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Submission - Australia's sanctions regime

Introduction

Australia's sanctions policy, when effectively and consistently applied, holds significant potential as a diplomatic and economic tool to promote international justice and human rights. By imposing strategic restrictions on military, technological, and financial resources, Australia can pressure nations and organisations to adhere to international law and uphold human rights.

Despite a robust application of sanctions against Myanmar and Russia, Australia's reluctance to use its sanctions regime against Israel – a country committing the gravest breaches of international law – highlights a concerning double standard. Israel's atrocities and crimes against humanity in Gaza and the occupied West Bank, which have been repeatedly condemned by the International Court of Justice (ICJ), starkly contrast with Australia's hesitant response. The ICJ's recent rulings and orders, which call for immediate action to prevent further atrocities and ensure humanitarian aid access, underscore the urgent need for a decisive stance from Australia.

This discrepancy in Australia's sanctions policy not only undermines the country's credibility and commitment to universal human rights but also perpetuates the culture of impunity that Israel has enjoyed for the past 76 years. As Australia's allies impose sanctions against Israeli individuals and entities involved in human rights abuses, Australia's limited actions suggest a troubling reluctance to align with international standards and peer measures.

To address these issues, this submission calls for a comprehensive reevaluation of Australia's sanctions policy. It advocates for a transparent, consistent framework for imposing sanctions that applies equally to all states, including allies, based on their adherence to international law and human rights standards. Furthermore, it emphasises the need for Australia to broaden its sanctions scope to include not only individual actors but also state institutions and officials complicit in systemic violations. By enhancing its approach to sanctions and engaging more transparently with civil society, Australia can restore its moral authority and effectively contribute to the global effort to uphold justice and human rights.



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About the Australia Palestine Advocacy Network

The Australia Palestine Advocacy Network (APAN) is a member-based organisation formed in May 2011 to provide a national voice to the many thousands of Australians who are concerned about Israel's continuing human rights abuses against Palestinians, and the continuing effects of dispossession and displacement.

APAN's membership base is diverse, taking in grassroots human rights groups, Palestinian and Jewish groups, aid and development agencies, and unions. Individual members come from a variety of backgrounds, including religious leaders, academics, lawyers, former politicians, diplomats and public servants, teachers, medical professionals, and many others.

Our activities and campaigns range from advocacy and political lobbying to community organising, youth training and media engagement, all of it aimed at building greater understanding amongst all Australians – including policy-makers – about the situations that Palestinians face and what can be done about it.

Our movement for Palestinian freedom and justice is founded on principles of equality and human rights. Discrimination in any form is incompatible with our pursuit of justice for Palestinians. We stand in solidarity with our Jewish friends in condemning and combatting antisemitism just as we denounce anti-Palestinian racism, Islamophobia and any other forms of racism, all the while upholding the right of Palestinians to self-determination and freedom.

We acknowledge the connected struggle and strength of First Nations siblings here, and the genocide, dispossession and ongoing harm perpetrated against them as part of the colonising project on this continent. Our fight for Palestinian self-determination, equality, justice and rights from the river to the sea is also a struggle for First Nations recognition, rights, culture and self-determination on what was, and always will be, Aboriginal land.



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Recommendations

- 1. Amend the Autonomous Sanctions Regulations 2011 (Cth) Regulation 6A(4)(a)** to include violations of the right to self-determination; violations of the prohibition on genocide; violations of the prohibition on apartheid and racial segregation; and violations of the prohibition on the acquisition of territory by force, territorial annexation and foreign illegal occupation.
- 2. Amend the Autonomous Sanctions Regulations 2011 (Cth) Regulation 6A** to include a trigger mechanism that responds to and implements the decisions of international courts, including the International Court of Justice, concerning international law and human rights violations.
- 3. Establish and implement a transparent, consistent framework for applying sanctions** that is independent of political, economic and diplomatic considerations to ensure that all states, including allies, are held to the same standards when they commit severe violations of international law, including atrocity crimes like genocide and crimes against humanity like apartheid.
- 4. Immediately impose targeted sanctions on Israel:** In light of the recent ICJ rulings and Israel's continuing and escalating international law violations in Palestine, Australia should impose targeted economic and military sanctions on the Israeli government, key figures, individuals and entities directly involved in or complicit with these violations.
- 5. Broaden sanctions scope** beyond individual Israeli settlers to include Israeli government officials, military leaders, and security forces directly involved in or facilitating the illegal settlement and violence against Palestinians.
- 6. Investigate the systemic failures** that have led to Australia lagging so seriously behind its allies and their deployment of sanctions against Israeli figures and entities responsible for human rights and international law violations in Palestine.
- 7. Match and exceed the sanctions commitments of its allies,** and pursue alliances with other middle powers in order to deploy sanctions, as a means of reinforcing Australia's stance against human rights abuses and enhancing the effectiveness of its measures.
- 8. Establish an independent, transparent and accountable sanctions framework** that centres human rights and international law, capable of deploying sanctions autonomously when necessary to address violations and promote justice.



