

- 1. The Israeli Democratic Bloc, Public Benefit Corporation** [REDACTED]
- 2. Zulat – Equality and Human Rights, Registered Association No.** [REDACTED]
- 3. Movement for Fair Regulation, Registered Association No.** [REDACTED]

Represented by Counsel Michael Sfard and/or Snir Klein and/or Einat Gayer, all of 12 David Hachmi St., Tel Aviv 6777812; Tel: [REDACTED]  
[REDACTED]

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- 1. Attorney General**
- 2. State Attorney**
- 3. Israel Police**

Represented by Counsel from the State Attorney's Office, Ministry of Justice, Salah a-Din St., Jerusalem

- 4. Israeli Jewish Channel Ltd., Corporation No.** [REDACTED]

44 Tzela Hahar, Modi'in, Israel

## **Petition for Order Nisi**

**This is a petition for an order nisi in which the Honorable Court is requested to instruct Respondents 1-3 to give reasons why they should not immediately open a criminal investigation pursuant to Section 59 of the Criminal Procedure Law [Consolidated Version], 5742-1982 (hereinafter: Criminal Procedure Law), on suspicion that repeated statements aired on Channel 14 (Respondent 4) constitute incitement to genocide, incitement to violence, and incitement to racism.**

## Table of Contents

|   |           |
|---|-----------|
| <b>A. Introduction .....</b>  | <b>3</b>  |
| <b>B. The Facts .....</b>   | <b>5</b>  |
| I. The Parties .....  | 5         |
| II. The Alleged Offenses .....  | 6         |
| III. Exhaustion of Remedies .....   | 15        |
| <b>C. The Legal Argument .....</b>  | <b>17</b> |
| I. The Normative Framework.....   | 17        |
| i. Suspected Crimes of Incitement in the Broadcasts of Respondent 4.....        | 17        |
| ii. The Duty to Investigate Under Israeli Law.....                              | 28        |
| iii. The Duty to Investigate Under International Law .....                      | 31        |
| iv. The Criminal Liability Arising from the Allegations .....                   | 33        |
| II. Grounds for Intervention.....   | 35        |
| i. Failure to Investigate: Breach of Legal Duty and Extremely Unreasonable..... | 35        |
| <b>D. Conclusion.....</b>   | <b>37</b> |

## A. Introduction

**“The power of the media to create and destroy fundamental human values comes with great responsibility. Those who control such media are accountable for its consequences.”**

(Media Case, Prosecutor v. Nahimana (Ferdinand) and others, Case No ICTR-99-52-T, Judgment and sentence, (December 3, 2003), Paragraph 945)

(In “The Media Trial”, also known as the “Radio Rwanda Case”, the International Criminal Tribunal for Rwanda convicted media figures of incitement to the genocide that occurred in the country)

**[...] Now, it really must be total annihilation. Don’t be afraid, say, of words like humanitarian disaster [...]”** (Itamar Fleischmann, on the program The Patriots, Channel 14, and posted on Channel 14’s Twitter account, November 26, 2023);

**[...] We must bomb indiscriminately. We are making a distinction, and that’s not a good thing [...] I think. I said this yesterday, and I’ll say it again, perhaps the Air Force should work a little bit harder and not distinguish between involved and uninvolved [...]**

(Yaakov Bardugo, Channel 14 commentator, news broadcast November 2, 2023);

**[...] and we will come to destroy [emphasizes] you. D-E-S-T-R-O-Y. Destroy. Pass it on. Spread this video so all your friends can see what we’re about to do to you [...]**

(Shay Golden, on the program Israel This Morning, Channel 14, October 17, 2023);

[Following the screening of the video showing the kidnapping of the Bibas family]  
**[...] Facing this thing - destroy, kill, and obliterate. Burn the houses, destroy the infrastructure, I hope this entire area in Khan Yunis, if the IDF is already present there, is burned to the ground, so there is nothing but ashes** (Itamar Fleischman, on the program Riklin & Co., Channel 14, February 19, 2024);

**... and Gaza is Amalek, and the Amalekites must be eradicated [emphasizes] and therefore Gaza is commanded to be destroyed because there is something bad there [...] You’re looking at people, expel the people. But Gaza, as it is today, must be destroyed**

(Shimon Riklin on Riklin & Co., Channel 14, February 11, 2025).

1. On October 7, 2023, Hamas and other terrorists launched a brutal attack on the Western Negev, and massacred its residents. The war crimes and crimes against humanity perpetrated by Hamas against innocent civilians in Israeli communities are unfathomable and unforgivable. The systematic slaughter of civilians - children, women, seniors and men, the abduction of civilians and soldiers as hostages, the sexual violence, physical abuse and desecration of human remains have left Israeli society in a state of deep mourning, profound sorrow, and understandable rage. The trauma inflicted on Israeli society will take years to heal.

2. Beginning immediately as night fell on that terrible Saturday, explicit, blunt calls for murder, mass killing, and extermination of Gaza's civilian population, and at times even all Palestinians or all Arabs, began airing on Channel 14, which is available in every home in Israel. Heard from various speakers on the channel, including hosts, regular panelists, and recurring guests, this rhetoric persisted as days and weeks went by, shaping into a consistent and unrelenting pattern of blatant, overt incitement that cannot be interpreted in any other way.
3. Such statements were made on the channel's programs almost every day and every night, such that even a casual viewer would almost inevitably be exposed to systematic and blatant incitement to violence, racism, and even genocide.
4. **The undersigned had great difficulty selecting which of the hundreds of inciting statements calling for crimes that should shock the human conscience, to quote at the opening of this petition. For a year and a half, Channel 14's broadcasts have regularly featured assertions that "there are no innocent people in Gaza," that it is necessary "to exterminate," "to erase," and, as some of the more merciful put it, "to expel" its population. For a year and a half, Channel 14's broadcasts have fed the Israeli public with a portrayal of Gaza's residents as "animals" that must be "exterminated."**
5. **If this rings familiar to those acquainted with the history of anti-Semitism, that association is not accidental. It is inevitable. The statements broadcast on Channel 14 are not only shocking, they are also disturbing and shameful. The undersigned, Jewish lawyers born and raised in Israel, never imagined that their professional path would lead them to a moment that requires them to sift through hundreds of statements broadcast by a major media outlet in the country defined as the national home of the Jewish people that constitute blatant, abhorrent incitement to commit crimes against an entire group of humans. We did not believe that persistent incitement to genocide could occur in a country that was established in the wake of the Holocaust and signed the International Convention on the Prevention and Punishment of the Crime of Genocide immediately upon its founding. We did not believe that from a nation long victimized by vicious racism will emerge those who would so brazenly and so widely incite racism against others. Working on this case was not easy for us, and this petition will not be easy to read.**
6. The scope and deliberate pattern of the incitement broadcast on Channel 14 since October 7, as reflected in the hundreds (!) of inciting statements it aired, only some of which have been documented by Petitioners, is blood-curdling. A television network available in every single home in Israel, watched by soldiers and officers operating on behalf of the State of Israel in Gaza, has become a machine for incitement to war crimes, violence, and racism.
7. The sheer number of inciting statements uttered on the channel's broadcasts, their repetitiveness, and their content, which includes blunt, explicit calls for acts of violence and mass killing, are extreme even relative to other inciting statements made in the Israeli public sphere after October 7.
8. **Channel 14 has, quite literally, become a platform for incitement to war crimes, crimes against humanity, and even genocide. The pattern emerging from The channel's broadcasts since October 7 is unmistakable. Hundreds of statements, with striking consistency, were aired. They were uttered by the figures most closely identified with the channel, without reservation or (with extremely rare exceptions) any opposing opinion being presented. Instead, in most cases, most speakers in the studio actively reinforced and supported these inciting statements in a dynamic of mutual escalation. All this indicates this is an editorial line deliberately adopted and promoted by the channel, and as such, warrants an exhaustive investigation.**

9. Despite the gravity of the statements and the fact that they were fully documented, Petitioners' complaints and appeals to Respondents have so far been met with inaction and glaring indifference. Many months went by as the appeals were passed from one authority to another, with each Respondent shirking their responsibility and refusing to discharge their legal duty to launch an investigation and pursue the suspected offenses.
10. The State of Israel is obligated to enforce the law and investigate suspicions of rampant incitement (in the case at hand, the suspicions concern the most heinous incitement imaginable, including **genocide**, which under Israeli law carries the strictest punishment available). This obligation is firmly rooted in Israel's domestic law. However, beyond this, Israel is also bound by an order of the International Court of Justice instructing it to take enforcement action against parties engaging in incitement to genocide, delivered by a majority of 16 to 1, including the ad hoc judge appointed by the Government of Israel, former President of the Supreme Court Aharon Barak:
 

The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip

(Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Order of 26 January 2024, I.C.J. Reports 2024, p. 192, Paragraph 86(3)).
11. Therefore, this petition is hereby submitted, in which we respectfully request that the Honorable Court instruct Respondents to take the action they are legally obligated to take and to open and conduct an exhaustive investigation of the suspicions as soon as possible.
12. We wish to emphasize that in this petition, as in the complaint that was filed, Petitioners point to **the totality of the inciting statements as a whole project in which a major media outlet is engaging**. This petition does not concern any specific statement that may merit investigation and for which the person responsible should be held accountable, but rather an **aggregate** of statements that amounts to an editorial line, a whole that is greater (and graver) than the sum of its parts. Petitioners believe that the scope and frequency of the inciting statements on the channel indicate, as stated, an editorial line that goes beyond the individual speakers and specific statements. The investigation, therefore, must consider the matter as a whole and examine the liability of officeholders within the channel, as well as the channel's liability as a corporation.
13. For this reason, the corporation that produces and broadcasts Channel 14's content and holds the license for television broadcasts (under The Second Authority for Television and Radio Law, 1990) has been formally named as a respondent. This respondent represents the entire channel's apparatus, including its employees, editors, and directors. However, the investigation we demand should not focus on the corporation but lead to those responsible for the dangerous campaign of incitement described in this petition and detailed below.

## B. The Facts

### I. The Parties

14. Petitioner 1, the Israeli Democratic Bloc, is an organization registered as a public benefit corporation, which conducts research, public and educational work, monitors social media discourse and more, to protect democratic values in Israel.

15. Petitioner 2, Zulat – Equality and Human Rights, is a registered non-profit organization established in 2020 to strengthen human and civil rights in Israel and promote policies of equality and human rights. Zulat operates as a policy research institute, analyzing and making information accessible in the parliamentary, social, and educational arenas on issues related to defending human rights and fundamental democratic values.
16. Petitioner 3, the Movement for Fair Regulation, is a registered non-profit organization working to protect civil rights, among other issues, by promoting and upholding professional ethics in the media.
17. Respondent 1 is the Attorney General, who oversees law enforcement in Israel.
18. Respondent 2 is the State Attorney, the head of the State Attorney's Office, who has the authority to approve investigations into offenses with particular sensitivity, and specifically offenses that touch on freedom of speech.
19. Respondent 3 is the Israel Police, responsible by law to investigate suspected criminal offenses.
20. Respondent 4, Israeli Jewish Channel Ltd., is a private corporation that produces and broadcasts Channel 14 under a license granted by the Second Authority for Television and Radio.

## **II. The Alleged Offenses**

21. Beginning on the terrible night of Saturday, October 7, 2023, Channel 14 began broadcasting statements that constitute flagrant and grave incitement to commit genocide, crimes against humanity, and war crimes against the residents of Gaza and occasionally against Arabs in the West Bank as well. In addition, frequent statements were made that constitute incitement to violence and incitement to racism against the aforementioned groups. These statements were reiterated by hosts and panelists on Channel 14's programs, as well as by guests chosen for interviews on the channel. These statements were made on Channel 14's programs almost every single day and every evening, as evident in the examples detailed below.
22. It is important to emphasize that many of the speakers are regular panelists and even hosts on Channel 14 programs, while others are guests invited to the channel's programs precisely because of their extreme and provocative opinions and for the purpose of expressing them on air.

