeli estimate of no more than 52 bodies, of which only a handful were civilian casualties.

In the face of these increasingly disturbing reactions and discriminatory treatment, is it not time for the UN to examine its discriminatory treatment of Israel? This is an issue that has begun to alarm traditionally moderate Jewish organizations. The Anti-Defamation League had this to say in its report on Jenin:

“International organizations, non-governmental entities and many foreign governments prematurely and sweepingly attacked the Israelis for committing atrocities. As the evidence became known, it demonstrated that these initial opinions were wrong. Yet the voices that zealously condemned Israel have been largely remiss in publicizing these new facts.

“Merely criticism of Israel is not bigotry, but the vehemence and zeal displayed by some of those considered here seems indicative of a larger set of beliefs about Jews.”<sup>92</sup>

If the UN wishes to defuse regional tensions and signal that terrorism is not acceptable, then there must be no equivocation. Perhaps the UN can be forgiven for not being aware that UN-funded refugee camps housed arms factories. But in a Middle East where perception is more important than reality, the UN's silence is deafening and its moral equivalency is interpreted as a green light for terror. The main casualty is UN credibility.

This inquiry provides another opportunity to do justice. Let us hope objectivity prevails. It is our best and only chance for real peace.

*Endnotes:*

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<sup>1</sup> M. Hirsch, "Blowing the Best Chance," *Newsweek*, 1 April 2002.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Fox TV News*, 21 April 2002.

<sup>4</sup> M. Hirsch, "Blowing the Best Chance," *Newsweek*, 1 April 2002.

<sup>5</sup> *Al-Safir* (Lebanon), 3 March 2001.

<sup>6</sup> *Al-Hayat Al-Jadida* (PA), 7 December 2000.

<sup>7</sup> See generally [www.idf.il/english/news/karineas](http://www.idf.il/english/news/karineas).

<sup>8</sup> Israel Foreign Ministry website, *Use of Ambulances and Medical Vehicles by Palestinian Terrorist Organizations*, [www.mfa.gov.il](http://www.mfa.gov.il), 14 February 2002.

<sup>9</sup> One cannot overestimate the serious danger posed by these rocket attacks, as is readily apparent from even a cursory viewing of the astonishing films capturing Palestinian terrorists in the act of executing the launches. See film clips of rocket launchings on accompanying CD. See generally discussion regarding Kassam II rockets and discoveries during the military incursion at [www.idf.il/english/announcements/2002/feburary/6](http://www.idf.il/english/announcements/2002/feburary/6).

<sup>10</sup> Yasser Arafat, addressing his people at a public event, July 2001 (as reported in *Ma'ariv*, 12 July 2001).

<sup>11</sup> Al-Hayat Al-Jadida, "A Chance for the Fighting Negotiator," 20 February 2002.

<sup>12</sup> BBC Interview of Hamas operative, reproduced on accompanying CD, March 2002.

<sup>13</sup> *Israel and the Occupied Territories and the Palestinian Authority: Without Distinction – Attacks on Civilians by Palestinian Armed Groups*, Amnesty International, July 2002.

<sup>14</sup> Arafat, during a speech delivered to demonstrating intellectuals, writers and journalists, broadcast by the *Voice of Palestine Radio*, 21 January 2002; Arafat, in a speech delivered to thousands of civilians and officials, broadcast by the *Voice of Palestine Radio*, 26 January 2002; Arafat, during a telephonic interview granted to the Saudi newspaper *Okaz*, 28 January 2002; Arafat, in front of a popular delegation, *Palestine News Agency*, 1 February 2001; *Palestinian Satellite Television Channel*, 1 February 2002.

<sup>15</sup> Poem reproduced on accompanying CD.

<sup>16</sup> Poem reproduced on accompanying CD.

<sup>17</sup> Poem reproduced on accompanying CD.

<sup>18</sup> *Fox TV News*, Interview of Dennis Ross, May 2002.

<sup>19</sup> The entire report may be found at <http://www.mfa.gov.il/mfa/go.asp?MFAH01om0>.

<sup>20</sup> See, e.g., D. Tell, "The Saudi Terror Subsidy," *The Weekly Standard*, 20 May 2002.

<sup>21</sup> Royal Embassy of Saudi Arabia website, [www.saudiembassy.net/press\\_release](http://www.saudiembassy.net/press_release), 7 January 2001.