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9. Commit to proactive engagement by taking decisive action when international laws and human rights norms are breached.

10. Investigate the existing systems and processes in place for encouraging, analysing, considering and responding to community and civil society advocacy and submissions concerning the use of sanctions in relation to Israel's genocide in Gaza and occupation and apartheid in the West Bank, with a view to addressing barriers to effective engagement and ensuring that public input meaningfully informs policy decisions.

11. Commit to active and responsive public engagement for policy-making through formal consultations, ensuring public input is considered and integrated into policy decisions. Address public advocacy and petitions by providing substantive responses and demonstrating how these efforts influence policy.

12. Commit to evidence-based decisions: Base policy decisions on thorough and transparent assessments of evidence, including international expert input and documented violations of international law.



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The Nakba continues – 76 years of Israeli settler-colonial violence, ethnic cleansing in Palestine and impunity before the law

Israel's genocide in Gaza must not be considered a singular event of this particular moment in time, but rather the latest brutal expression of the ongoing *Nakba*, 'the Catastrophe' – Israel's 76-year-long project of settler-colonial violence and ethnic cleansing of Palestine. It began between 1947 and 1949 when Zionist militias and the Israeli military forcibly expelled 800,000 Palestinians from their homes and lands, destroyed 531 Palestinian villages, and massacred more than 15,000 Palestinians to facilitate the establishment of the Jewish-majority Israeli state.¹

For almost eight decades, the ongoing *Nakba* has manifested in Israel's continued oppression of Palestinians through violence, occupation, displacement, home demolitions, arbitrary arrests, discriminatory apartheid policy, siege and starvation.² Gaza has been frequently described as an "open air prison,"³ with Israeli authorities controlling the territory's waters and airspace, the movement of people and goods, the Palestinian population registry and the infrastructure upon which the people of Gaza have relied.⁴

Israel has willfully ignored the law of occupation, which requires that an occupier restores public life for the occupied population, and has instead indefinitely suspended public life in Gaza, with debilitating effects on the population, family and social connections, healthcare and economic opportunity.⁵ In an Advisory Opinion on 19 July 2024 by the International Court of Justice (ICJ), the judges asserted that the continuing illegal occupation and apartheid that Israel enforces must be immediately dismantled.⁶

¹ Al Mezan, (2024). "76 Years of Ongoing Nakba," *Relief Web*, <https://reliefweb.int/report/occupied-palestinian-territory/76-years-ongoing-nakba>

² Al Jazeera, (2017). "The Nakba did not start or end in 1948," <https://www.aljazeera.com/features/2017/5/23/the-nakba-did-not-start-or-end-in-1948>

³ The Guardian, (2009). "Gaza is still an open-air prison, says Sinn Féin's Gerry Adams," <https://www.theguardian.com/politics/2009/apr/09/gaza-sinn-fein-gerry-adams>

⁴ Human Rights Watch, (2022). "Gaza: Israel's 'Open-Air Prison' at 15," <https://www.hrw.org/news/2022/06/14/gaza-israels-open-air-prison-15>

⁵ *ibid*

⁶ International Court of Justice, (2024), "Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem Summary of the Advisory Opinion of 19 July 2024," <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-sum-01-00-en.pdf>



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Turning our mind to the present day, at the time of writing this submission, Israel's Occupying Forces had, since 7 October 2023, killed more than 40,786 Palestinians and injured more than 94,224 people, many of them in ways that will change the course of the remainder of their lives.⁷ There are thousands of people buried under rubble who have not yet been identified, and the indirect death toll resulting from this violence, and its health implications, has been conservatively estimated at approximately 186,000 Palestinians.⁸ That is, eight per cent of the 2.3 million population of Gaza.

As of 31 May 2024, Israel had damaged or destroyed 55% (137,297) of structures in Gaza, including residences, educational facilities, healthcare facilities, cultural sites, mosques, churches, and water, electricity and transport infrastructure.⁹ The UN has said that returning Gaza to its pre-genocide state would take “decades of labour-intensive clearance of rubble, unexploded munitions and landmines.”¹⁰

Israel's forcible displacement of Palestinians has seen about 90% of the 2.3 million population of Gaza uprooted and shunted endlessly from one so-called “safe zone” to another – themselves the targets of repeated and brutal Israeli attacks – during the past 11 months.¹¹ This displacement is, and will be, compounded by the widespread destruction of civilian infrastructure, which “in a sense allow[s] Israeli officials to deny any responsibility for Palestinians leaving their homeland.”¹²