**\*\*\* A table compiled by Petitioners containing approximately 250 statements broadcast on Channel 14, or (in just a few cases) uploaded to Channel 14's social media accounts or to its stars' accounts, is attached and marked as Exhibit 1. All emphases in the statement transcripts, as well as text in square brackets, were added by the undersigned.**

**\*\*\* We note that Petitioners have in their possession a digital copy of the table, which includes links for viewing the videos. Petitioners will submit a portable drive with a copy of the (numerous) videos to the Court upon request.**

23. We wish to note that some of the statements documented in the Exhibit constitute the offense of incitement to genocide, violence, or racism, per se, or at minimum, provide grounds for suspecting incitement offenses, as stated. In other words, these are distinct statements which, even when examined separately from the broader statement corpus, may amount to a criminal offense in terms of content and publication circumstances.
24. On the other hand, some statements might not have amounted to a criminal offense had they been considered separately - had each statement been a stand-alone statement aired on Channel 14's broadcasts. This is due both to the potentially vague meaning of each statement when considered

separately, and the potential danger inherent in a single statement and free speech considerations that may prevail in these circumstances. However, the corpus of statements indicates that they are neither singular nor exceptional, but rather reflective of an editorial line, statements reiterated and repeatedly broadcast by Channel 14. Given these circumstances, even statements which arguably might have been considered too vague to establish criminal liability had they been isolated and divorced from the sequence of statements made on Channel 14, the context of its broadcasts and the messages it repeated, these statements do have criminal implications arising from the entirety of the broadcasts. Similarly, repetition of the statements amplifies their destructive potential. As detailed below, the statements cannot be divorced from the entirety of Channel 14's broadcasts, and they should be examined against this backdrop.

25. For example, the statement “There are no innocents in Gaza,” perhaps the most consistent message in Channel 14’s broadcasts, repeated day and night for the past 19 months, takes on a particularly deadly meaning amid the bitter war and given the fact that thousands of soldiers fighting in the Gaza Strip watch the channel. It is pernicious also because it is repeated in conjunction with calls for “**total annihilation**,” in response to the October 7 massacre, as well as calls to “**destroy, kill, and obliterate**,” to “**exterminate the rats**” and so on and so forth.
26. We also note that the compilation of statements provided in the Exhibit includes statements that do not amount to a criminal offense (even in light of the entirety of the statements as stated). Nevertheless, they may shed light on the prevailing tone of the channel’s broadcasts and assist in understanding the meaning of other statements as they are perceived by Channel 14’s viewers.
27. Below, we present several examples of statements broadcast on Channel 14 that give grounds to suspected offenses of incitement. We note that the complete database of statements recorded by Petitioners contains dozens of similar statements. For the sake of brevity, we provide a small selection of examples to illustrate the matter.
  - (1) On November 1, 2023, Itamar Fleischmann, a Channel 14 star, said the following on the channel’s flagship program, The Patriots:

[...] A war of survival means that there are things, certainly as a Jew, that when done to our people, that if we don’t respond to with total annihilation [emphasizes] – total! Absolute! No matter what – we have no right to exist [...]
  - (2) At 7:00 PM on the day of the massacre in the Western Negev, Shimon Riklin, another Channel 14 star, host of the show Riklin & Co. and publicly perceived as synonymous with the channel, posted the following on his Twitter account: “**Gaza should be wiped off the face of the earth.**” This tweet received approximately 69,000 views and some 2,000 likes.
  - (3) That same evening, Shimon Riklin published another post, in which he asked the following: “**Say. Why do we even have an atomic bomb?**” This post received over 156,000 views. We emphasize that Channel 14’s stars have social media accounts that gain power and exposure thanks to their television personas on Channel 14, and vice versa, including Riklin: Channel 14 is gaining popularity and exposure thanks to the presence of its stars on social media, where they promote the channel’s programs. Thus, the statements that they post on social media are unmistakably linked to Channel 14.
  - (4) On February 19, 2024, Riklin & Co panelist Itamar Fleischmann said the following on the show: “**Destroy, kill, and obliterate. Burn the houses, destroy the infrastructure, I**

**hope this entire area in Khan Yunis, if the IDF is already present there, is burned to the ground, so there is nothing but ashes [...]"**

- (5) On October 10, 2023, former MK Moshe Feiglin appeared on the channel's morning show and made the following remarks, with host Shay Golden agreeing and endorsing:

**[...] If three days after this horrific massacre [...] there is anything left standing in Gaza [...] and Gaza is not Dresden at this very moment – a firestorm! – all of Gaza! [...] Then the meaning is that we've learned nothing [...] and we must all demand this and only this [...]**

- (6) On November 26, 2023, while the first hostage deal was being carried out, and a ceasefire was still in place, Itamar Fleischmann made the following remarks, which echo darker times in history. We note that Channel 14 posted these remarks on its Twitter account as well.

**[...] There will be victory here on one condition: Provided that the Jews destroy the anti-Semitic rats who did these things [...] Now, it really must be total annihilation. Don't be afraid, say, of words like humanitarian disaster. Whoever does something like this, a humanitarian disaster is the best thing he can get from us. And we need to take this energy from these days, raise [...] with an intensity that they never imagined, and simply exterminate them so that no one dare do such a thing [applause].**

- (7) Mr. Fleischmann made similar remarks several days earlier, on November 23, 2023, on The Patriots:

**They're always talking: 'What if there's a humanitarian disaster?' A humanitarian disaster in Gaza wouldn't be such a disaster. It isn't a disaster. That's not even a bad thing at all. It's even good for them to remember that this thing happened [applause].**

- (8) Mr. Fleischmann also said the following during a program aired on February 21, 2024, calling to use starvation as leverage against the civilian population: "**[...] I also think that the more humane solution is to starve them. Okay? [...] And so, in my opinion, the Israeli interest is starvation in Gaza and a humanitarian disaster in Gaza [...]"**
- (9) On February 25, 2024, Shimon Riklin made the following statements on his program: "**[...] If Gaza has to be destroyed – we destroy it. If they must be made to suffer – we make them suffer [...]"**
- (10) Later on the same program, panelist Eli Yossian made the following remarks justifying the bloodshed of the civilian population in Gaza: "**Riklin, are 100 terrorists being eliminated every day? [...] There are two and a half million terrorists there!"**

- (11) On October 12, 2023, Channel 14 star and host of its flagship program The Patriots, Yinon Magal, posted a video on his Twitter account showing numerous bombs at an Israeli Air Force facility, as a voiceover says, “All of this is going to drop very soon, today or tomorrow, on Gaza.” Magal wrote: “**Annihilate.**”
- (12) On October 13, 2023, Shimon Riklin posted the following on his Twitter account, disguising a call for the extermination of Gaza’s residents as a sermon about a biblical story (emphases added):

**Israel demands that the entire population between the northern Gaza Strip and Gaza Stream evacuate. Gaza Stream is the name of HaBesor Stream near Gaza, and in the Bible, HaBesor is mentioned in the story about Amalek’s destructive raid on the Western Negev, and the taking of many captives. David pursues them, kills them, and frees the captives. And here, the Bible is constantly intertwined with the story of our lives. And like David, we will strike and destroy the Amalekites who live in the area of the Gaza Stream.”**

- (13) Channel 14 host Erel Segal posted similar remarks that same day on his Twitter account: “**There are no innocents in Gaza. Erase any trace of Amalek.**”
- (14) Shimon Riklin made remarks in this spirit recently, on his show on February 11, 2025:

**There is a *mitzvah* [religious edict] to wipe out Amalek [...] and Gaza is Amalek, and the Amalekites must be eradicated [...] and therefore Gaza is commanded to be destroyed because there is something bad there.**

- (15) Still using the same terminology, on December 7, 2023, Yinon Magal published a video in which soldiers sing a song calling to eradicate the descendants of Amalek; the refrain is “There are no uninvolved [civilians].” Magal went so far as to publish the song’s lyrics in full (emphases added):

**I’m coming to conquer Gaza and striking Hezbollah.  
I stick by one mitzvah,  
to wipe out the seed of Amalek  
I left my home behind.  
I won’t return until there is victory.  
Our slogan is familiar -  
There are no uninvolved [civilians].**

This publication is illustrative of the feedback loop between Channel 14’s broadcasts and the soldiers in the field: Channel 14 and its stars provide a platform and encourage the messages they themselves disseminate as they are adopted by soldiers, who are Channel 14’s main target audience. Channel 14 broadcasters often boast about the channel’s popularity among soldiers.

This content was viewed by over 360,000 people (and mentioned in South Africa's lawsuit against Israel, claiming that this publication, along with a series of others, indicate intent to commit genocide, as detailed below).

- (16) On October 15, 2023, a video message from singer Eyal Golan was broadcast on the program Israel at War with Ofer Golan, in which the singer called to "**Completely wipe out Gaza. Don't leave a single person there. It's simply animals.**" The statements were also posted on Channel 14's Twitter account and received more than 450,000 views.
- (17) Gabi Siboni, a regular panelist on Channel 14's programs, made similar remarks on Yaakov Bardugo's show dated February 20, 2025:

**All Gazans are the wicked of the world's nations. It's this nation. "Nation" ... "It's this barbaric group, this mob, and they have not even the slightest right to exist [...] The greatest justice will be when Gaza is cleansed of Gazans.**

- (18) On October 17, 2023, Channel 14's morning show host Shay Golden read this blood-curdling diatribe:

**We are coming. We are coming. We are coming to Gaza. We are coming to Lebanon. We will come to Iran. We will come everywhere [...] We will destroy the enemy. We will destroy the enemy! [Emphasizes] We will take the Middle East back to a situation where the Arabs are mortally afraid of Jews [...] So if we released 1,000 terrorists in return for Gilad Shalit, consider how many of you we are going to kill and what we are going to do to each of you for every one of the 1,300 that you murdered, robbed, raped, humiliated, desecrated, what didn't you do. Numbers you have never seen in the history of the Arab nation! I am letting you know it is coming, in case you're confused. I'm letting you know that it's coming! Numbers that you never imagined were possible. And we are ready for international isolation, and prepared to fight with the United States, and with the entire world and its sister. We will kill as many as needed until all of you, including all your supporters, ascend to meet Allah. Let me be clear: Let me be clear: This is the situation in Israel. That's the sentiment. And if you want to see the Jews in action, you'll soon get what you asked for, you will get it soon. So have fun on social media, write "free Palestine," do all your crying - and we will come to destroy [he emphasizes] you. D-E-S-T-R-O-Y. Destroy. Pass it on. Spread this video so all your friends can see what we're about to do to you [...].**

- (19) On the evening of October 9, 2023, the following exchange between program panelists Erel Segal and Yotam Zimri, both central hosts on Channel 14, was aired on The Patriots, in which they explicitly referred to the fact that not just Hamas should be killed.

**Zimri: [...] All this talk about ‘let’s eliminate whoever participated in it’ is also no longer relevant. The party’s over, Erel, we aren’t punishing for something, we need to end this business.**

[...]

**Segal: I don’t think that only Hamas should be killed. [...] It’s not just about killing Hamas. Every one of the cannibals must die.**

- (20) Similar remarks were also made by Naveh Dromi, a regular Channel 14 panelist, on The Patriots on October 12, 2023: “[...] I want the IDF’s goal to be that in the end, ultimately, there will be children, women, cats and dogs in Gaza.”

- (21) On May 6, 2024, Danny Neumann, a recurring panelist on Boaz Golan’s show said the following, which constitutes patent, explicit incitement against the civilian population in Gaza:

**[...] On the first two days, we should have killed 100,000 Gazans [...] Very few there might be human beings. Very few there might be human beings. Ninety-something percent are terrorists and involved [in combat]! Not uninvolved, there is no such thing as uninvolved [civilians] [...]**

- (22) On October 29, 2023, Mr. Eliyahu Yossian, who presents himself as an academic and commentator on Arab affairs and who has often been given a platform on Channel 14, appeared on The Patriots. He shared his doctrine uninterrupted (his remarks were later posted on Channel 14’s Twitter account):

**[...] There are no innocent people. It’s exactly, when you say ‘population’, there is no population. There are two and a half million terrorists [...] Once there are no innocent people in Gaza, there’s no point in “knock on roof” [issuing a warning prior to attacking]. Because they are all terrorists.**

- (23) On October 14, 2023, Naveh Dromi, a panelist on The Patriots and one of Channel 14’s stars at the time, said the following:

**[...] There are no innocent people. Fleischmann keeps talking about the Nakba. In 1948, they brought the Nakba on themselves. Now they will have a second Nakba, but a real one, to finish Ben-Gurion’s work.**

- (24) Dana Varon, one of Channel 14’s stars, said the following on The Patriots on August 8: “[...] I expected a much higher death toll among Hamas members and among Gazan civilians, all of whom, as we know, are not ‘uninvolved’ [gestures air quotes].”

