

Warrior for Justice: A Conversation with Nitsana Darshan-Leitner

By Toby Klein Greenwald



Nitsana Darshan-Leitner

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As of this writing, 752 people have been killed by Palestinian violence and terrorism since September 2000.*

While public focus is usually on the suicide bomber or the attacker, the murderers do not act alone; there are organizations behind them. Using the courts in Israel, the United States and Europe, Israeli attorney Nitsana Darshan-Leitner, the director of Shurat HaDin (the Israel Law Center), an Israel-based organization that provides legal representation to protect Jewish rights and interests, has been waging a war against these puppeteers for the past nine years. Darshan-Leitner has brought lawsuits against entities that sponsor terrorism including the Palestinian Authority (PA), Hamas, Islamic Jihad as well as Iran, Syria, Iraq and the European Union (EU), who she says “is among the most generous bankrollers of terror.” Darshan-Leitner works on a contingency model; she receives payment only if her clients collect money. She is currently representing over one hundred cases in courts around the world.

Some of Darshan-Leitner’s achievements include:

- February 2002: a judgment of \$183 million was won against Iran in a federal court in Washington, DC, for a family who lost a member in a 1996 Hamas suicide bus bombing in Jerusalem.
- June 2002: Darshan-Leitner filed a one million NIS lawsuit against the EU in a Jerusalem court alleging that the EU provided the PA with funds that were being used for terror attacks against civilians.
- December 2002: Darshan-Leitner obtained a 64 million NIS lien on Arafat’s assets, frozen by the Israeli government, for the family of Vadim Novesche, a soldier lynched by Palestinian police in Ramallah.

Darshan-Leitner, twenty-nine, grew up in Petach Tikvah where she graduated from the Yeshurun religious high school and did her national service with Magen David Adom. She earned a law degree from Bar-Ilan University and an M.B.A from Manchester University in England. She is married and has two children. Darshan-Leitner has appeared in the Israeli and foreign media and lectures widely abroad.

Q. How did you get involved in suing the sponsors of terror?

A. In 1997, I began tracking the cases being filed by the Southern Poverty Law Center in Alabama. I was inspired by the Center’s director, attorney Morris Dees, who has made a career out of suing neo-Nazis, skinheads and hate groups like the Ku Klux Klan and the White Power movement for incitement and vio-

lence. Dees pioneered the idea of filing lawsuits involving civil rights violations [in order] to bankrupt American hate groups. He and his Law Center brought a wave of cases against these groups for killing or injuring minorities. His courtroom victories on behalf of the victims of racial violence began to have a devastating effect on these groups; he bankrupted the organizations and even went after the personal properties of the racists who carried out attacks. These cases inspired me to use the same legal strategies to go after hate groups in the Middle East, namely the PLO [Palestinian Liberation Organization], Hamas and Islamic Jihad. If Dees could wipe out the Klan in the US through lawsuits, why couldn’t we combat the Palestinian hate organizations that are targeting Israel’s civilian population the same way?

Q: What are some of the most moving cases with which you’ve dealt?

A: The Bloomberg [case], for one, in which the mother was killed and the father and one of the daughters were permanently disabled. We’re suing the EU in that case. [On Aug. 5, 2001, Tehiya Bloomberg, forty, of Karnei Shomron, was killed when members of the PA police force opened fire on the car in which the

family was driving. Her husband, Shimon, and eldest daughter, Tzippi, both paralyzed, have undergone several operations and face a long period of rehabilitation.]

Q: Why sue the EU?

A: Since the Oslo Accords, the EU has been giving the PA \$10 million a month—amounting to \$1.5 billion to date. The money is supposed to go for humanitarian aid. [It is supposed to be used] to pay the salaries of garbage collectors, doctors and teachers, and to build clinics and schools. But the money is obviously not going to its intended destination. We allege that through a complex combination of accounting fraud, embezzlement and outright theft, Arafat has managed to siphon off as much as twenty-five percent of the EU’s funding to finance terrorist groups. The Palestinian people are living in a dismal state. The garbage is piled up, police officers are on strike and there are no new schools or clinics.

Around two years ago Israel began to receive intelligence information that Arafat diverts money to terrorism. I tried [unsuccessfully] to have the European media cover the story.

As a direct result of the Bloomberg lawsuit [the Bloomborgs are British citizens], we had the EU Parliament members from France and Germany gather signatures to enact legislation mandating that a full audit of EU funding of the PA be carried out. Parliament members gathered 137 signatures but were twenty signatures

short. At that point, Chris Patten, EU external affairs commissioner, tried to convince Parliament members to oppose the legislation. Fortunately the requisite votes were secured, and the bill went through. As soon as the law was passed, Patten hypocritically announced that his own internal fraud division would conduct the audit.

The EU has consistently claimed that Israel has no proof [of EU funds being used for terrorism.] However, in April 2002, in the course of Operation Defensive Shield, Israeli soldiers found hundreds of documents—written by Arafat—with instructions that funds be given to terrorists. Additionally, there were checks from Arafat made out to [Fatah Tanzim leader Marwan] Barghouti, which [Barghouti] passed on to terrorists. They found [Palestinian weapons ship] Karine A documents as well. All these were shown to the EU, but Patten [still] insisted that there was insufficient proof!