The UN has reported that Israeli forces have detained at least 2,300 – probably more – Palestinians from Gaza since October 2023, holding almost 900 of these people as “unlawful combatants”, a category that does not exist under international law.¹³ Testimonies from medics, whistleblowers and freed detainees, and a recent report by Israeli human rights group B'Tselem, show that Israel is implementing a “systematic institutional policy focused on the continual abuse and torture” of all

⁷ United Nations Office for the Coordination of Humanitarian Affairs, (2024). “Humanitarian Situation Update #212 | Gaza Strip,” <https://www.ochaopt.org/content/humanitarian-situation-update-212-gaza-strip>

⁸ Khatib, R; McKee, M; Yusuf, S, (2024). “Counting the dead in Gaza: difficult but essential,” *The Lancet*, Volume 404, Issue 10449:237-238, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext)

⁹ Salhani, J., (2024). “Genocide, urbicide, domicide – how to talk about Israel's war on Gaza,” *Al Jazeera*, <https://www.aljazeera.com/news/2024/7/3/genocide-urbicide-domicide-how-to-talk-about-israels-war-on-gaza>

¹⁰ *ibid*

¹¹ Agence France-Presse in Geneva, (2024). “About 90% of people in Gaza displaced since war began, says UN agency,” *The Guardian*, <https://www.theguardian.com/world/article/2024/jul/03/about-90-of-people-in-gaza-displaced-since-war-began-says-un-agency>

¹² Salhani, J., (2024). “Genocide, urbicide, domicide – how to talk about Israel's war on Gaza,” *Al Jazeera*, <https://www.aljazeera.com/news/2024/7/3/genocide-urbicide-domicide-how-to-talk-about-israels-war-on-gaza>

¹³ United Nations, (2024). “Deep concerns over ‘inhuman’ detention of Gazans by Israeli authorities,” *UN News*, <https://news.un.org/en/story/2024/05/1150281>



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Palestinian detainees.¹⁴ This has included subjecting detainees to “forced nudity, sexual harassment, threats of rape, as well as torture through severe beatings, dog attacks, strip searches, waterboarding, and denial of food, sleep, and bathroom access, among other cruel practices.”¹⁵

Israel's violations of international law, including war crimes and crimes against humanity in Palestine, persist due to decades of impunity. This cycle of impunity is perpetuated each time a third state, such as Australia, neglects its duty to take action to compel Israel to cease these atrocities and to hold it accountable.

Accusations of Israeli genocide in Gaza have grown stronger and steadier since 13 October 2023, with hundreds of UN experts, international legal experts, genocide and Holocaust scholars and human rights organisations arguing that Israel's actions in Gaza not only pose a “risk of genocide,”¹⁶ or constitute a “plausible case of genocide,”¹⁷ but are, in fact, a “textbook case of genocide.”¹⁸

During this period, two significant reports have underscored the gravity of Israel's actions in Gaza. The first pivotal report was the ICJ's ruling in January 2024, which concluded that Israel faced plausible allegations of genocide in Gaza.¹⁹ The ICJ specifically ordered provisional measures to prevent Israel (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and (d) imposing measures intended to prevent births within the group.²⁰ Without international pressure to compel its compliance, Israel continues to defy these provisional measures.

The second critical report was a March 2024 report, *Anatomy of a genocide*, by Francesca Albanese, the United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. In her report, Albanese meticulously detailed the stages of genocide, emphasising how initial persecution and discrimination can escalate to mass atrocities when

¹⁴ B'Tselem, (2024). “Welcome to Hell: The Israeli Prison System as a Network of Torture Camps,” https://www.btselem.org/publications/202408_welcome_to_hell

¹⁵ United Nations, (2024). “Deep concerns over ‘inhuman’ detention of Gazans by Israeli authorities,” *UN News*, <https://news.un.org/en/story/2024/05/1150281>

¹⁶ United Nations Office of the Human Rights High Commissioner, (2023). “Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide,” *Office of the High Commissioners for Human Rights*, <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>

¹⁷ International Court of Justice, (2024). “Order of 26 January 2024,” <https://www.icj-cij.org/node/203447>

¹⁸ Segal, R, (2023). “A Textbook Case of Genocide,” *Jewish Currents*, <https://jewishcurrents.org/a-textbook-case-of-genocide>

¹⁹ International Court of Justice, (2024). “Order of 26 January 2024,” <https://www.icj-cij.org/node/203447>

²⁰ *ibid*



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unchecked.²¹ Her findings underscored that genocide was a systemic process, often preceded by policies aimed at erasing the identity and presence of targeted groups. She concluded that, “there are reasonable grounds to believe that the threshold indicating Israel’s commission of genocide is met” and that “evidence...suggests Israel has committed at least three of the acts proscribed in the Convention” – namely “killing members of the group,” “causing serious bodily or mental harm to members of the group” and “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”²²