<sup>22</sup> Royal Embassy of Saudi Arabia website, [www.saudiembassy.net/press\\_release](http://www.saudiembassy.net/press_release), 20 March 2001.

<sup>23</sup> Royal Embassy of Saudi Arabia website, [www.saudiembassy.net/press\\_release](http://www.saudiembassy.net/press_release), 1 April 2001.

<sup>24</sup> Royal Embassy of Saudi Arabia website, [www.saudiembassy.net/press\\_release](http://www.saudiembassy.net/press_release), 24 April 2001.

<sup>25</sup> See generally D. Tell, "The Saudi Terror Subsidy," *The Weekly Standard*, 20 May 2002.

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- <sup>26</sup> IDF website, [www.idf.il/saudi\\_arabia/site/english/main\\_index.stm](http://www.idf.il/saudi_arabia/site/english/main_index.stm), Appendix A.
- <sup>27</sup> *Israel and the Occupied Territories and the Palestinian Authority: Without Distinction – Attacks on Civilians by Palestinian Armed Groups*, Amnesty International, July 2002.
- <sup>28</sup> P. Jacobson, “Home-grown Martyrs of the West Bank Reap Deadly Harvest,” *The Telegraph*, 19 August 2001.
- <sup>29</sup> *Ibid.*
- <sup>30</sup> Israel Foreign Ministry website, [www.mfa.gov.il](http://www.mfa.gov.il), 7 April 2002.
- <sup>31</sup> IDF Spokesperson Unit, [www.idf.il/english/news/jeninkilled.stm](http://www.idf.il/english/news/jeninkilled.stm).
- <sup>32</sup> IDF Spokesperson Unit, [www.idf.il/english/news/jeninkilled.stm](http://www.idf.il/english/news/jeninkilled.stm).
- <sup>33</sup> IDF Presentation, “*The Battle of Jenin*,” jenin IDF.pps (May 2002).
- <sup>34</sup> *Al-Jazeera* (Qatar), 4 April 2002.
- <sup>35</sup> Floor Statement made by Senator Biden, ([foreign.senate.gov/press/statements/statements\\_020501.html](http://foreign.senate.gov/press/statements/statements_020501.html)) (1 May 2002).
- <sup>36</sup> Many of the materials cited hereafter in this section were translated by The Middle East Media Research Institute (MEMRI), and appear at *The Palestinian Account of the Battle of Jenin*, Inquiry and Analysis Series – 90, [www.memri.org/ia](http://www.memri.org/ia), 23 April 2002.
- <sup>37</sup> A. Philips, “Human Rights Team Accuses Israel Over Jenin Assault,” *The Telegraph*, 4 May 2002.
- <sup>38</sup> *Al-Jazeera* (Qatar), 4 April 2002.
- <sup>39</sup> Thaabat Mardawi, a Palestinian Islamic Jihad operative, gave an extensive interview to CNN from an Israeli prison after his capture. The quotes cited in this report are taken from that interview. The entire interview is reproduced in the accompanying CD.
- <sup>40</sup> A. Philips, “Human Rights Team Accuses Israel Over Jenin Assault,” *The Telegraph*, 4 May 2002.
- <sup>41</sup> [www.palestine-info.info](http://www.palestine-info.info), 20 April 2002.
- <sup>42</sup> *Al-Jazeera* (Qatar), 8 April 2002.
- <sup>43</sup> *Al-Sharq Al-Awsat* (London), 7 April 2002.
- <sup>44</sup> Cited in *Al-Shaab* (Egypt), 19 April 2002.
- <sup>45</sup> [www.qudsway.com](http://www.qudsway.com), 3 April 2002.
- <sup>46</sup> The Palestine Center for Human Rights, *Weekly Report on Israeli Human Rights Violations in the Occupied Palestinian Territories*, 11-17 April 2002. After his death in the battle was reported, it was announced that his real name was Hazem Ahmad Rayhan Qabha.
- <sup>47</sup> *Al-Jazeera* (Qatar), 4 April 2002.
- <sup>48</sup> [www.palestine-info.info](http://www.palestine-info.info), 20 April 2002.
- <sup>49</sup> *Al-Hayat* (London), 5 April 2002.
- <sup>50</sup> *Al-Sharq Al-Awsat* (London), 7 April 2002.