- (25) In a similar vein, a discussion of the open-fire regulations in combat zones where civilians are present on The Patriots on November 2, 2023, included the following exchange between the program's host, Yinon Magal, and panelist Eldad Yaniv:

**Magal: So what should we do? You see civilians...**

**Yaniv: Open fire! open...**

**Magal: Shoot at civilians?**

**Yaniv: Of course! Of course! They aren't civilians  
[applause]**

- (26) On November 2, 2023, regular panelist and commentator Mr. Yaakov Bardugo appeared on the channel 14 news broadcast and stated the following:

**[...] We must bomb indiscriminately. We are making a distinction, and that's not a good thing [...] Perhaps the Air Force should work a little bit harder and not distinguish between involved and uninvolved [...]**

- (27) On October 9, 2023, Shay Golden delivered a monologue on the morning show advocating for a comprehensive regional military campaign. It included the following remarks, which encouraged removing restrictions from IDF operations:

**[...] The IDF must destroy the enemy, and it doesn't matter who gets hurt along the way! There is no morality. There is no High Court of Justice. There is no Gali Baharav-Miara [the Attorney General]. That is over. On Saturday, this ended. Period.**

- (28) That same day, The Patriots panelist Noam Fathi, said:

**[...] When we see the images of buildings being bombed and the bodies from Gaza, for the first time, I, for one, say, who cares? It isn't enough. It isn't interesting, it needs to be much more powerful.**

- (29) On March 10, 2024, singer Kobi Peretz appeared on The Patriots after an incident in which his performance for soldiers was interrupted because he sang the racist song May Your Village Burn. The following exchange was broadcast:

**Itamar Fleischmann: "I don't know if you are following the news: We're burning their village down, and it's a good thing that we're burning their village down! [Applause]**

**[...]**

**Kobi Peretz: I'll say it everywhere. It isn't just me saying this, by the way, all the soldiers think like me. As my dear friend said, we are not burning their village, we are erasing their village, and we should burn their village. I can say what he can't say [applause].**

- (30) Immediately after these remarks, the participants joked about the number of casualties in Gaza and said the following:

**Magal: [...] I'm just reminding you that Biden set a red line for us, and it's 30,000 Palestinians. 29,900 – he'll let it pass.**

**[Applause]**

**Peretz: What 30,000? Every day!**

- (31) During a special broadcast of The Patriots in the evening hours on October 7, 2023, the program's host Yinon Magal and Eldad Yaniv, then a regular participant, had the following exchange:

**Yaniv: [...] We aren't fighting now over how many Arabs [we are] killing in Gaza...**

**Magal: Why not? Why not? This has huge significance! They need to know that multiplied by... The number should be 600,000, 600,000, times what they murdered on our side.**

- (32) Later in the same program, as part of an exchange between Magal and Shimon Riklin, Riklin spoke in a manner inciting the indiscriminate killing of civilians:

**Riklin: [...] All that remains is for the IDF, the government probably already realizes this, for the IDF to understand that the time has come to act. Take the gloves off! You have permission.**

**Magal: What does that mean?**

**Riklin: It means, first of all, no more knock on roof, and it means no more caring about Gaza's residents more than Hamas does. If there are terrorists there – strike at them even if we hurt civilians there. This means there will be killing! Great killing in Gaza! Terrorists are terrorists. We don't intentionally harm the civilian population, but if, civilians get hurt as collateral damage – don't be sorry! Take down the tall buildings; wreak devastation in Gaza that will make them regret the day they were born!"**

- (33) On August 3, 2024, Yinon Magal gave a tweet by a reserve soldier named Dvir Luger a platform on The Patriots, and read the following:

**The destruction in Gaza makes me feel good. Gaza is in a state of annihilation. Lots of buildings that have disappeared from the landscape. The destruction machine must keep working so it's clear that they have nowhere to go back to. Despair as a work plan.**

This is another illustration of the feedback loop between the channel's broadcasts and the soldiers. The channel provides a platform for soldiers who echo the messages it systematically disseminates.

- (34) Yotam Zimri made remarks in a similar vein on The Patriots on September 16, 2024: “[...] **Destruction is the objective in this war, Gaza should be an uninhabitable place [...].**”
28. The above are only a few examples, an extract of what is stated on Channel 14, day after day, hour after hour, from a record of hundreds of similar statements.

**As stated, a table detailing all statements recorded by Petitioners is attached to the petition as Exhibit 1.**

29. In addition, during the first few months of the war and until May 2024, a webpage entitled Israel is Winning run by Channel 14 and the homepage of its official website displayed a ticker counting the number of Palestinian deaths under the title **Terrorists We Eliminated**. The number relays all Palestinian deaths, which include a significant number of civilians, even by Israel's own account. This indicates Channel 14's official approach is that **all Gaza residents are terrorists and their killing is permitted**. It should be noted that the Israel is Winning webpage, with the ticker, is still live, but seems to have ceased updating.

**Screenshot of Channel 14's Israel is Winning webpage:**



30. An examination and legal analysis of the statements recorded by Petitioners reveals that Channel 14 broadcast **dozens** of statements during this period calling for **extermination** and/or **genocide** or supporting extermination and/or genocide, alongside **many dozens of additional** statements calling for the commission of **war crimes** and **crimes against humanity** or supporting the commission of these crimes. Meanwhile, Petitioners documented repeated, daily statements that included calls to **use starvation as a method of warfare**, as well as statements inciting racism against residents of Gaza and against all Palestinians.
31. These are not just statements that were broadcast in close proximity to October 7, 2023, but statements spanning a long period, even once the storm of emotions that the massacre aroused subsided. In this context, we note that in many instances, statements from early broadcasts, close in time to the event [October 7, 2023] featured a light, even humorous tone, indicating that the words were not uttered out of emotional turmoil.

32. It follows that even a casual viewer of Channel 14 broadcasts is almost inevitably exposed to systematic, egregious, and shameful incitement to genocide, crimes against humanity and war crimes, and, at minimum, incitement to violence and racism by media personalities – some presenting themselves as journalists and all celebrity media and internet influencers - with a platform on a channel available in every home in Israel.
33. Reviewing the content over the course of months and across Channel 14's entire broadcast schedule reveals that this is not merely a slip of the tongue by a random person. Rather, it is an editorial line dedicated to undermining the distinction between innocent residents of Gaza and Hamas terrorists, and encouraging the infliction of physical harm in various creative and sickening ways.
34. **Since October 7, Channel 14 has become a platform for incitement to commit grievous crimes in a manner that necessitates intervention by law enforcement agencies and a criminal investigation, as detailed below.**

### **III. Exhaustion of Remedies**

35. On September 23, 2024, Petitioners contacted Respondents 1 and 2, demanding that they launch an investigation against Respondent 4 over hundreds of statements broadcast on the channel, which raise a concrete suspicion of systematic and ongoing incitement in Channel 14's broadcasting. In their letter, Petitioners emphasized that it is the duty of law enforcement authorities to investigate and prosecute parties engaging in incitement, and particularly parties inciting genocide, including given the State of Israel's obligations before the International Court of Justice and in line with its legal obligations. Petitioners enclosed a database of statements it recorded, containing over 250 statements that raise suspicion of various incitement offenses. We note that, in addition to written transcriptions, Petitioners provided links to each broadcast, allowing the recipients to gain an impression of each remark and the context in which it was made.

**\*\*\* Petitioners' letter dated September 23, 2024, attached hereto and marked Exhibit 2.**

36. We note that an application was also sent on behalf of Petitioners to the Second Authority for Television and Radio on the same date, including a similar detailed account of the statements, arguing that the matter constitutes a violation of Channel 14's franchise terms and therefore requires that Channel 14 be severely sanctioned. To date, no substantive response has been received, and no action has been taken in the matter to the best of Petitioners' knowledge.

**\*\*\* Petitioners' letter to the Second Authority dated September 23, 2024, attached hereto and marked Exhibit 3.**

37. A response dated September 26, 2024, on behalf of Respondent 2 states that the application was transferred to the Office of the Deputy State Attorney (Special Matters).

**\*\*\* State Attorney's response dated September 26, 2024, attached hereto and marked Exhibit 4.**

38. On October 7, 2024, Respondent 1 was provided with an updated copy of the database of statements with revised links to the videos, requiring viewing permission in order to prevent their distribution.

**\*\*\* Online application dated October 7, 2024, attached hereto and marked Exhibit 5.**

39. A response dated October 14, 2024 on behalf of Respondent 1 stated that the application was forwarded to the State Attorney for processing.

**\*\*\* Respondent 1's response dated October 14, 2024, attached hereto and marked Exhibit 6.**

40. In a response dated October 15, 2024, the State Attorney stated that the matter had been transferred to the Office of the Deputy State Attorney (Special Matters).

**\*\*\* State Attorney's response dated October 15, 2024 attached hereto and marked Exhibit 7.**

41. A response dated October 29, 2024, on behalf of the Deputy State Attorney (Special Matters) stated that upon review, it found the application did not merit handling outside of a complaint to the Israel Police, the competent authority for investigating the suspicions. Therefore, it was noted that the option of filing a complaint with Respondent 2 [sic] was open to Petitioners.

**\*\*\* Deputy State Attorney (Special Matters) response dated October 29, 2024, attached hereto and marked Exhibit 8.**

42. We wish to note that this measure was designed to merely delay and postpone the decision regarding whether to open an investigation. State Attorney Guideline No. 14.12 regarding Authorization to Investigate and Prosecute Offenses or Matters of Particular Sensitivity (hereinafter: State Attorney Guideline) states that opening an investigation into incitement offenses requires approval from the competent authority within the State Attorney's Office. Therefore, a decision by Respondents 1-2 is required in the matter regardless, and this is why Petitioners contacted Respondents 1-2 in the first place.
43. Nevertheless, Petitioners complied with the instructions of the Deputy State Attorney and filed a complaint with the police using the online system on December 3, 2024. An application detailing the suspicions, as well as the database of statements, were attached to the complaint.

**\*\*\* Confirmation of complaint and detailed application to the Israel Police dated December 3, 2024, attached hereto and marked Exhibit 9.**

44. As a follow-up, on December 9, 2024, Petitioners contacted the Attorney General, the State Attorney, and the Deputy State Attorney (Special Matters), noting that, in accordance with the response received, a complaint had been filed with the police and an investigation file was opened. Based on the State Attorney Guideline, Petitioners demanded the investigation be approved by the competent authority within the State Attorney's Office as soon as possible.

**\*\*\* Letter dated December 9, 2024, attached hereto and marked Exhibit 10.**

45. As was the case in previous communications, the responses received notified Petitioners that the matter had been transferred among parties in the State Attorney's Office. A response on behalf of the State Attorney dated December 11, 2024, stated that the application was transferred to the Deputy State Attorney's Office (Special Matters), while a response on behalf of the Attorney General dated December 16, 2024, stated that it had been transferred to the State Attorney's Office.

**\*\*\* State Attorney's response dated December 11, 2024, attached hereto and marked Exhibit 11.**

**\*\*\* Attorney General's response dated December 16, 2024, attached hereto and marked Exhibit 12.**

46. Finally, a response on the matter itself was received on December 29, 2024, from the Deputy State Attorney. The response stated that the Deputy State Attorney would address the matter only once the Israel Police transferred the case to him. The Deputy State Attorney's unwillingness to address the matter is evident in this response too, although, as noted, the matter falls under his authority and

purview according to the State Attorney Guideline, and despite the fact that all the materials in the investigation file had been sent to the State Attorney's Office as well, and were therefore already in his possession.

**\*\*\* Deputy State Attorney's response dated December 29, 2024, attached hereto and marked Exhibit 13.**

47. In light of the above, and since this response indicates that the investigation file had not been advanced or transferred to the State Attorney's Office to approve an investigation, on January 6, 2025, Petitioners contacted Chief Superintendent Linor Levy, Commander of the Modi'in Police Station, requesting she advance the investigation file. We note that immediately after filing the complaint, Petitioner 1 was informed in a telephone call that the complaint had been forwarded to the Modi'in Police for processing and, therefore, the application was forwarded to that station.

**\*\*\* Letter to Modi'in Police Station dated January 6, 2025, attached hereto and marked Exhibit 14.**

48. A response on behalf of Police Superintendent Anat Katsav, Head of Investigations and Intelligence at Modi'in Police Station dated January 13, 2025, stated that the Jaffa Police Station was handling the investigation file rather than her station.

**\*\*\* Modi'in Station response dated January 13, 2025, attached hereto and marked Exhibit 15.**

49. After four months, during which Petitioners' applications were transferred from one party to the next and no genuine action was taken toward investigating the grave suspicions detailed in the applications, on January 21, 2025, Petitioners again submitted a Notice before Legal Action to the Deputy State Attorney (Special Matters), Head of Israel Police Investigations and Intelligence, and the Jaffa Police Station Commander.