Critically, for the purposes of this submission, one of the report’s many recommendations was for member states to “Immediately implement an arms embargo on Israel, as it appears to have failed to comply with the binding measures ordered by the ICJ on 26 January 2024, as well as other economic and political measures necessary to ensure an immediate and lasting ceasefire and to restore respect for international law, *including sanctions*” (emphasis added).²³

Australia has thus far not only failed to take action to prevent the ongoing genocide in Gaza and hold Israel accountable, but has actively and vocally supported the Israeli Government, refusing to move from its pledge that it “stands with Israel and always will”²⁴ and justifying Israel’s actions as a reflection of its “right to defend itself.”²⁵ This is despite the fact that the recent ICJ ruling has found that Israel’s obligations, as occupying power, “undermine the proposition that Israel’s occupation qualifies as an act of self-defence.”²⁶

²¹ Albanese, F., (2024). “Anatomy of a Genocide: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese,” *Office of the Human Rights High Commissioner*, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>

²² *ibid*

²³ Albanese, F., (2024). “Anatomy of a Genocide: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese,” *Office of the Human Rights High Commissioner*, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>

²⁴ Minister for Foreign Affairs, (2024). “Speech to the Senate - Hamas attacks on Israel - Senate motion, Parliament House,” <https://www.foreignminister.gov.au/minister/penny-wong/speech/speech-senate-hamas-attacks-israel-senate-motion-parliament-house>

²⁵ Minister for Foreign Affairs, (2023). “Doorstop, Adelaide”, <https://www.foreignminister.gov.au/minister/penny-wong/transcript/doorstop-adelaide>

²⁶ International Court of Justice, (2024), “Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem Summary of the Advisory Opinion of 19 July 2024,” <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-sum-01-00-en.pdf>



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Australia has only after almost 10 months of genocide, on 25 July 2024, implemented Magnitsky sanctions and travel bans against extremist Israeli settlers responsible for settler violence in the West Bank,²⁷ despite there being ample precedent of hundreds of these sanctions being applied to Syria,²⁸ Iran,²⁹ Myanmar³⁰ and Russia.³¹

The agreements, tax treaty and memorandums of understanding Australia enjoys with the Israeli Government – including those dealing with its military relationship with Israel – remain intact and unchanged.³² The Australian Government has failed to provide comprehensive public advice or a legal warning to, and failed to investigate, Australian citizens travelling to fight with the Israeli Occupying Forces.³³ Indeed, the most decisive action Australia has taken in regard to the situation in Gaza has been its suspension of funding to support UNRWA to provide desperately needed humanitarian aid to starving Palestinians, a move that former UNRWA chief spokesperson Chris Guinness said made Australia “complicit in a massacre in slow motion” in Gaza.³⁴

These failures are direct evidence of a yawning gap between Australia’s commitments under international law, and the action it is willing to take to prevent genocide. Australia’s unwillingness to act not only perpetuates the systemic causes of genocide referred to by Albanese in her report, but also sustains the impunity the Israeli Government enjoys to this day.

²⁷ Minister for Foreign Affairs, (2024). “Human Rights Sanctions in response to Israeli settler violence in the West Bank,” <https://www.foreignminister.gov.au/minister/penny-wong/media-release/human-right-sanctions-response-israeli-settler-violence-west-bank>

²⁸ Department of Foreign Affairs and Trade, (no date). “Syria sanctions regime,” <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/syria-sanctions-regime>

²⁹ Minister for Foreign Affairs, (2024). “Targeted sanctions in response to Iran’s destabilising activities in the Middle East,” <https://www.foreignminister.gov.au/minister/penny-wong/media-release/targeted-sanctions-response-irans-destabilising-activities-middle-east>

³⁰ Department of Foreign Affairs and Trade, (no date). “Myanmar sanctions regime,” <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/myanmar-sanctions-regime>

³¹ Department of Foreign Affairs and Trade (no date). “Snapshot Russia/Ukraine sanctions regime,” <https://www.dfat.gov.au/sites/default/files/sanctions-snapshot-russia-ukraine-regime.pdf>

³² Tranter, K., (2024). “Australia ‘gone missing’ on preventing genocide,” *Declassified Australia*, <https://declassifiedaus.org/2024/05/17/exclusive-australia-gone-missing-on-preventing-genocide/>

³³ Arraf, R., (2023). “Letter to Minister for Home Affairs, Attorney-General of Australia, Australian Federal Police Commissioner,” *Australian Centre of Human Rights*, <https://acj.org.au/wp-content/uploads/2023/12/2023-12-20-Letter-to-Ausgov-regarding-Australians-in-the-IDF.pdf>

³⁴ ABC News, (2024). “Australia ‘complicit’ in Gaza deaths with suspension of UNRWA funding: Former UN official,” https://www.youtube.com/watch?v=7_2POuw7RH4



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This highlights the need for more robust Australian mechanisms to ensure Australia's sanctions regime is deployed consistently, as part of independent foreign policy that centres human rights and aligns with Australia's obligations under international law, and in response to evidence of international legal violations by states such as Israel.

