Israeli farmers travel to Hague, file war crimes complaint against Hamas

September 3, 2018

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The Jerusalem Post

<https://www.jpost.com/Arab-Israeli-Conflict/Shurat-Hadin-files-war-crimes-complaint-against-Hamas-for-fire-kite-terror-566370>

A group of Israeli farmers traveled to The Hague in the Netherlands on Monday and filed a war crimes complaint with the International Criminal Court (ICC) against top Hamas officials for what they called fire kite terrorism during the Gaza border crisis.

The complaint was drafted by Shurat Hadin-Israel Law Center, and co-signed by the farmers and some 50,000 concerned individuals worldwide. It is part of an effort to turn the tables on Israel’s critics who have accused the IDF of war crimes for killing approximately 170 Palestinians during the crisis.

The complainants called on ICC prosecutors to investigate alleged war crimes committed by Hamas leaders Khaled Mashal, Saleh al-Arouri and Zaher Jabarin.

More specifically, the complaint requested a probe of Hamas’s alleged orders to use arson kites and other mechanisms of terror to breach Israel’s border and murder civilians, as well as to torch thousands of acres of agricultural land.

Along with the complaint, the group protested on Monday outside ICC offices accompanied by a photo exhibit of fields destroyed by the incendiary kites and damage done by mortars and rockets.

Shurat Hadin wrote that since the recent Gaza border conflicts began on March 30, Israeli farmers have suffered hundreds of thousands of dollars in losses from the destruction of residential property, farmland and crops targeted by Hamas.

“These farmers and their families have endured the daily barrage of incendiary devices launched from Gaza, as well as the trauma of the incessant attempts to invade Israeli communities and murder civilian men, women and children in their homes,” the NGO wrote.

Alleging that Mashal, Arouri and Jabarin and Hamas’s military wing directed the terrorist campaign, Shurat Hadin said an ICC probe would find “blatant violation of the Rome Statute (Articles 8 (2) (c) (viii) and 28), which prohibits the murder of non-combatants, the destruction of civilian property for unlawful purposes, and the use of civilians as human shields.”

It quoted a Hamas-affiliated group as saying: “Allah willing, [the incendiary devices] will light up and burn fields and houses.”

Moreover, the complaint said, “Hamas transported civilians to the border for the purpose of burning 10,000 tires and throwing gasoline bombs, as well as openly issued propaganda videos advising civilians that the purpose of burning tires was to mask the movements of its armed militants, who had been directed to murder Israeli civilians.”

Traditionally, crimes against humanity have been regarded as mass murder. But the ICC prosecution has also declared that in certain circumstances, destroying property can also be considered a crime against humanity.

The complaint also details several individual incidents in which armed Hamas combatants, sometimes with explosives, breached or tried to breach the border with Israel and set fire to fields or sought to attack civilian villages.

Israeli experts have argued that attempts to purposely target civilians, whether with rockets or other weapons, are war crimes.

According to the complaint, Mashal, Arouri and Jabarin “face command liability for the criminal actions of Hamas because they, along with other persons not within the jurisdiction of the court, exercise effective control and responsibility over them.”

The three specific Hamas leaders were also named because each of them has Jordanian citizenship, and Jordan is a member of the ICC.

In contrast, Hamas leaders who are not Jordanian citizens are not listed in the complaint, as Shurat Hadin supports Israel’s legal position that there is no “State of Palestine” – meaning Palestinians without additional relevant citizenships cannot be investigated by the ICC.

Despite this position, the ICC prosecution recognized Palestine in January 2015, and since then has been probing the 2014 Gaza war, the settlement enterprise and ongoing violence between Israel and the Palestinians.

According to Shurat Hadin director Nitsana Darshan-Leitner, “For many months, Israeli farmers have endured thousands of destructive arson attacks and rocket fire from Gaza, while the world stood by in silence.

“Amazingly, Hamas, which has orchestrated this campaign of terror... accuses Israel and the IDF of utilizing excessive force. We are demanding the ICC put an end to this hypocrisy and diligently investigate these Palestinian war crimes. The Rome Statute, which the Palestinians so cynically signed, cannot serve as a one-sided shield for Hamas’s murderous terrorism,” she added.

In addition to the incendiary kites, Shurat Hadin said that since May, Hamas and other Gazans have targeted civilians with 250 rockets or mortars fired into Israel.