**\*\*\* Petitioners' letter dated January 21, 2025, attached hereto and marked Exhibit 16.**

50. There has been no response from any of the parties contacted to date. Hence, this petition.

## **C. The Legal Argument**

### **I. The Normative Framework**

#### **i. Suspected Crimes of Incitement in the Broadcasts of Respondent 4**

##### The crime of incitement to genocide

51. The Law on the Prevention and Punishment of the Crime of Genocide - 1950 (hereinafter: The Law) establishes, in Section 3(a)(2) thereof, that incitement to commit genocide is a discrete offense that is subject to the same penalty as the crime of genocide. The Law was enacted shortly after the State of Israel acceded to the Convention on the Prevention and Punishment of the Crime of Genocide, and was designed to incorporate the Convention's provisions into Israeli domestic law, in keeping with Israel's obligations as a party to the Convention (see Explanatory Notes to the Bill for the Prevention and Punishment of the Crime of Genocide, 1949, Bill No. 27 and Bill No. 37, December 14, 1949). It is important to note that the provision of the Law differs from the article in

the Convention. The offense stipulated in the Convention is “Direct and public incitement to commit genocide” (Article III of the Convention on the Prevention and Punishment of the Crime of Genocide, (hereinafter: the Convention or the Genocide Convention)), whereas the provision in the law limits the offense to “incitement to commit genocide” (Section 3(a)(2) of the Law).

52. The Convention, and, accordingly, the Law, stipulate five types of acts that may constitute genocide, if committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group” (Article 1(a) of the Law). The acts are as follows:
  - (1) Killing members of the group;
  - (2) Causing serious bodily or mental harm to members of the group;
  - (3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
  - (4) Imposing measures intended to prevent births within the group;
  - (5) Forcibly transferring children of the group to another group.
53. Section 3(b) of the Law states that the term “incitement” shall be interpreted in light of the provisions of the Criminal Law Ordinance, 1936, which was in force at the time. Notably, neither the Criminal Law Ordinance, which was in effect at the time of the Law’s enactment, prior to the entry into force of the Penal Law, nor the Penal Law itself, contains an explicit definition of the term “incitement.” It should also be noted that the offense of incitement to genocide has not yet been considered in Israeli case law.
54. It follows that in the absence of a statutory definition, the offense should be interpreted in light of the definition and interpretation of other incitement offenses in Israeli law, and also in light of the interpretation and application of the equivalent offense in international law (see CrimA 6322/11 **Alexander Tsvetkovitch v. Attorney General**, para. 18 (November 29, 2012)).
55. The key case discussing the crime of incitement to genocide is known as **The Media Case** (hereinafter also: the Radio Rwanda Case), heard by the International Criminal Tribunal for Rwanda (ICTR). The accused therein were three major figures in the Rwandan media prior to and during the genocide that took place in the country in 1994. Two of the accused, **Ferdinand Nahimana** and **Jean-Bosco Barayagwiza**, were a founder and the director of the RTLM radio station, known as ‘Radio Rwanda’, which broadcast propaganda and incitement against the Tutsis. The third, **Hassan Ngeze**, was the editor of Kangura, a newspaper published at the time, which also printed similar propaganda (Prosecutor v. Nahimana, ICTR-99-52-T (December 3, 2003) (hereinafter: Judgment); Nahimana v. Prosecutor ICTR-99-52-A (November 28, 2007) (hereinafter: Appeal Judgment).<sup>1</sup> The three men were convicted of incitement to genocide, along with other crimes against humanity, and sentenced to long prison terms.
56. In its judgement, the Appeals Chamber held that incitement to genocide was an inchoate offense and did not require proof that the incitement in question did, in fact, lead to genocide. In other words, the offense does not depend on whether a genocide actually occurred, but is rather punishable in its own right (Appeal Judgment, paras. 677-678). Therefore, the Judgment focused on the two elements of the crime, which are public and direct incitement to genocide and intent to incite others to commit genocide (*ibid.*, para. 677).

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<sup>1</sup> In this case, the convictions were based on articles in the ICTR’s statute, which adopted the relevant articles from the Convention on the Prevention of Genocide.

57. Regarding the nature of the publication, the Appeal Judgment instructed that the incitement must contain a direct appeal to commit an act prohibited under the Convention and must amount to more than an ambiguous statement (paras. 692-693). The ICTR drew a distinction between incitement to commit genocide and other forms of hate speech such as incitement to hatred, racism or violence. As stated, the distinction lies in the presence of a direct call to commit an act that constitutes genocide under the Convention. The Tribunal also held that weight must be afforded to the cultural and linguistic context, as well as to the broadcasts as a whole, such that even ambiguous expressions may be considered direct incitement, so long as they are understood as such by the relevant audience (paras. 698-701, 739). In that regard, the Tribunal held that expressions referring to the extermination of the ‘enemy’ or its ‘accomplices’, ‘rebels’, or ‘cockroaches’ as a derogatory term, all constituted direct incitement to genocide, since an examination of the publications as a whole revealed that these terms referred to the entire Tutsi population (paras. 739, 755, and 765).
58. It should be noted that the Tribunal did address the fact that some of the publications were made amid justified, legitimate fear of the Tutsi militia (the RPF), including given an armed insurrection and invasion staged by the organization (para. 737 of the Appeal Judgment). In other words, the conclusion that the statements in question constitute a direct appeal to commit genocide exceeding political statements that would be legitimate in time of war or violent conflict is largely based on the Tribunal’s findings that these statements refer to the Tutsi community as a whole rather than just the armed militia.
59. Additionally, in the Judgment, the trial chamber noted that while there is no requirement for a causal relationship between the incitement and genocide, the potential of the speech to lead to genocide should be demonstrated (para. 1015 of the Judgment). In this context, the ICTR noted that the radio broadcasts repeatedly denigrated the Tutsi population, arousing fear, hatred, and a sense of urgency that encouraged acts of violence. The court also cited the nature of the media, the tone of the broadcasts, their emotional effect and their wide reach as factors indicative of the danger inherent in the incitement, using a description that applies to Channel 14 broadcasts with equal accuracy (para. 1031 of the Judgment):
- [...] radio heightened the sense of fear, the sense of danger and the sense of urgency giving rise to the need for action by listeners. The denigration of Tutsi ethnicity was augmented by the visceral scorn coming out of the airwaves – the ridiculing laugh and the nasty sneer. These elements greatly amplified the impact of RTLM broadcasts.
60. The tribunal also held that the publications’ incendiary content may constitute evidence of the special intent to commit genocide required as part of the offense. The following quote, which appears as if taken from Channel 14 broadcasts, was used to establish intent (para. 961 of the Judgment).
- Let’s hope the Inyenzi [a derogatory term for Tutsi victims of the genocide, the undersigned] will have the courage to understand what is going to happen and realize that if they make a small mistake, they will be exterminated; if they make the mistake of attacking again, there will be none of them left in Rwanda, not even a single accomplice. All the Hutus are united...
61. Similarly, weight was given to the fact that the radio broadcasts included repeated statements calling for the destruction of the Tutsi population, including racist and degrading statements (para. 963 of the Judgment).

62. Furthermore, as part of this examination, publications made or written by others were also considered, with a finding that they could attest to the intentions of the editor in charge of their publication (paras. 564-565 of the Appeal Judgment). As detailed above, in this case, the persons convicted of the offense of incitement to genocide were senior officials in the media organizations that broadcast and published the incitement (radio and newspaper). Their convictions were based on findings about their responsibility and actual control over the publications, even if not uttered by them (*ibid.*, pp. 251-284).
63. In light of the above, there are, at least, reasonable grounds to suspect dozens of statements broadcast on Channel 14 as crimes of incitement to genocide. The statements in question may be divided into two main types:
64. The first type includes explicit calls for massive, widespread killing and the annihilation of Gaza's civilian population. For example, statements Yonon Magal made in a special edition of The Patriots on October 7, 2023: "**They need to know that multiplied by... The number should be 600,000, 600,000, times what they murdered on our side,**" referring to the killing of Arabs generally (for the full exchange see para. 27(31)). Similarly, statements made by Erel Segal in a program that aired on October 9, 2023: "**I don't think that only Hamas should be killed [...] It's not just about killing Hamas. Every one of the cannibals must die**" (para. 27(19)). The same holds true for Gabi Siboni's statements on Yaakov Bardugo's program on February 20, 2025: "**All Gazans are the wicked of the world's nations [...] they have not even the slightest right to exist [...] The greatest justice will be when Gaza is cleansed of Gazans**" (para. 27(17)); and the statements made by Danny Neumann on Boaz Golan's program on May 6, 2024: "**On the first two days, we should have killed 100,000 Gazans [...] there is no such thing as uninvolved [civilians] [...]**" (para. 27(21)); likewise, the statements Shimon Riklin made on his program on February 11, 2025: "**Gaza is Amalek, and the Amalekites must be eradicated**" (para. 27(14)). These statements certainly constitute a direct, explicit appeal to commit genocide as they call for the widespread killing of people belonging to a national group.
65. In addition to the above, many statements call for the **destruction, annihilation, or erasure** of Gaza, in various formulations. For example, Itamar Fleischmann's statements on The Patriots on November 1, 2023, calling for: "**Total annihilation – Total! Absolute! No matter what!**" (See para. 27(1)). Shimon Riklin's tweet from October 7, 2023: "**Gaza should be wiped off the face of the earth**" (para. 27(2)). On October 11, 2023, Mr. Tomer Glam, Mayor of Ashkelon, appeared on the program Yisrael Nilhemet (Israel Fights), and urged: "**Israel has to wipe out Gaza! Leave no trace of them.**" Similarly, on November 1, 2023, MK Kathrin Shitrit appeared on The Patriots and said: "**Justice has to be delivered this way: Mow it down [...] I'm flattening Gaza. I have no sentiments.**"
66. Similar to the publications discussed in the Radio Rwanda case, these statements do not explicitly refer to the killing of a civilian population per se, but rather, this is the implied meaning. Firstly, it arises from the language itself. It is difficult to reconcile statements about "**total annihilation**," "**erasure of Gaza**," or calls to use a **nuclear bomb** with the claim that these refer only to Hamas and/or other terrorist organizations. Secondly, an examination of these expressions in the context of the channel's overall broadcasts shows that they refer to the entire population of the Gaza Strip, and this is how the channel's viewers understand them. These statements cannot be taken separately from the repeated claim made in the channel's broadcasts that no one in Gaza is innocent or racist remarks about all Arabs (detailed below). Therefore, these expressions do constitute a direct appeal to commit genocide, in accordance with the ICTR's findings in the Radio Rwanda case.
67. The second category includes numerous instances in which speakers on the channel called for the cessation of humanitarian aid to the civilian population in Gaza, at times explicitly advocating for the creation of a humanitarian disaster in Gaza. For example, on October 7, 2023, in a special

broadcast, Shimon Riklin stated: “**Don’t give them water. Don’t give them electricity. Let them die there, amen!**” On November 23, 2023, Itamar Fleischman said: “**They’re always talking: ‘What if there’s a humanitarian disaster?’ A humanitarian disaster in Gaza wouldn’t be such a disaster. It isn’t a disaster. That’s not even a bad thing at all.** (para. 27(7)). On February 21, 2024, he added: “**The Israeli interest is starvation in Gaza and a humanitarian disaster in Gaza.**” (para. 27(8)). Similarly, on January 9, 2024, Shimon Riklin called on Twitter to stop supplying food to the civilian population in Gaza. These statements constitute explicit and direct calls to subject the population of Gaza to living conditions that could result in the total or partial destruction of the group, in violation of Section 1(a)(3) of the Law.

68. The substance of these statements, which, as noted, include explicit calls for mass killing, total annihilation, and the creation of a humanitarian disaster, demonstrates an intent to incite others to commit genocide, and even the potential for such statements to lead to genocide. This is further underscored by the circumstances of their publication: the channel has a wide reach and it is present in every Israeli home; the incitement is systematic and frequent, with such statements being broadcast every hour of every day.
69. The prevailing discourse in the channel’s broadcasts, which calls for vengeance and the ‘restoration of Israel’s national honor,’ encouraging and stoking violence, must also be taken into consideration. For instance, on October 13, 2023, Shay Golden stated the following:

**We want our revenge, and that’s not a dirty word. It’s not a dirty word. Demand revenge. Yes, revenge. For the crime that was committed - there must be revenge, Real. Full. Deep. Limitless. Unrestrained. And we expect the government and the army to give us back our deterrence, give us back our honor, give us back our strategic advantages [...] but no less important than that: give us revenge.**

70. Similarly, the channel’s broadcasts feature discourse referring to a “**total war**” against “**the Arabs**,” at times even invoking a rhetoric of “sons of light” versus “sons of darkness,” akin to statements discussed in the judgment in the Radio Rwanda case. This is a further indication of the destructive potential of these publications as well as the intent to commit genocide.
71. This intent can be ascertained from the channel’s broadcasts as a whole, which exhibit persistent and systematic incitement against Gazans and Palestinians at large. These broadcasts propagate the message that this population is inherently murderous and terroristic by nature, and that its members are not innocent. Alongside these incendiary statements, many statements on the channel dehumanize the Palestinian population in Gaza. Epithets such as “**rats**” (para. 27(6)) and “**animals**” (para. 27(16)) have been used, as well as references to a “need” to “**exterminate**” (para. 27(6)) or “**cleanse**” Gaza. In one instance, the very humanity of Gaza’s population was called into question (para. 27(21)). The demeaning and dismissive attitude toward the Palestinian population is also striking, as Channel hosts poke fun at images of IDPs forced to flee their homes or celebrate the scale of destruction in the Strip.<sup>2</sup> All of this creates fertile ground for incitement to genocide and sends a clear message that Palestinians’ lives are inconsequential.
72. The above, therefore, gives rise to reasonable grounds to suspect the commission of grave and ongoing crimes of incitement in Channel 14’s broadcasts, primarily, incitement to genocide. These suspected crimes must be addressed by law enforcement authorities, as detailed below.