Rectifying hypocrisy, systemic failures in Australia's sanctions policy: A call for consistency and accountability

Australia's sanctions regime, when wielded consistently and strategically, without bias, fear or favour, and with the protection and promotion of universal human rights as its first and foremost objective, has the potential to serve as a potent diplomatic and economic tool. By strategically limiting access to military or paramilitary goods, and other goods, technologies, and financial resources, Australia can exert significant pressure on nations and organisations to modify their behaviour, comply with international law and uphold human rights.³⁵

Alarming, Australia has refused to use its sanctions regime to address Israel's ongoing violations of international law in Palestine – violations that have spanned decades but have been especially egregious during the past 12 months, as Israel has committed acts widely condemned as genocide in Gaza, and deemed to constitute illegal occupation and apartheid in the occupied West Bank, including East Jerusalem.

This neglect comes even in the face of a recent succession of high-profile, landmark legal rulings that have repeatedly underscored the urgent need for international action. This unwillingness to deploy Australia's sanctions regime to compel Israel to end its genocide and comply with international law becomes all the more troubling given Australia's vigorous application of its sanctions regime in other contexts, such as Myanmar,³⁶ Russia,³⁷ and Iran,³⁸ where it has demonstrated a readiness to impose significant measures in response to severe human rights abuses and violations of international law. The disparity in Australia's approach exposes systemic failings and a troubling double standard in its international policy that undermines the credibility of Australia's commitment to upholding human rights

³⁵ Department of Foreign Affairs and Trade, (no date). "Australia and Sanctions," <https://www.dfat.gov.au/international-relations/security/sanctions/about-sanctions#aims>

³⁶ Department of Foreign Affairs and Trade, (no date). "Myanmar sanctions regime," <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/myanmar-sanctions-regime>

³⁷ Department of Foreign Affairs and Trade, (no date). "Russia sanctions regime," <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/russia-sanctions-regime>

³⁸ Department of Foreign Affairs and Trade, (no date). "Iran sanctions regime," <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/iran-sanctions-regime>



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and international justice, and highlights a dangerous reluctance to apply the same rigorous standards to its allies as it does to other states.

In January 2024, the ICJ was petitioned by South Africa for provisional measures against Israel, relating to its atrocities in Gaza. The ICJ found it plausible that Israel's acts could amount to genocide according to the Genocide Convention, issuing six provisional measures, ordering Israel to “take all measures within its power to prevent genocidal acts, including preventing and punishing incitement to genocide, ensuring aid and services reach Palestinians under siege in Gaza, and preserving evidence of crimes committed in Gaza.”³⁹

Israel disregarded these provisional measures,⁴⁰ prompting additional applications for provisional measures in March 2024. The ICJ's March 2024 order underscored the dire escalation of the humanitarian crisis in Gaza, noting that the risk of famine had deteriorated into actual famine.⁴¹ This led the court to reaffirm its earlier provisional measures and introduce new, binding requirements mandating Israel to take immediate and effective steps, in full cooperation with the United Nations, to ensure the unrestricted provision of essential humanitarian aid – including food, water, and medical supplies – to Gaza. The court also ordered Israel to prevent its military from obstructing this aid and to avoid any actions that violate the rights of Palestinians under international law.⁴²

In May 2024, as Israel launched a brutal offensive on the so-called “safe zone” of Rafah, where more than 1.5 million Palestinians had been forced to flee as a result of Israel attacks on other parts of Gaza, the ICJ responded to a third South African request to modify existing provisional measures by issuing a new order.⁴³ The court reaffirmed its earlier measures and added new directives: Israel was to immediately halt its military operations in the Rafah governorate, keep the Rafah crossing open for humanitarian aid, and allow UN investigative bodies unrestricted access to Gaza.

³⁹ United Nations Human Rights Office of the High Commissioner, (2024). “Gaza: ICJ ruling offers hope for protection of civilians enduring apocalyptic conditions, say UN experts,” <https://www.ohchr.org/en/press-releases/2024/01/gaza-icj-ruling-offers-hope-protection-civilians-enduring-apocalyptic>

⁴⁰ Al Jazeera, (2024). “Has Israel complied with ICJ order in Gaza genocide case?” <https://www.aljazeera.com/news/2024/2/26/has-israel-complied-with-icj-order-in-gaza-genocide-case>

⁴¹ United Nations, (2024). “The Court indicates additional provisional measures – Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel) – Press Release,” <https://www.un.org/unispal/document/the-court-indicates-additional-provisional-measure-press-release-28mar24/>

⁴² *ibid*

⁴³ International Court of Justice, (2024). “Court order of 24 May 2024: Case 192 - Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel),” <https://www.icj-cij.org/node/204091>



