



שורת הדין (ע"ר)

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September 6, 2020

Mrs. Fatou Bensouda, Chief Prosecutor
Office of the Prosecutor
International Criminal Court
The Hague, Kingdom of the Netherlands

Dear Mrs. Bensouda,

1. Almost two years ago, we submitted a communication to your office on behalf of Israeli farmers in Southern Israel and 50,000 civilians worldwide, requesting you to investigate the Palestinian "Balloon Bomb terror": the repeated release by Hamas and other armed groups of thousands of kites and helium balloons, carrying explosives and incendiary devices, into Israel from the Gaza Strip.
2. These highly planned and synchronized attacks, carried out by designated Palestinian "units," have caused extensive destruction and appropriation of property. The attacks were wanton, unlawful and not justified by military necessity. The devastation of civilian property and the natural environment are self-evident: thousands of acres in forests, natural reserves, and agricultural fields were burnt into ashes and turned into dust, crops were lost, trees set on fire, wildlife suffered a terrible impact, and civilian property in many towns and villages was damaged.
3. These attacks indiscriminately target civilians, specifically the most vulnerable - children: Children have found incendiary and explosive devices attached to balloons, some even in their back yards.¹ Balloon Bombs have landed in schools and kindergartens, or their proximity². Some Balloon Bombs were even equipped with booby-trapped children's toys³. In many cases, the Balloon Bombs were disguised as party balloons, luring children to touch them⁴.

¹ For example, I24, [Israeli child finds explosive device from Gaza in backyard of family home](#) (18 Feb. 2020).

² See, for example, Times of Israel, [Flaming balloon from Gaza lands in preschool near children at play](#) (17 July 2018).

³ Matan Huri, [The Toys Terror](#), *Yediot Aharonot* (Hebrew), 2 Oct. 2018.

⁴ Steve Hendrix, Hazem Balousha and Ruth Eglash, ['I love you': Gaza militants are targeting Israel with bombs disguised as party balloons](#), *Washington post* (9 March 2020)

4. While the Balloon Bomb attacks have been publicized worldwide, our Communication provided detailed information on Hamas' leaders' criminal responsibility for these attacks and addressed the issue of the court's jurisdiction, based on their Jordanian nationality.
5. Yet, as apparent from the listed subjects of the intended investigation, as detailed in your request to the pre-trial chamber on the issue of Palestinian Statehood – the 'Balloon Bomb' terror, together with other Palestinian War Crimes, was left outside the scope of your intended inquiry.

We note that the unbalanced choice of subjects for your investigation goes far beyond the issue of the Balloon Bomb terror. For example, while you have decided to investigate the Israeli response to the Gaza border riots, you have ignored many crimes committed by Palestinians over the same period: Between March 2018 and August 2019 there have been 1,932 rockets/mortar bombs fired on civilians, 841 petrol bombs activated, 25 shootings, 128 IEDs, 2,155 fires ignited by arson kites/balloons (updated 2 July 2019) and 8,747 acres of land – farmland, forests, nature reserves – burned⁵.

6. Your decision to grant Palestinians with impunity for these crimes has served as an incentive to continue and escalate the attacks: In the last weeks, the terror balloon is once again striking southern Israel. Hundreds of Balloon Bombs have been sent into Israel, causing tens of fires daily, once again causing damage to agriculture fields, property and the natural environment. The numbers are alarming.
7. The recent attacks on children are especially troubling; On Aug. 13, 2020, Balloon Bombs landed in a children's playground in Kibbutz Ruhama⁶. On Aug. 17, 2020, a Balloon Bomb landed within a kindergarten in the city of Sderot, causing a fire in the kindergarten⁷. The danger for children is so grave that the Home Front Command has written a poem to teach children to beware of "what the wind brings" and how to act in such cases.

We attach the poem to this letter and wonder – does this sounds normal to you?

8. The Palestinian Authority (PA), to which you refer to as a legitimate government of the 'state of Palestine,' has done nothing to fulfill its responsibilities under international law, to stop these attacks, and needless to say – to investigate them.
9. If you believe Palestine to be a state under International Law and/or the Rome Statute, then this status comes not only with benefits, but duties and responsibilities as well. The same applies personally to its leaders, who – according to your position – have put themselves under the jurisdiction of the ICC.

⁵ Israeli Ministry of foreign affairs, [Wave of terror 2015-2019](#)

⁶ 0404, [The Balloon Terror – balloons have landed in a playground in Kibbutz Ruhama](#) (13 Aug. 2020).

⁷ News1, [An incendiary balloon landed in a kindergarten in Sderot and caused damage, there were no children there](#) (17 Aug, 2020).

A government which allows the continuation of War Crimes by its people is, legally, an accomplice to these crimes' commission.

10. In these circumstances, your office's silence and turning of a blind eye to these malicious attacks against Israel are discordant, shedding a shadow of doubt on your self-proclaimed unprejudiced treatment of the situation.
11. Therefore, if you believe the ICC has jurisdiction over the "situation in Palestine", then as our lands burn daily and our children targeted, we call upon you to fulfill your duty to investigate these War Crimes, including the PA officials who are accomplices to these acts.

We would appreciate a prompt reply.

Respectfully,

A handwritten signature in blue ink that reads "Nitsana Darshan-Leitner". The signature is written in a cursive, slightly slanted style.

Nitsana Darshan-Leitner
President, Shurat HaDin Israel Law Center

What Brings the wind?

Written by: Home Front Command Children
Information Officer, LTC (res.) Tali Versano-Eisman

Dry leaves,
Broken branches,
Once,
Even,
The wind has blown my hat,
Far-far away.

And sometimes, the wind brings
Dangerous objects,
That fly across my fence,
They are not mine,
Neither do they belong to a friend.

A ball, a book, or a balloon,
It may be explosives,
In the image of a kite.
If we meet them, a grownup we shall call
And ourselves – we take our distance from.

Besides,
I'm already big and know,
That a suspicious object – you must not touch
So after we took distance, and the danger is gone
We can come back,
Enjoy and play

The IDF Home Front Command
Logo



(the song can be found on Judah Ari Gross – Israel Hayom military correspondent on
Twitter and at <https://honestreporting.com/tag/terror-balloons/>)