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<sup>2</sup> See, e.g. the exchange between Shimon Riklin and Erel Segal on July 8, 2024, included in Exhibit 1.

73. It should also be recalled that the Government of Israel is subject to an order from the International Court of Justice obligating it to take enforcement measures regarding incitement to genocide.

Crimes of incitement to violence

74. Many of the statements broadcast on Channel 14 and documented by Petitioners constitute prohibited incitement to violence, severally, and certainly cumulatively.
75. The prohibition against incitement to violence is set forth in Section 144D2 of the Penal Law, which states as follows:
- (a) Whoever publishes a call to commit an act of violence, or words of praise, sympathy or encouragement for an act of violence, support for such an act or identification with it (in this section – inciting publication), and due to the content of the inciting publication and the circumstances under which it was made public, there is a real possibility that it will lead to the commission of an act of violence, is liable to five years' imprisonment.
- (b) In this section, "act of violence" - an offense that causes a person bodily injury or places a person at risk of death or serious injury.
76. The section, therefore, establishes two cumulative tests. The first is content-based and considers two possible alternatives: a call to commit an act of violence, or the publication of words of praise, sympathy, encouragement, support, or identification with an act of violence. In LCrимA 2533/10 **State of Israel v. Ben Horin** (December 26, 2011) (hereinafter: **Ben Horin**), the Supreme Court clarified that the Law does not rank the two alternatives, and there is no requirement for stricter conditions for a conviction under the second alternative, as long as there is a real possibility of an act of violence occurring under the terms of the section (para. 7).
77. The jurisprudence of the Supreme Court indicates the content test is broad and encompasses a wide range of statements and behaviors, including implied and ambiguous statements (see CA 4753/22 **Yosef Elitzur v. State of Israel**, para. 33 (November 14, 2022) (hereinafter: **Elitzur**)). For example, in LCrимA 67669-08-24 **Yehoyada Sukhi v. State of Israel** (January 2, 2025), the court affirmed the finding that the appellant's actions, which included waving a sign with the word "revenge" while dancing to a song calling for revenge on Palestine, as others around waved signs with the images of persons murdered in the Duma attack in the background, constituted an inciting publication as defined by law and satisfied the elements of the offense (paras. 6 and 23). The case in LCrимA 5906/22 **Nachum Shalom Ariel v. State of Israel** (December 5, 2022) (hereinafter: **Ariel**) centered around a person convicted of incitement to violence over a publication in which he claimed there was no halachic (Jewish legal) prohibition against killing a soldier. In that case, the court ruled this was not a theoretical matter but a statement that could not be interpreted as anything other than a call to violence as defined in the law (para. 9). In LCrимA 7669/15 **Raed Salah Mahajna v. State of Israel** (April 18, 2016) (hereinafter: **Salah**), the court deliberated the conviction of the leader of the northern faction of the Islamic Movement for incitement to violence in a sermon he delivered. The court rejected the argument that the phrase "intifada," which he used in the sermon, should be understood in its literal sense, "awakening," ruling that the phrase had become synonymous with violent protest and, therefore, the statements should be considered an inciting publication (para. 32).
78. Furthermore, case law shows that, unlike in other contexts, political expression does not receive special protection in terms of the applicability of the incitement to violence offense (**Ariel**, paras. 25-26; CA 5991/13 **Elitzur Segal v. State of Israel** (November 2, 2017), para. 7 of Justice

Vogelman's opinion). The same applies to artistic expression (CA 4419/19 **State of Israel v. Darin Tatur** (September 25, 2019)).

79. The second test provided for in the law is a probabilistic test of the real possibility that the publication would lead to an act of violence. In **Ben Horin**, the Supreme Court noted that this test is more lenient than tests adopted in statute or case law with respect to other offenses that restrict freedom of expression, holding that this was justified given the importance of the protected value of preventing violence, which lies at the core of the offense (para. 6). The court also held that in order to assess the likelihood of an act of violence occurring, it must consider the case as a whole, including factors such as the identity of the party making the publication, the public climate, the type of violence in question, the size of the group exposed to the violence, the scope of the publication and its target audience, the context of the publication, its location, and the medium used (para. 7). The court also found that the potential act of violence whose likelihood is to be assessed need not be identical to the act mentioned in the publication (*ibid.*).
80. A review of the case law shows that, in assessing the possibility of a publication leading to an act of violence, significant weight is given to the situation prevailing at the time the statements were published and to public sensitivity that may more readily lead to violence. So, in **Salah**, the court referred to the fact that the appellant was a well-known and influential figure, who made the statements "at a time when the streets of Jerusalem [...] were in turmoil" (para. 35). In **Ariel**, too, the court noted that the statements were published at a sensitive time "when security forces were evacuating illegal buildings in Yitzhar" (para. 9). Similar considerations were raised in **Elitzur**, which concerned words of praise for 'price tag' attacks "at a time when tensions were high in Yitzhar and its vicinity following the murder of their neighbor-friend" (para. 15).
81. An examination of the database of statements aired on Channel 14 in light of the above indicates that dozens of statements broadcast on the channel constituted prohibited incitement to violence, or, at best, raise suspicions of said offense. Due to space constraints, we will present paradigmatic examples of these expressions below.
82. In many instances, speakers on the channel called for the annihilation or erasure of Gaza, in a manner that constitutes a call for violence against all residents of Gaza, including the innocent civilian population. Thus, on October 7, 2023, Shimon Riklin posted the following tweet on his Twitter account: "**Gaza should be wiped off the face of the earth.**" (para. 27(2)). Later that evening, he added: "**Say. Why do we even have an atomic bomb?**" (para. 27(2)). So too is Eyal Golan's statement from October 15, 2023, which was broadcast on the channel and posted on its Twitter page, "**Completely wipe out Gaza.**" (see para. 27(16) above). On The Patriots edition of November 1, 2023, Itamar Fleischman called for, "**Total annihilation – Total! Absolute! No matter what**" (see para. 27(1)).
83. These statements are inextricably linked to the message resonating through all the channel's broadcasts and repeated by countless speakers that, "there are no innocents in Gaza." The overtone is a call for the killing of Gaza's entire population, as detailed above.
84. In some cases, the message was explicitly articulated, for instance, by MK Kathrin Shitrit on The Patriots edition of November 1, 2023: "**We need to do justice, and justice needs to be done in this way: Mow it down [...] I'm flattening Gaza. I have no sentiments. Because there is no distinction between the murderers of women, the murderers of children, and 'Gaza's citizens'** [gestures air quotation]." Erel Segal was even more direct on the October 9, 2023, edition of the program: "**I don't think we should just kill Hamas. It's not just about killing Hamas. Every one of the cannibals must die.**" (see para. 27(19) above). Another example from The Patriots is the statements made by Dana Varon on August 8, 2024, expressing her expectation for mass killing,

including of civilians (see para. 27(24) above). Varon added: “**There could have been more killing in Gaza, and it could be finished faster, for our soldiers’ sake.**”

85. In many other cases, speakers called for the removal of all restraints on military operations in Gaza, even at the cost of disproportionate harm to the civilian population, and at times even justified such harm, implying a license to kill Gaza’s residents. In some cases, speakers called directly to abandon all legal and moral rules they depicted as tying the hands of the military and its fighters. For example, on the evening of October 7, 2023, Shimon Riklin urged: “**First of all, no more knock on roof, and it means no more caring about Gaza’s residents more than Hamas does. If there are terrorists there – strike at them even if we hurt civilians there. This means there will be killing! Great killing in Gaza!**” (see para. 27(32)). Noam Fathi, a regular panelist on The Patriots, said on October 9, 2023: “**When we see the images of buildings being bombed and the bodies from Gaza, for the first time, I, for one, say, who cares? It isn’t enough. It isn’t interesting, it needs to be much more powerful.**” (see para. 27(28)). Similarly, Yaakov Bardugo called on November 2, 2023: “**Bomb indiscriminately.**” (see para. 27(11) above). On January 1, 2024, Eliyahu Yossian said: “**As long as we are working off an ethical code and universal values and The Hague - we won’t be able to win.**” On The Patriots, on June 22, 2024, Yinon Magal reported 42 civilians had been killed in Gaza in the targeted killing of a senior Hamas official. The audience, with his encouragement, applauded. Magal went on to say: “**Finally, this army is behaving morally. This is morality from the military [applause]. This. Finally, a code of ethics that will eliminate these people. As far as I’m concerned, there can be 500 civilians there. Yes, this is moral!**”
86. A similar pattern is evident in numerous calls by Channel 14’s personalities to ease (or, in effect, abolish) the rules of engagement, which amount to a call for disproportionate harm and even the killing of civilians, as explicitly stated in some of the remarks. These statements go beyond the Gaza arena and the fighting taking place there. For example, on The Patriots on October 9, 2023, panelist Yotam Zimri stated: “**I say that if someone throws a stone in Huwarah, they should get a bullet to the head. We’re done with this story that we ‘contain’ it [...] It’s over. I’m telling you, for me, in my view, if someone hands out candy, they get shot.**” Host Danny Neumann made similar remarks on May 15, 2024: “**Death not for those who throw, but for those who raise their hand! As soon as a hand is raised in the air, they should get a bullet. A bullet to the head and to the heart.**” On April 17, 2024, referring to the northern border, Itamar Fleischman explicitly called for the killing of journalists: “**It’s not just fighters over there. There are journalists too, with cameras, pointed at our side. In my opinion, by the way, they are legitimate targets and should be taken out. No one comes to our border with a camera.**” Another example is Eldad Yaniv’s remark from November 2, 2023, that civilians located in combat zones should be shot (see para. 27(25) above).
87. These are clear examples of inciting publications as defined in the law, since they typically involve explicit calls to commit acts of violence against residents of Gaza and Palestinians more broadly.
88. Moreover, these statements are likely to result in acts of violence, given the overall circumstances of their publication and their content. **Channel 14 is a popular media outlet whose viewership has increased significantly since the start of the war. It is now the second most-watched TV channel in Israel.**<sup>3</sup> Its popular programs, such as The Patriots, where many of the aforementioned statements were made, are watched by hundreds of thousands of viewers every evening. The

<sup>3</sup> See, e.g.: “Channel 14: Average Rating in Past Six Months Jumped 50%”, **The Seventh Eye**, March 10, 2024, available at <https://www.the7eye.org.il/512337> (Hebrew); “Shot Up and Levelled Off: Channel 14’s ratings during peak viewing hours remained stable in the last half of the year at approximately 6.5%,” **The Seventh Eye**, available March 9, 2025, available at <https://www.the7eye.org.il/545712> (Hebrew).

channel's popularity has turned its hosts and regular panelists into celebrities with substantial influence and status in Israeli society and hundreds of thousands of followers on social media. The wide reach of these statements and the status of the speakers are factors that indicate a real likelihood that the calls for violence broadcast on the channel will fall on eager ears and lead to acts of violence, whether against Gaza's civilian population or Palestinians in the West Bank and within Israel (given the pervasive incitement to racism in the channel's broadcasts, which includes sweeping statements about Arabs in general, as detailed below).