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This was followed by a further landmark ICJ Advisory Opinion ruling in July 2024, declaring Israel's occupation of the West Bank, including East Jerusalem unlawful, and determining that Israel's settlement activities, annexation efforts, and exploitation of resources are violations of international law and part of its policies of "racial segregation and apartheid."⁴⁴ The ICJ mandated Israel to end its occupation, dismantle settlements, provide reparations to Palestinian victims, and facilitate the return of displaced persons. It also made clear that all states are to refrain from recognising any changes to the pre-1967 borders, including East Jerusalem, clearly differentiate between Israel and the occupied Palestinian territories in their dealings and avoid supporting illegal settlement activities. States are also required to ensure their actions do not perpetuate the illegal situation created by Israel, including avoiding cooperation in exploiting occupied territories' resources or altering their demographic and geographic characteristics. The ICJ emphasised that states should work to end actions hindering Palestinian self-determination and ensure Israel's compliance with international humanitarian law.⁴⁵

Despite these orders, Israel has demonstrated not only ongoing noncompliance but aggressive disregard for the Court's directives, expanding its policies of forced displacement, targeting of civilians and civilian infrastructure, manufactured starvation, targeted attacks on humanitarian aid convoys and Palestinians waiting for the delivery of aid in Gaza, and during the past week alone, embarking upon the largest military attack on the West Bank since the second Intifada in 2002.⁴⁶ Meanwhile, third states, including Australia, have demonstrated a severe lack of political will in using the diplomatic and economic tools at their disposal – including sanctions – to compel Israel to end its genocide and occupation, and to comply with international law.

This is not for want of clarity or legal advice around what these third state obligations entail. The ICJ, international legal experts, humanitarian organisations and civil society groups have repeatedly appealed to states such as Australia to impose sanctions in order to compel Israeli compliance with the law, in alignment with obligations, under the Genocide Convention. The Genocide Convention prohibits states from committing or being complicit in genocide, as well as enjoining them to recognise and act upon their "minimum legal obligation" to prevent genocide, irrespective of whether their individual efforts alone are sufficient.⁴⁷

⁴⁴ International Court of Justice (2024). "Advisory opinion: Legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem," <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>

⁴⁵ *ibid*

⁴⁶ Al Jazeera, (2024). "Israel war on Gaza updates: Strike on Gaza school kills eight," <https://www.aljazeera.com/news/liveblog/2024/8/28/israels-war-on-gaza-live-many-still-buried-after-day-of-israeli-strikes>

⁴⁷ *ibid*



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States with strong political ties or significant economic relationships with a nation committing genocide, such as Israel, bear a heightened responsibility to use their influence to effectively prevent genocidal actions. As a signatory to the Genocide Convention and given its self-confessed “close relationship,...significant people-to-people links and broad commercial engagement” with the state of Israel, Australia’s duty to intervene is beyond dispute.⁴⁸

And yet, to date, Australia’s primary response to this succession of international legal orders has been the use of its “voice” – either in solitary statements or joint statements with western allies – in feeble expressions of concern, calls for “all parties to respect international law,”⁴⁹ “advocating for a pathway out of this conflict”⁵⁰ and “refusing to speculate on sanctions.”⁵¹ It was only following the July 2024 ICJ Advisory Opinion that Australia imposed Magnitsky-style sanctions on seven Israeli settlers and one settler entity, Hilltop Youth, for “involvement in settler violence against Palestinians in the West Bank.”⁵²

In stark contrast to its inaction regarding Israel, Australia has taken a swift, proactive and independent approach to addressing the Myanmar military’s violence and human rights abuses on the Rohingya. This has involved the imposition of autonomous sanctions in October 2018, and calls for Myanmar to engage with the ICJ’s provisional measures highlighting the risk of genocide in January 2020. Australia also co-sponsored a UN General Assembly resolution on Myanmar calling on UN Member States to prevent the flow of arms to Myanmar, in June 2021.⁵³ Most recently, in early 2023 and 2024, Australia

⁴⁸ Department of Foreign Affairs and Trade, (no date). “Israel country brief,” <https://www.dfat.gov.au/geo/israel/israel-country-brief>

⁴⁹ Minister for Foreign Affairs Senator the Honourable Penny Wong, (2023). “Press conference, Adelaide: Subjects: Hamas-Israel conflict; United Nations General Assembly resolution; international approach to situation,” <https://www.foreignminister.gov.au/minister/penny-wong/transcript/press-conference-adelaide-8>

⁵⁰ Department of Foreign Affairs and Trade, (no date). “FOI request response: LEX10536,” <https://www.dfat.gov.au/sites/default/files/dfat-foi-lex10536.pdf>

⁵¹ Olle, E., (2024). “Foreign Affairs Minister Penny Wong to meet with Israeli families as war crisis deepens”, The Advertiser, <https://www.adelaidenow.com.au/news/south-australia/foreign-affairs-minister-penny-wong-to-meet-with-israeli-families-as-war-crisis-deepens/news-story/46cee205ad0971f60ff1ee3de97b00d0>