Q. What do you think is motivating Patten to act this way?

A. He has to find something for the EU to do...to give them a raison d’être. Without the aid program to the Palestinians, the EU would have no Middle East policy; it would be diplomatically irrelevant. So the EU comes to court but insists that as a diplomatic entity it possesses diplomatic immunity from lawsuits. This has resulted in my spending many months in court arguing the issue of diplomatic immunity rather than the substance of the case—

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*According to the State of Israel’s government statistics; Israel Defense Forces (IDF) casualties treated by IDF medical personnel are not included in these figures.

that is, the connection between the EU funds and Palestinian terrorism.

We claim that the EU does not have diplomatic immunity; the district court of Tel Aviv is deciding this issue right now. I am confident that it will be resolved soon, and the EU will be compelled to come to court and document where the \$1.5 billion in so-called humanitarian aid to the Palestinians has really gone. I'll prove it went, at least in part, to the PLO's Fatah Tanzim and the Al Aqsa Martyrs Brigades for the purpose of killing Israeli civilians. The case will expose the nexus between the EU's funding and the murder of Tehiya Bloomberg.

Q. Is the EU being accused of "aiding and abetting" terror?

A. The EU is certainly responsible for financing and thereby facilitating terror. But in court it would be difficult to prove the EU's malicious intent; it is simpler to establish that it is guilty of negligence...that it acted recklessly in providing "humanitarian funds" to serial terrorists without over-seeing how the funds were spent.

Q. Tell me about your case against Iran.

A: The case was heard in the Washington DC Federal District Court, and the judgment was handed down in February, 2002. We won \$183 million for an Israeli family, a member of which was murdered in a bus bombing in Jerusalem in 1996. [Although the bomber was a Palestinian] we proved that the mastermind behind [him] was trained in Iran. If we succeed in collecting, only \$33 million stands a chance of being collected. Financial issues aside, it is an important moral victory when an American court slams another sovereign state for killing Jews.

Q. What was the first case against terrorism that you dealt with since the current intifada broke out?

A. It involved suing the PA for the lynching of Vadim Novesche, an Israeli soldier, in Ramallah. [On Oct 12,

2000, First Cpl. Yosef Avrahami and First Sgt. Vadim Novesche, two reserve IDF soldiers, were lynched by a Palestinian mob at the police building

The PA was defended by an Israeli lawyer from East Jerusalem. Unfortunately, the case is still being litigated.

Q. How has the PA responded to the case?

A. The PA came to court and claimed that as a state it has sovereign immunity and cannot be sued. It further claimed that Israel doesn't have jurisdiction over it. But if the PA is a state, then what are the Palestinians fighting for? What is the *intifada* all about?

The PA's response was anticipated. But what was shocking to us was the response of the Israeli court. It took the court nearly two years to determine that the PA is not a state and does not have immunity.

We finally won our first victory in the case in December 2002. We secured a pre-trial lien for 64 million NIS (around 13 million dollars), the full amount of the lawsuit, ensuring that it will be frozen until the case is resolved.

The lien is on the Palestinian tax money, which Israel collects for the PA. [Under the Oslo Accords, Israel agreed to collect taxes and import tariffs on behalf of the Palestinians and turn over the sums each month. However, with the outbreak of the *intifada*, Israel made a political decision to withhold these taxes in order to preclude the Palestinians from utilizing the funds for terrorism.] This is an important [victory] since, with an unstable entity like the PA, we need to ensure that the money will be there when we ultimately get the court verdict for the families.

Q. Has that paved the way for more lawsuits?

A. We have plans to file one hundred more cases before the PA's tax funds—which the Israeli Treasury is currently withholding—are released due to pressure from the US. Right now there is

tremendous American pressure on Israel to release the money, which amounts to about two billion NIS. We would like to put a lien on the rest of the money before Israel succumbs to

Q. Can you list some of those you have brought lawsuits against?

A. I have brought lawsuits against the Israeli police, and I'm constantly suing the Israeli government in the High Court of Justice. I have lawsuits pending against Iran, Iraq and Syria in United States courts. In 1997-8 I handled a lawsuit against [former] Egyptian Ambassador [to Israel] Mohammed Bassiouny, who was accused of sexually assaulting an Israeli belly dancer. Unfortunately, through the interference of the Foreign Ministry, the attorney general didn't have the case prosecuted.

Q. How did you develop the qualities that help you do battle?

A. I was always a zealot. I try to do everything to the best of my ability. In my personal life, I can compromise. But in my professional life, I put all of my soul into fighting and eventually winning.

Q. What kind of satisfaction do you get from your work?

A. It's painful to work with terror victims, because no matter what you try to do to keep yourself out of the picture, it's impossible. You hear all the horror stories, see the photos.... Can you imagine how many times I needed to see photos taken by the police after a terror attack? It's very hard regardless of how strong a person you are.

Yet, I obviously get tremendous satisfaction when I score victories against groups who are trying to kill Jews. As a result of some of my lawsuits, we have achieved the freezing of assets—assets that otherwise would be helping to finance terror. Some of the plaintiffs are in the process of collecting. Now other families can follow in this path. By doing this legal work, I am helping terror victims to fight back, to seek justice and to make sure that what happened to them will not happen to others. **JA**