89. The channel prides itself on being particularly popular among IDF soldiers, and its stars provide a platform for messages they receive from soldiers on the front lines who watch them and respond.
90. It is important to note that the sheer number and frequency of calls for violence on the channel's broadcasts further heighten concerns that actual violence may result. In other words, this is an indicator of the risk inherent in each statement considered individually, given the multiplicity of the statements and their cumulative effect. The channel has effectively legitimized a violent, incendiary discourse, thereby sanctioning violent acts and increasing the risk of their actualization. Therefore, these statements cannot be examined in isolation from the overall context of the channel's broadcasts.
91. Adding to these points, the aforesaid statements were broadcast in the year following the Hamas massacre of October 7, a time of deep mourning, profound sadness, and burning anger for Israeli society. The current climate, likely the most sensitive and volatile in Israel's history, in the midst of which Israel is engaged in a war against Hamas in Gaza, presents a heightened risk of incitement being acted upon, as has often been found by the courts.
92. Finally, the content of these statements also indicates a genuine risk of spurring actual acts of violence. Any such examination should, undoubtedly, be made on a case-by-case basis, considering the specific statement and its circumstances. However, from an overall perspective, and in light of the examples detailed above, it can be said that the statements made during panel discussions on the channel are not limited to theoretical commentary on the military's conduct, but rather include explicit calls for acts of violence that go far beyond legitimate journalistic reporting, commentary, or criticism.
93. It follows, therefore, that the statements broadcast on Channel 14 raise, at a minimum, a strong suspicion of incitement to violence.

#### The crime of incitement to racism

94. The prohibition on publishing incitement to racism is set forth in Section 144B of the Penal Law, which states:
  - (a) Whoever publishes anything with the intent to incite to racism shall be liable to five years' imprisonment.
  - (b) For purposes of this section, it is immaterial whether the publication actually led to racism, or whether it was truthful.
95. Section 144A defines "racism" as:

Persecution, humiliation, degradation, a display of enmity, hostility or violence, or causing discord against a public or parts of the population, all due to color, racial affiliation or national ethnic origin.
96. The offense of incitement to racism was extensively deliberated in CrimA 2831/95 **Rabbi Ido Alba v. State of Israel** (September 24, 1996) (hereinafter: **Alba**). The case centered on a publication by

the appellant, “exploring religious edicts regarding the killing of a gentile,” for which he was charged with publishing incitement to racism and encouraging violence under Section 4(a) of the Prevention of Terrorism Ordinance, 1948, which was in force at the time. A majority of the justices on the expanded panel agreed that the publication, which asserted it is permitted, and sometimes obligatory, to harm non-Jews, constituted incitement to racism, and its content indicated the required intent for a conviction (para. 30 of Justice Mazza’s opinion). The court also held that while the publication did refer to Gentiles in general, its content and circumstances clearly indicated the intent was to incite against Arabs (ibid., para. 29). The justices were, however, divided on several theoretical questions.

97. First, there was disagreement on whether a publication that is innocent in itself and not inherently racist can satisfy the requirements of the section. The question arose since the section refers to “publishing anything,” without requiring that the publication be racist *per se*. Justice Mazza found that content free of racism may still satisfy the factual element of the offense if it is published with the “intent” to incite to racism (ibid., paras. 22–24 of his opinion). In contrast, President Barak held that incitement to racism must be expressed in the published text as it is to be understood, given the language used and the circumstances (ibid., para. 2 of his opinion). It should be noted that this question does not arise in the matter at hand since the publications in question are inherently racist and therefore certainly satisfy this element of the offense under President Barak’s approach as well.
98. Another question on which the justices were divided, which may be relevant to the matter herein, was whether the offense includes an objective probability component, requiring proof that the publication is, in fact, likely to incite to racism. The majority opinion was that the answer is negative, partly due to the absence of a probability test in the wording of the section (see, e.g., para. 34 of Justice Mazza’s opinion; Mordechai Kremnitzer, “The Alba Case: An Investigation into a Racial Incitement Law,” 30(1) *Mishpatim* 105, 142 (1999) (Hebrew) (hereinafter: **Kremnitzer**)). It appears that this position has become established in case law (HCJ 2684/12 **Movement for Tolerance in Religious Education v. Attorney General** (December 9, 2015) (hereinafter: the Tolerance Movement case), see paras. 9 and 15–19 of Justice Joubran’s opinion). Beyond what is strictly necessary, it is noted that the statements published as part of Channel 14’s broadcasts which constitute incitement to racism, as detailed below, are, given their content and circumstances, almost certain to incite to racism (see paras. 80–84 above, as the circumstances of publication are also relevant in this regard).
99. Another question left open for further consideration in **Alba** concerned the applicability of the foreseeability doctrine as a substantive substitute for the element of intent in the offense of incitement to racism (**Kremnitzer**, 126–136). It should be noted that even if this question may be relevant to an indictment, and certainly a conviction, it is not relevant to the opening of an investigation, which is the issue herein. For example, in **Alba**, Justice Mazza held that the racist content of the publication constituted *prima facie* evidence of the presence of the intent element (**Alba**, para. 28), and *a fortiori*, the publication itself is sufficient to establish reasonable suspicion.
100. Accordingly, below are examples of statements published on the channel’s broadcasts that constitute incitement to racism, or at least raise suspicion of the offense of incitement to racism. Several recurring types of statements can be identified.
101. The most frequent statement, repeated dozens of times in the channel’s broadcasts by various speakers, to the point where it nearly became axiomatic, was: “there are no innocents in Gaza.” For example, Erel Segal tweeted on October 13, 2023, “**There are no innocents in Gaza. Erase any trace of Amalek**” (see para. 27(13)). Similarly, Eliyahu Yossian said on The Patriots on October 9, 2023, that, “**There are no innocent people. It’s exactly, when you say ‘population’, there is no population. There are two and a half million terrorists**” (see para. 27(22)). Avner Avraham also said in a special broadcast on December 18, 2023, that, “**There is no such thing as uninvolved in**

**Gaza. Gaza should be punished for a long time.”** On January 9, 2024, Shimon Riklin tweeted: “**All of Gaza is Hamas. The artificial separation between civilians and Hamas that Blinken is trying to push on us is stupid.**” These statements constitute incitement against Palestinian residents of Gaza by casting the entire population as terrorists and, therefore, legitimate targets (for this reason, in at least some of the cases, the statements are also suspect as incitement to violence).

102. It should be noted in this context that the definition of the term racism in Section 144A of the Penal Law, as mentioned, includes “Persecution, humiliation, degradation, a display of enmity, hostility or violence, or causing discord against a public or parts of the population, all due to color, racial affiliation or national ethnic origin.” In **Alba**, Justice Mazza noted that this section should not be interpreted literally, and that the term should be interpreted in light of the purpose of the law, which is “to protect every person and every human group” (**Alba**, para. 15; see also para. 66 in the Tolerance Movement case). Therefore, incitement against residents of Gaza clearly fits the definition of incitement on the basis of national-ethnic origin.
103. Furthermore, in many instances, speakers on the channel used generalizations about the entire Palestinian population, attributing acts of terrorism and violence collectively. For example, on October 9, 2023, Yotam Zimri said, “**There’s no difference [...] between Huwarah and Gaza. The bloodlust toward Jews is for the same Jewish blood [...] Our war is not against Hamas and not against the Palestinian Authority. It’s against the Palestinians and the lust for the murder of Jews. And until they all understand, in whatever way, that it will not pay off and that they will pay with whatever it takes—this struggle will not end.**” Naveh Dromi made similar remarks on the same day: “**The people responsible for this pogrom are the Palestinians. It’s the entire entity, whose identity and existence depend on the fight against us.**” Dromi added: “**I do not see this as Hamas, I see this as Palestinians.**” On June 20, 2024, Yotam Zimri said: “**Hamas is the Palestinian people [...] and so those who need to be defeated are the Palestinian people.**”
104. In other cases, speakers employed racist rhetoric against Arabs, often by describing them as murderous and bloodthirsty, and advocating for the use of force in order to “speak to them in their own language.” In a tweet posted on October 12, 2023, Erel Segal attributed “**murderous perversions**” to the residents of Gaza and called for revenge. On the same day, Yinon Magal advocated for denying Gaza humanitarian aid, offering as justification a statement attributed to Naomi Shemer [prominent Israeli songwriter, now deceased], “**Arabs like their blood hot and boiling.**” On the same day, Erel Segal said, “**It’s impossible to get along with these animals... only by force. Only by force.**” Similarly, on October 10, 2023, former MK Feiglin, who had multiple appearances on the channel’s programs, called for unrestrained action in Gaza, in part to send a deterring message to Arabs in the West Bank and Israel as well. Feiglin said: “**The Arabs are the same Arabs [...] the culture is the same culture, and it does not matter if it is in Jaljulia or Gaza.**” Similarly, on November 7, 2023, the Channel aired the following exchange between MK Avichay Buaron and Shimon Riklin:

**Buaron: [...] Here they are, proving it’s stronger than them; that they can’t help but harm Israel; that they can’t help but come in and slaughter babies, rape women, and cut people’s heads off. Because ‘that’ is what they are.**

**Riklin: Amalek!**

**Buaron: [...] It’s not just a religious fight. It is a cultural fight. [...] The sons of light or the sons of darkness. And in this fight [...] who lives and who dies, we’re committed to life.**

**Riklin: Well said.**

105. Similarly, the channel broadcast many statements that dehumanized the Palestinian population of Gaza. For example, on November 26, 2023, Yotam Fleischman referred to Gazans as “**anti-Semitic rats**” and called for their extermination. In many other cases, speakers referred to all Gazans or Palestinians as “**animals**.” On May 6, 2024, Danny Neumann went so far as to cast doubt on the humanity of Gaza’s population (see para. 27(21) above).
106. Degrading and contemptuous rhetoric aimed at Palestinian civilians is also apparent. For example, on the show Riklin & Co., on July 8, 2024, Shimon Riklin and Erel Segal celebrated the expulsion of the civilian population from the northern Gaza Strip. As footage of IDP convoys that included women and elderly people was shown on the screen, Riklin said: “**I’m watching this, and I’m delighted.**” Prior to these comments, the channel aired the footage of the IDPs while playing the song Harbu Darbu, which features the lyric: “**A bunch of rats, fuckers, coming out of the hole.**” Similarly, on May 27, 2024, Yinon Magal tweeted an image of a fire that broke out in a Rafah IDP camp following an Israeli attack, in which dozens of civilians were killed, adding the caption: “**The central bonfire this year in Rafah**” (a reference to a Jewish holiday celebrated with bonfires).
107. On December 9, 2023, referring to images of civilians detained by the army in handcuffs and underwear, Yotam Zimri said: “**These, in my view, are images that aren’t just good for the soul but good for the psyche,**” even though he did go on to clarify that many of the detainees were innocent civilians who were later released. Similar language was used by Yaki Adamker on February 10, 2024, when talking about scenes of hunger in Gaza: “**I do not think anyone in the State of Israel, in the Land of Israel should feel sorry for these Gazans, not for the adults, not for the elderly, not for the young, and not for the children [...] The Gazans? For all I care, let them starve to death. What do I care about them? Why should we [...] care about the Gazans?**”
108. The above, therefore, indicates that these statements, as well as many others consistently and repeatedly broadcast on Channel 14, constitute incitement to racism, or, at best, give rise to a reasonable suspicion that such offenses were committed. These publications exhibited enmity, hostility and even violence toward the population of Gaza in its entirety, based on national-ethnic origin. It should be noted that the fact that these statements were published during a time of war between Israel and Hamas in Gaza does nothing to legitimize such expressions. The courts have ruled that racist rhetoric “is illegitimate even where bitter dispute, deep differences, anger and hatred are present” (**Salah**, para. 9).

**ii. The Duty to Investigate Under Israeli Law**

109. The obligation of an investigative authority to launch an investigation whenever an offense is suspected is set forth in Section 59 of the Criminal Procedure Law [Incorporated Version], 5742-1982, which states:

In the event that the police become aware of the commission of an offense, whether through a complaint or by any other means, it shall launch an investigation. However, in the case of an offence other than a felony, a police officer with the rank of Chief Inspector or higher may instruct that no investigation shall be opened if he believes the overall circumstances to be unsuitable for an investigation, or if another agency is legally competent to investigate the offence.