⁵² Minister for Foreign Affairs Senator the Honourable Penny Wong, (2024). Human rights sanctions in response to Israeli settler violence in the West Bank, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/human-rights-sanctions-response-israeli-settler-violence-west-bank#:~:text=The%20Australian%20Government%20has%20imposed,Palestinians%20in%20the%20West%20Bank>

⁵³ Australian Government, (2021). “Australian Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade, Foreign Affairs and Aid Sub-committee report: Australia’s response to the coup in Myanmar”, <https://www.aph.gov.au/DocumentStore.ashx?id=9efa1945-614d-41ff-b8c0-d62fe419c239>



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enacted further targeted economic sanctions to curb the regime's ongoing human rights violations and atrocities.⁵⁴

Likewise, Australia has been unhesitating in its imposition of sanctions against Russia for its violations of Ukrainian sovereignty and territorial integrity in 2022, with Foreign Minister Penny Wong last year announcing that “Australia’s sanctions regime against Russia is our largest.”⁵⁵ As of February 2024, Australia had imposed more than 1,200 sanctions targeting individuals and entities connected to Russia's international law violations, including the enactment of financial sanctions and travel bans specifically targeting individuals and entities involved in the unlawful deportation of Ukrainian children, following arrest warrants from the International Criminal Court for President Putin and Russia's Commissioner for Children's Rights.⁵⁶ Additionally, Australia has applied sanctions to Russia's defense, energy, media, and minerals sectors, as well as procurement networks in Belarus, Iran, and North Korea.⁵⁷

The glaring inconsistencies evident in Australia’s inconsistent approach to sanctions across these diverse and heinous international legal violations by Israel, Myanmar and Russia not only highlight a troubling double standard but also reflect a broader systemic failure to uphold universal human rights principles impartially.

By not applying its sanctions regime to Israel with the same rigor and urgency as it does to other states, Australia is actively undermining its own position on international law and human rights, and perpetuating a culture of impunity for Israel. To align its actions with its stated values and restore its moral authority, Australia must investigate and address these discrepancies and ensure that its sanctions regime is applied consistently and without bias, holding all states accountable to the same standards of justice and accountability.

Recommendations:

⁵⁴ Department of Foreign Affairs and Trade, (no date). “Myanmar sanctions regime,” <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/myanmar-sanctions-regime>

⁵⁵ Prime Minister of Australia the Honourable Anthony Albanese, (2023). “Australia Stands with Ukraine with Additional Military Support and Sanctions” <https://www.pm.gov.au/media/australia-stands-ukraine-additional-military-support-and-sanctions>

⁵⁶ Minister for Foreign Affairs Senator the Honourable Penny Wong, (2023). “Two years on, Australia stands with Ukraine,” <https://www.foreignminister.gov.au/minister/penny-wong/media-release/two-years-australia-stands-ukraine>

⁵⁷ *ibid*



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- 1. Amend the Autonomous Sanctions Regulations 2011 (Cth) Regulation 6A(4)(a)** to include violations of the right to self-determination; violations of the prohibition on genocide; violations of the prohibition on apartheid and racial segregation; and violations of the prohibition on the acquisition of territory by force, territorial annexation and foreign illegal occupation.
- 2. Amend the Autonomous Sanctions Regulations 2011 (Cth) Regulation 6A** to include a trigger mechanism that responds to and implements the decisions of international courts, including the International Court of Justice, concerning international law and human rights violations.
- 3. Establish and implement a transparent, consistent framework for applying sanctions** that is independent of political, economic and diplomatic considerations to ensure that all states, including allies, are held to the same standards when they commit severe violations of international law, including atrocity crimes like genocide and crimes against humanity like apartheid.
- 4. Immediately impose targeted sanctions on Israel:** In light of the recent ICJ rulings and Israel's continuing and escalating international law violations in Palestine, Australia should impose targeted economic and military sanctions on the Israeli government, key figures, individuals and entities directly involved in or complicit with these violations.

Addressing systemic violations and state complicity in Israel's settler violence

On 25 July 2024, almost 10 months into Israel's genocide in Gaza – and 57 years into Israel's illegal occupation of the West Bank – Australia imposed seven Magnitsky-style sanctions on individual Israeli settlers and one entity, Hilltop Youth, responsible for “involvement in settler violence against Palestinians in the West Bank.”⁵⁸ While a small and long overdue step, in targeting individuals these

⁵⁸ Minister for Foreign Affairs Senator the Honourable Penny Wong, (2024). Human rights sanctions in response to Israeli settler violence in the West Bank, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/human-rights-sanctions-response-israeli-settler-violence-west-bank#:~:text=The%20Australian%20Government%20has%20imposed,Palestinians%20in%20the%20West%20Bank>



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sanctions have failed to account for the role the Israeli Government, its military and its security forces have played in regulating, inciting, condoning, justifying, facilitating and conducting this violence.