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- <sup>51</sup> [www.palestine-info.info](http://www.palestine-info.info), 20 April 2002.
- <sup>52</sup> *Al-Hayat* (London), 9 April 2002.
- <sup>53</sup> *Al-Bayan* (United Arab Emirates), 10 April 2002.
- <sup>54</sup> *Al-Bayan* (United Arab Emirates), 11 April 2002.
- <sup>55</sup> *Al-Jazeera* (Qatar), 8 April 2002.
- <sup>56</sup> [www.jihadonline.org](http://www.jihadonline.org), 10 April 2002.
- <sup>57</sup> *Al-Jazeera* (Qatar), 8 April 2002.
- <sup>58</sup> *Al-Jazeera* (Qatar), 8 April 2002.
- <sup>59</sup> *Al-Hayat* (London), 9 April 2002.
- <sup>60</sup> In the battle of Karbula (680), Hussein, the leader of the Shi'ites, was canonized.
- <sup>61</sup> *Al-Manar* Television (Lebanon), 10 April 2002, cited at [www.jihadonline.org](http://www.jihadonline.org).
- <sup>62</sup> P. Martin, "Jenin 'Massacre' Reduced to Death Toll of 56," *The Washington Times*, 1 May 2002.
- <sup>63</sup> D. Gordon, "How The Times Distorted Jenin," *The Jewish Journal of Los Angeles*, 3 May 2002.g
- <sup>64</sup> E. MacAskill, "We Fight Like Girls and we are Accused of a Massacre," *The Guardian*, 20 April, 2002.
- <sup>65</sup> *Ibid.*
- <sup>66</sup> E. MacAskill, "We Fight Like Girls and we are Accused of a Massacre," *The Guardian*, 20 April, 2002.
- <sup>67</sup> E. MacAskill, "We Fight Like Girls and we are Accused of a Massacre," *The Guardian*, 20 April, 2002.
- <sup>68</sup> A. Haim, "I Couldn't Stand the Lies," *Ma'ariv*, 22 April 2002 (reprinted at [www.mfa.gov.il/mfa/go.asp](http://www.mfa.gov.il/mfa/go.asp)).
- <sup>69</sup> *Ibid.*
- <sup>70</sup> *Ibid.*
- <sup>71</sup> P. Jacobson, "We are Being Massacred," *The Telegraph*, 14 April 2002.
- <sup>72</sup> Transcript of comments made by Peter Hanson, Commissioner-General of UNWRA, in teleconference with journalists, *United Nations Information Service*, Geneva, 5 April 2002.
- <sup>73</sup> UNWRA Press Release, 7 April 2002.
- <sup>74</sup> Briefing by Major Daniel Beaudoin, Deputy Head IDF Foreign Relations Branch, *Humanitarian Assistance during the Current Events*, 8 April 2002.
- <sup>75</sup> IDF Presentation, "The Battle of Jenin," *jenin IDF.pps* (May 2002).
- <sup>76</sup> IDF Presentation, "The Battle of Jenin," *jenin IDF.pps* (May 2002).
- <sup>77</sup> *Ibid.*
- <sup>78</sup> *Ibid.*



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<sup>79</sup> IDF Spokesman, [www.mfa.gov.il](http://www.mfa.gov.il), “Mass burial of Palestinians despite IDF facilitation of orderly burials.”

<sup>80</sup> E. MacAskill, “We Fight Like Girls and we are Accused of a Massacre,” *The Guardian*, 20 April, 2002.

<sup>81</sup> IDF Presentation, “The Battle of Jenin,” *jenin IDF.pps* (May 2002).

<sup>82</sup> *Israel and the Occupied Territories and the Palestinian Authority: Without Distinction – Attacks on Civilians by Palestinian Armed Groups*, Amnesty International, July 2002.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> IDF Presentation, “The Battle of Jenin,” *jenin IDF.pps* (May 2002).

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

<sup>90</sup> “UN Relief Mission to Jenin camp reveals monumental destruction,” UNRWA press release (16 April 2002); “Commissioner-General of UNRWA declares Jenin Camp a disaster area, describes damage as ‘colossal,’” UNRWA Press Release, (18 April 2002); Statement made to Danish newspaper, *The Internatavisen Jyllands-Posten* (19 April 2002).

<sup>91</sup> *CNN Interview* (19 April 2002).

<sup>92</sup> “Anatomy of Anti-Israel Incitement: Jenin, World Opinion and the Massacre that Wasn’t,” Anti-Defamation League, May 2002.