110. The Supreme Court has ruled that the duty of the police to investigate arises whenever the initial evidentiary foundation establishes reasonable grounds to suspect a felony has been committed (HCJ 8987/22 **The Movement for Quality Government in Israel v. Knesset**, para. 64 (January 2, 2025); HCJ 3921/20 **The Movement for Quality Government in Israel v. Attorney General**, para. 69 (July 22, 2021) (hereinafter: **Movement for Quality Government**). The court has also ruled that the evidentiary bar for ‘reasonable grounds to suspect’ is minimal (**Movement for Quality Government**; HCJ 5023/16 **MK Miki Rosenthal v. Attorney General**, para. 9 (March 12, 2020) (hereinafter: **Rosenthal**)).
111. As detailed above, in the matter at hand, there is a substantial evidentiary foundation for suspecting incitement offenses in the channel’s broadcasts, and certainly enough to meet the bar of ‘reasonable grounds’ required for launching an investigation.
112. In addition to the evidentiary foundation, investigations into offenses that are particularly sensitive or related to freedom of expression, including incitement, require the approval of the State Attorney’s Office, as prescribed in the State Attorney Guideline. It should be noted that incitement to racism and incitement to violence are listed in Sections 1D and 1E of the State Attorney Guideline, respectively. The Guideline is, however, silent on the offense of incitement to genocide. Nevertheless, given the inherent sensitivity, and since the Guideline refers to offenses “closely related to the realm of freedom of expression,” below we refer to an investigation of all listed offenses collectively.
113. The State Attorney Guideline does not set criteria for launching investigations into the listed offenses. Therefore, this decision should be considered subject to the general considerations outlined in case law as relevant to the decision to open an investigation, including the severity of the offense, the circumstances of its commission, and the harm involved, alongside cost-benefit considerations associated with launching an investigation (**Rosenthal**, para. 9).
114. A comprehensive review of all relevant factors reveals a compelling public interest in investigating the suspicions in the case at hand, given the scope of the statements suspected as incitement offenses, as well as their pervasiveness, repetitiveness and severity, including, as noted, explicit calls for violence and murder against an entire population. The duty to investigate these suspicions also arises given the wide distribution of the statements and the channel’s broadcasts, and the significant potential harm involved in these publications. **Inaction from investigating authorities in the face of such statements could be interpreted as legitimacy for the violent and racist discourse that is gaining traction in Israeli society.**
115. Moreover, refraining from opening an investigation in this case, where there is a significant body of particularly egregious statements, will inevitably bind the hands of law enforcement authorities in future cases where similar suspicions may arise, as it would negate a defense against claims of selective enforcement. This will effectively render the prohibition on incitement a dead letter, especially in relation to serious cases of systematic and organized incitement.
116. Action by law enforcement authorities to investigate these suspicions are particularly critical at this time, when following the horrific massacre on October 7 and the subsequent war in Gaza, statements of the sort on which the petition herein focuses have become increasingly prevalent in Israeli public discourse and have often been uttered by members of Knesset and senior government officials. In this context, the remarks of Justice S. Joubran in the Tolerance Movement case (para. 12, emphasis added) are relevant:

The foul winds of racism and hate blowing across our country lead to ever more frequent outbursts of racial and religious violence. Racist speech is heard not only in the back alleys or from those representing

“extreme fringes,” but also from public figures and politicians considered to be part of the mainstream of Israeli society (Yuval Karniel, “Racism, Media, and Defamation - Is it Okay to Call a Racist a ‘Nazi?’” Hamishpat 11, 409, 434 (2007) (hereinafter: Karniel)). **In the current public climate, where incitement to racism and violence has become commonplace, there is a clear need for the authorities entrusted with law enforcement to resolutely stand guard and assist in eradicating this scourge.**

117. In this context, it should also be noted that as early as October 15, 2023, about a week after October 7, the State Attorney green-lit investigations into offenses of incitement to terror and identification with a terrorist organization without prior approval from the State Attorney’s Office, contrary to the State Attorney Guideline as noted.<sup>4</sup> This policy resulted in the arrest of dozens of Arab citizens and residents following social media posts, which, in many cases, did not constitute an offense. In some instances, severe violence was used during the arrest.<sup>5</sup>
118. This does not imply that this policy of investigating incitement to terrorism offenses is justified, or that it should, heaven forbid, be applied in other cases of incitement offenses, but merely that given these hasty steps, which led to enforcement action against individuals for isolated social media posts, Respondents’ failure to discharge their duty and open an investigation where evidence points to systematic and ongoing incitement in Channel 14’s broadcasts is all the more glaring.

### **The Duty to Investigate Promptly and Without Delay**

119. In addition to the duty to investigate offenses brought to the attention of law enforcement authorities, the parties conducting the investigation in practice are obligated to do so as soon as they become aware of the suspected offenses and proceed expeditiously. This duty is not merely technical, as delays and slow progress severely undermine the investigation’s efficacy.
120. These points are well known and clear and, in fact, require no supporting authority or citation. Nevertheless, we will recall that in HCJ 5817/08 **Aramin v. Attorney General**, para. 10 (July 10, 2011), the panel sharply criticized the conduct of law enforcement authorities in the matter therein, in part due to the delay in opening the investigation, which ultimately led to its failure. Honorable Justice Arbel addressed the tremendous importance of opening an investigation immediately after the offense occurs:

Precisely given the restraint this Court exercises regarding decisions whether or not to prosecute, the importance of conducting an exhaustive investigation immediately following the event is all the more pronounced.

121. These principles apply to any offense whatsoever. The effectiveness of the investigation is compromised the more time elapses from the commission of the offense. A speedy investigation into the offenses that are the subject of this petition is also of importance, and the unreasonable

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<sup>4</sup> Ministry of Justice, Office of the Deputy State Attorney (Special Matters), “Amendment to State Attorney Guideline regarding Investigation of Offenses of Incitement and Identification with a Terrorist Organization, in the wake of the Swords of Iron war,” October 19, 2023. Available here: [https://fs.knesset.gov.il/25/Committees/25\\_ci\\_bg\\_3441852.pdf](https://fs.knesset.gov.il/25/Committees/25_ci_bg_3441852.pdf) (Hebrew)

<sup>5</sup> In this regard, see: Association for Civil Rights, “Cancellation of the State Attorney Guideline entitled Approval of Investigation and Prosecution of Particularly Sensitive Offenses or Matters and the Urgent Need to Restore State Attorney’s Office Oversight,” October 18, 2023. Available here: [https://fs.knesset.gov.il/25/Committees/25\\_ci\\_bg\\_3446175.pdf](https://fs.knesset.gov.il/25/Committees/25_ci_bg_3446175.pdf) (Hebrew)

delay that has already occurred and continues now reduces the likelihood of ultimately bringing the perpetrators to justice.

### iii. The Duty to Investigate Under International Law

122. International law requires states to investigate suspected violations of criminal prohibitions set forth therein. This is self-evident, and yet we shall briefly address this matter.
123. International criminal law includes several categories of crimes: war crimes, crimes against humanity, the crime of genocide and crimes of aggression (crimes against peace). In the matter at hand, the repeated and flagrant statements broadcast on Channel 14 raise suspicion of incitement to war crimes, crimes against humanity, and the crime of genocide. Customary international law requires states to investigate allegations of each type of crime. This duty originates both in the broader principles of international law as well as in specific norms.
124. The **principle of complementarity** set forth in Article 17 of the Rome Statute (1998), which is the constitution of the International Criminal Court, governs all categories of crimes; and by establishing that states have the **primary jurisdiction** to investigate, this principle reflects the states' obligation to conduct bona fide, thorough, and professional investigations when international crimes are suspected.
125. In addition, the duty to investigate war crimes is a customary norm in international humanitarian law, enshrined in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949 (Articles 146-147).
126. The duty to investigate crimes against humanity is a customary norm, and intent to codify it has been expressed in the Draft articles on Prevention and Punishment of Crimes against Humanity (2019) adopted by the International Law Commission. Article 3(2) of the Draft articles states:

Each State undertakes to prevent and to punish crimes against humanity, which are crimes under international law, whether or not committed in time of armed conflict.

And Article 8 explicitly states that the investigation of suspicions must be **prompt, thorough, and impartial**:

Each State shall ensure that its competent authorities proceed to a prompt, thorough and impartial investigation whenever there is reasonable ground to believe that acts constituting crimes against humanity have been or are being committed in any territory under its jurisdiction.

127. And, of course, the Convention on the Prevention and Punishment of the Crime of Genocide sets forth the concrete duty to investigate and prosecute perpetrators of the crime of genocide and incitement to genocide (Article 1 – “to prevent and to punish”, and Article 4 – “shall be punished”).
128. In addition to the general obligation to investigate incitement to international crimes, in the particular case of incitement to genocide amid the war in Gaza, there is also an explicit and concrete finding by the United Nations’ highest tribunal, the International Court of Justice. We shall now proceed to this matter.

The duty to investigate suspected crimes of incitement to genocide pursuant to an explicit order issued by the International Court of Justice

129. On December 29, 2023, South Africa filed an application instituting proceedings before the International Court of Justice in The Hague (ICJ) alleging Israel violated its duties under the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter: Genocide Convention) in its operations against the Palestinians in the Gaza Strip.
130. South Africa asked the court to determine that Israel has violated and continues to violate its obligations under the Genocide Convention, in particular its obligation to prevent and punish acts amounting to the commission of and incitement to genocide since October 7, 2023. South Africa also requested the court order several urgent provisional measures against the State of Israel, including a demand that Israel immediately suspend military operations in the Gaza Strip, refrain from taking measures that could amount to any of the acts prohibited by the Convention, and report regularly to the court on the steps taken to comply with the provisional measures it ordered.
131. South Africa's claims in the proceedings are based on Israel's operations during the war in Gaza, which South Africa alleged are intended to bring about the destruction of a substantial part of the Palestinian group. The same applies to the number of civilians killed in Gaza, the humanitarian crisis, and the widespread damage to Gaza City's infrastructure, which has rendered it uninhabitable. South Africa sought to base its claims to establish the intent to commit genocide on a great many statements issued by politicians and military personnel, who, similar to the statements brought forth in the petition herein, called for widespread extermination, killing, and destruction in Gaza. We note that the statements cited by South Africa for the purpose of establishing Israel's special intent to commit genocide included several publications cited also in the petition herein, including Yinon Magal's Twitter post calling to "wipe out the seed of Amalek" (see para. 27(15) above), Eyal Golan's call to "completely wipe out Gaza" (see para. 27(16) above) and MK Kathrin Shitrit's call to "mow down" and "flatten" Gaza (see paras. 65 and 84 above).
132. With regard to these statements, the State of Israel argued, *inter alia*, that they were an unrepresentative collection of decontextualized quotes of statements made in the wake of the October 7 events and amid the emotional turmoil that ensued.<sup>6</sup> Further, Israel claimed that the spirit of these statements does not represent Israeli society and the Israeli public, and that Israel is governed by the rule of law and thus obligated to prosecute - and does so - when statements call to harm civilians intentionally and exceed the bounds of freedom of speech. Israel's representative, Deputy Attorney General for International Law, Attorney Gilad Noam, made these arguments in a hearing before the Court on January 12, 2024:

But our legal system knows how to draw a line between statements that may be troubling, and even obscene, but fall within the right of freedom of speech in a democratic society, and those statements which go beyond that right. As the Attorney General reaffirmed publicly recently, any statement calling for intentional harm to civilians contradicts the policy of the State of Israel and may amount to a criminal offense, including the offense of incitement. (pp. 73-74)

133. On January 26, 2024, the ICJ delivered its decision in the matter of South Africa's request for provisional measures, ordering several, the third of which is relevant to the matter at hand, as it instructs Israel as follows:

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See, for example, minutes of the hearing dated January 12, 2024, pp. 72-74. Available here:  
<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240112-ora-01-00-bi.pdf>

**The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip.<sup>7</sup>**

134. We note that this measure was supported by 16 of the judges on the panel that heard the case, including Justice **Aharon Barak**, who was appointed on behalf of the Israeli government (Justice Barak objected to other measures ordered, wherein Israel was instructed to take all possible measures to prevent acts that fall within the definition of genocide in the Genocide Convention). This is not surprising, given that Israel itself stated that it would investigate and prosecute anyone expressing themselves in an inciting manner, in accordance with its legal obligations.
135. Additionally, as part of the provisional measures, Israel was required to periodically report to the Court on its implementation of the steps it was ordered to take, including the obligation to apply enforcement measures against such expressions of incitement.<sup>8</sup>
136. Therefore, beyond Israel's broader duty to investigate, in accordance with the general obligations under international law and the Genocide Convention as stated, Israel's duty to investigate statements that constitute incitement to genocide also stems from an express provisional measures order in this matter. In light of the above, as well as Israel's explicit declaration it would investigate and prosecute cases of incitement, it is reasonable to expect Respondents to have seriously and gravely examined any complaint of incitement to genocide. This is particularly true in this matter, when there is an extensive evidentiary foundation for systematic, ongoing incitement brazenly broadcast. Yet Respondents' conduct, demonstrates that talk is one thing and actions another, as demonstrated below.

#### **iv. The Criminal Liability Arising from the Allegations**

137. The scope and frequency of the inciting statements broadcast on Channel 14 indicate an editorial line that goes beyond individual speakers or specific utterances. This is not an isolated extreme case or a mere slip of the tongue. Watching the channel's broadcasts reveals that speakers are rewarded for particularly extreme and provocative statements with applause from the audience, obviously approved and encouraged by the producers. The jocular tone featured on the channel's flagship program The Patriots (as well as others), which normalizes the dehumanization of Palestinians and the mockery of their suffering and death, is the result of a choice made by the network that goes beyond remarks made by any specific host or guest. The same holds true for the legitimacy repeatedly and consistently given in the channel's broadcasts to horrific statements calling for mass murder and extermination, thus turning the channel's broadcasts into a veritable incitement machine. **The above is not confined to any particular speaker and evinces a deliberate choice made by the parties responsible for the channel's broadcasts, whether editors, directors, or even board members and owners, all of whom may be criminally liable for the statements, as the parties with control over the publications and responsible for them.**
138. In this context, it is noted that the responsibility borne by editors and publishers for inciting publications on their media outlets was highlighted in the Media Trial: For example, the Tribunal held that:

... publishers and editors are regarded as equally responsible on the grounds that they are providing a forum and that the owners have “the

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<sup>7</sup> Order of 26 January 2024, South Africa v. Israel, p.25. <https://www.icj-cij.org/node/203447>

<sup>8</sup> Ibid., p. 26.

power to shape the editorial direction...  
(Judgment in the Media Trial, para. 1003)

139. Accordingly, the defendants therein, who, as stated, were founders, chief editors, and directors of media bodies, were held responsible for inciting publications even if they did not personally utter or write them, following factual findings regarding their involvement in the broadcasts and their actual influence on the ideological guiding line (see, for example, paras. 135, 567-568 of the Judgment).
140. Similarly, liability for offenses of incitement to violence and racism is imposed on the “publisher,” which, according to the definition in section 34X of the Penal Law, includes a wide range of behaviors, with an emphasis on dissemination with wide public reach (CrimA 6696/96 **Kahane v. State of Israel**, para. 21 of the judgment of Honorable Justice Goldberg (March 2, 1998)). Therefore, the role of the parties responsible for the channel’s broadcasts may also fall under this definition, thereby imposing criminal liability upon them.
141. Moreover, the inciting publications in question are made under the auspices of the channel, the corporation (Respondent 4). Therefore, the investigation of the suspected offenses should also focus on the liability of Channel 14 as a corporation, rather than on individual liability for specific statements.
142. It should be emphasized that the wildly inflammatory rhetoric on the channel’s broadcasts constitutes an abuse of the license it was granted to use the public resource of broadcasting rights. The severity of the offenses, particularly the reach of the inciting rhetoric, the harm to potential victims, and their contribution to the debasement of Israeli public discourse, directly result from the abuse of this public resource. It appears, therefore, that there is a clear public interest in focusing the investigation on the channel’s liability as a corporation, as a license holder.
143. As is known, assigning criminal liability to a corporation for offenses requiring proof of mens rea relies on the doctrine of organs and section 23(a)(2) of the Penal Law. As established by the Supreme Court, for this purpose, it is first necessary to determine whether the perpetrator is considered an organ of the corporation, whether under the organizational-hierarchical test or under the functional test (CrimA 3027/90 **Modi'in Construction and Development Ltd. v. State of Israel**, para. 14 (August 8, 1991)).
144. In this context, it is noted that at this juncture, prior to the investigation, any discussion of the application of the tests for imposing criminal liability on the corporation remains theoretical, as the investigation has not yet produced information about the involvement of parties in the alleged offenses other than the speakers themselves. The above notwithstanding, it is noted that, even at this early stage, it is reasonable to assume that the party steering the channel’s policy regarding the persistent messaging in its broadcasts and permitting the systematic incitement it broadcasts daily is a position holder who can be deemed an organ of the corporation, especially given the corporation’s nature and roles (see Eli Lederman, “Criminal Liability of Corporate Organs and Senior Officers of the Corporation” (1996) 5 *Plilim* (Israel J Crim Justice) 101 at 105-107). It is further noted in this context that some of the speakers who serve as hosts of the channel’s flagship programs and are widely recognized as the face of Channel 14 may also be considered organs, given their key role in the corporation.
145. Case law further establishes that the imposition of criminal liability on a corporation under the doctrine of organs is also subject to a normative assessment that determines whether such liability attribution is appropriate in light of legal policy considerations. In this context, three auxiliary tests have been formulated in case law (CrimA 99/14 **State of Israel v. Melisron Ltd.**, para. 118 (December 25, 2014) (hereinafter: **Melisron**)).

146. The first test is an examination of whether the statute was intended to exclude the liability of the corporation. The clear trend in case law is that, with the exception of offenses of a distinctly “human” nature, such as bigamy or rape, the statute should be seen as applying to corporations as well (**Melisron**, para. 119 and the citations therein). In the matter at hand, when it comes to incitement offenses, common sense dictates that a corporation that is a broadcasting organization can be seen as bearing criminal liability for the offenses (see also HCJ 399/85 **MK Rabbi Meir Kahane v. Israel Broadcasting Managing Board**, para. 35 (July 27, 1987), which addressed the possibility of the IBA bearing criminal liability for publishing a statement inciting to racism).
147. The second test assesses whether the organ committed the offense in the course of performing its duties, and it appears there is no dispute that this is the case in the matter at hand, given that the actions in question are inherently tied to the corporation’s work (**Melisron**, para. 120).
148. Similarly, it appears that the third test, which examines whether the action was taken for the corporation’s benefit, is also satisfied in the matter herein. This is particularly true given the case law finding that only an act carried out deliberately against the interest of the corporation will not trigger the corporation’s liability, since, in such a case, it is assumed that the organ acted as a private individual (**Melisron**, para. 121).
149. Thus, the circumstances of the suspicions indicate that Channel 14 - as a corporation - may bear criminal liability for the aforementioned incidents of incitement. As stated, this examination is largely irrelevant at the current stage. This is merely a general outline intended to clarify what, in our view, clearly emerges from the suspected acts in aggregate and their scope, namely an investigation in this matter cannot be limited to the speakers alone and must include the channel’s liability as well (see section 7 of State Attorney Guideline No. 1.14 – Prosecution Policy with regards to Criminal Prosecution and Sentencing of a Corporation, which discusses the importance of addressing the corporation’s liability at the investigation stage).
150. Accordingly, it is necessary to investigate the suspicions against the parties responsible for the channel’s broadcasts, including **owners, senior editors, and management**, who may bear criminal liability for the offenses, whether as joint perpetrators, accomplices, or conspirators.
151. Additionally, the speakers themselves may also bear criminal liability for the statements, and therefore, specific suspicions against the various speakers, especially regular speakers to whom many inciting statements are attributed, should also be investigated.

## **II. Grounds for Intervention**

### **i. Failure to Investigate: Breach of Legal Duty and Extremely Unreasonable**

152. Petitioners will argue, in light of all the above, that Respondents’ failure to open and pursue an investigation is an unreasonable omission, and, hence, clear grounds for the Honorable Court’s intervention.
153. As detailed above, for many months Respondents passed Petitioners’ complaint from one party to another, not a single one of which exercised their authority and ordered an investigation as required by law, despite the gravity of the alleged offenses. As noted, this conduct occurred not long after representatives for the state invoked the steadfastness exhibited by law enforcement agencies and their response to expressions that may constitute incitement, including by referring to the statement of Respondent 1 on the matter, even as the order of the International Court of Justice instructing the State of Israel to do everything in its power to prevent incitement to genocide was pending.

154. Moreover, even after Petitioners contacted the police and filed a police complaint as instructed, Respondent 3 failed to discharge its duty and act promptly and diligently to advance the investigation. In fact, it has not yet sought approval to open an investigation, the required first step in accordance with the State Attorney Guideline.
155. It should be clarified that, contrary to the broad discretion afforded to Respondent 1 regarding the decision to open an investigation, Respondent No. 3 is subject to the provisions of Section 59 of the Criminal Procedure Law, which imposes a duty to open an investigation whenever there is reasonable ground to suspect a criminal offence (**HCJ 2644/94 Shimon Perchik v. Attorney General**, para. 3 (July 12, 1994); **Rosenthal**, para. 10).
156. In the matter at hand, there can be no dispute that there is a *prima facie* evidentiary foundation (and much beyond) providing reasonable grounds to suspect a criminal offense has been committed, and it has been duly brought to the attention of the police. The material provided includes a collection of over 200 statements that directly and explicitly call for acts of violence, murder, and extermination, as well as racist and offensive rhetoric that conflates the entire Palestinian public with the heinous acts carried out by Hamas, including degrading and humiliating references that strip the Palestinian population in Gaza and beyond of their humanity. It should be noted that the materials provided to the police contained links to the programs in which the relevant statements were aired, allowing the recipients to gain a direct impression of the remarks themselves and the context in which they were made.
157. The failure to investigate these suspicions is particularly egregious, given that this is not an isolated incident that occurred in the past, nor has its harmful impact ceased. As the statements documented by Petitioners reveal, the incitement aired on Channel 14 was not confined to broadcasts immediately following October 7, but continued for many months thereafter. In fact, some of the documented statements were broadcast very recently, so it can only be assumed that similar statements continue to be made and broadcast on the channel even now. In other words, this investigation is required not “just” for purposes of punishment and deterrence, but also in order to prevent the continued commission of the offense.
158. Furthermore, failure to investigate is not only contrary to an explicit statutory duty, but also undermines a slew of interests related to protecting the public from incitement that poses a real danger of violent acts, as detailed above, as well as the public interest in denouncing racist and violent discourse as a core democratic value.
159. The Supreme Court has long held that battling racism, incitement, and hate is the lifeblood of Israeli democracy, and that this struggle often justifies and even requires restricting freedom of expression, sometimes by means of criminal enforcement (see, for example, **HCJ 399/85 MK Rabbi Meir Kahane v. Israel Broadcasting Managing Board**, para. 33 (July 27, 1987)). On this matter, the remarks of Justice Berenson in **HCJ 392/72 Emma Berger v. Haifa District Planning and Building Committee** (September 19, 1973) are pertinent:

When we were exiled from our country and removed from our land, we became victims among the nations in whose midst we dwelled. Through the generations, we tasted the bitter taste of persecution, harassment, and discrimination solely for being Jews whose faith differed from any other nation's. With this bitter and wretched experience that has penetrated deeply into our national and human consciousness, we might be expected not to follow the gentiles' wicked ways, and as we regain independence in the State of Israel, we must take heed and guard ourselves from any hint of discrimination [...] Xenophobia is a double curse: It corrupts the image of the divine in the hater and brings harm upon the hated for no

fault of his own. We must practice compassion and tolerance for every being created in the image of God and uphold the great principle of equal rights and obligations for all human beings.

160. Similarly, in Election Approval Case 1806/19 **Central Elections Committee for the 21<sup>st</sup> Knesset v. Dr. Ofer Cassif** (July 18, 2019), Supreme Court President E. Hayut cited the remarks made by MK Eliezer Kulas in the Knesset plenum:

Democracy is the ‘motto’ of a nation and its way of life. Democracy must be taught, and democracy must be defended. There is no place for racist incitement in a democracy, no place for racism, no place for harm to any person on the basis of race, religion, nationality, or gender. Racism and discrimination are contrary to the character of a democratic regime and to the character of the Jewish people, who have experienced racism firsthand.

161. The remarks of Honorable Justice Mazza in **Alba** are also relevant:

Racist incitement undermines the State’s image as a Jewish and democratic state. The State of Israel, as a state governed by the rule of law and founded on Jewish and universal moral values, cannot and must not, for its own sake and for its future, tolerate abhorrent racist incitement.

162. The above shows that revulsion at racist utterances is necessarily and inextricably linked to the Jewish people’s historical experience. Given this background, Respondents’ inaction is especially egregious, particularly as the statements in question give rise to suspicions of the grave offense of incitement to genocide. In light of the severity, scope, and systematic nature of the incitement, as well as the central platform on which it was broadcast, law enforcement agencies must take decisive, resolute action, at the very least to examine the suspicions and determine whether there is any substance to them. This is particularly relevant given the pending ICJ order on this very matter, as well as the State’s representatives’ evident pride in their diligent handling of the issue.

## **D. Conclusion**

163. In light of the above, the Honorable Court is hereby moved to issue an order nisi as detailed at the beginning of the petition, and after receiving the response of the Respondent and holding a hearing, make it absolute.
164. The Honorable Court is also moved to issue a costs order against Respondents for expenses and legal fees incurred with VAT and interest as required by law.

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[signed]

Michael Sfard, Adv.

Counsel for Petitioners

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[signed]

Einat Gayer, Adv.