Since Israel's occupation of the West Bank began in 1967, over two million dunams (200,000 hectares) of Palestinian land have been appropriated for Israeli use.⁵⁹ This land has been transformed into settlements, industrial zones, and roads primarily benefiting Israeli settlers. Land appropriation occurs through both official means – such as military orders, declarations of land as “state land” or “firing zones,” and expropriation – and through violent actions by settlers, who frequently attack Palestinians and their property to forcibly take over land.⁶⁰

These two methods are interconnected, with settler violence a deliberate element of Israel's broader strategy to expand its control over the West Bank. The violence perpetrated by individual settlers – such as those targeted by Australia's recent Magnitsky sanctions – is not only tolerated but often supported or directly facilitated by Israeli authorities, including the military and security forces.

This violence has only increased in both frequency and severity since October 2023, with more than 652 Palestinians killed by the Israeli army and settlers, and more than 5,400 Palestinians injured in that time.⁶¹ According to UN estimates, Israeli forces were present or involved in half of the settler attacks during the past year, and the Israeli Government has repeatedly failed to hold Israeli settlers and soldiers accountable for these attacks, with only three per cent of Israeli investigations into settler violence resulting in full or partial convictions.⁶²

Furthermore, evidence demonstrates the incitement and active involvement of Israeli ministers and officials in defying international law in the West Bank. Most recently, this came in the form of Israel's far-right National Security Minister Itamar Ben-Gvir leading a crowd of thousands of Israelis in storming Al-Aqsa Mosque in occupied East Jerusalem, under the protection of Israeli security forces.⁶³

⁵⁹ B'Tselem, (2021). “Settler Violence = State Violence,” https://www.btselem.org/settler_violence

⁶⁰ *ibid*

⁶¹ Asmar, A., (2024). “Rape threats by illegal settlers against Palestinians become common after Sde Teiman incident,” *Anadolu Ajansı*, <https://www.aa.com.tr/en/middle-east/rape-threats-by-illegal-settlers-against-palestinians-become-common-after-sde-teiman-incident/3313922>

⁶² Norwegian Refugee Council (2024). International community urged to act against Israel's repeated failure to stop settler attacks on Palestinian communities, <https://www.nrc.no/news/2024/april/international-community-urged-to-act-against-israels-repeated-failure-to-stop-settler-attacks-on-palestinian-communities/>

⁶³ Al Jazeera, (2024). “Israeli crowds storm Al-Aqsa Mosque, West Bank villages on Jewish holiday,” <https://www.aljazeera.com/news/2024/8/13/israeli-settlers-raid-palestinian-areas-on-temple-destruction-anniversary>



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Since Australia imposed its Magnitsky sanctions against the seven Israeli individuals and one entity involved in settler violence in July 2024, approximately 100 Israeli settlers have embarked on an internationally condemned rampage in the West Bank village of Jit, killing one Palestinian, “opening fire on residents, setting cars ablaze and destroying homes and other property.”⁶⁴ Israeli military and security forces failed to prevent or stop the attack because they supposedly “failed to fully understand the situation.”⁶⁵

Just a week ago, the Israeli Government launched its largest military assault on the occupied West Bank since 2002, with Israeli forces storming refugee camps in Jenin, Tulkarem and Tubas using armoured vehicles, bulldozers, drones, helicopters, and sniper attacks.⁶⁶ These attacks targeted civil infrastructure, including water and sewage systems, with Israeli forces conducting house raids, demolitions and blocking access to hospitals and ambulances.⁶⁷

UN Special Rapporteur on the Occupied Palestinian Territories Francesca Albanese has highlighted that Israel’s violent attacks in the West Bank reflect “patterns of torture, of destruction, of extrajudicial killings, of uprooting that are very similar to Gaza” and she has warned of “the risk of the genocide leaking into the West Bank. There is similar rhetoric, similar patterns, and escalating violence, ordering similar things.”⁶⁸

Despite these recent violations of international law and the UN Special Rapporteur’s warning, Australia’s Foreign Minister is yet to release a statement of condemnation of Israel’s actions in the West Bank, demonstrate that it is taking any action to compel Israel to cease its to cease its illegal occupation and systemic human rights abuses, or outline a clear plan to hold Israel accountable through targeted sanctions or other diplomatic measures.

These most recent attacks demonstrate the insufficiency of Australia’s recent Magnitsky sanctions against Israeli individuals, and the imperative for Australia to recognise the need for comprehensive sanctions that address the systemic nature of the violence, targeting not just individuals but also the broader network of state institutions and officials complicit in these ongoing atrocities and crimes against humanity.

⁶⁴ Al Jazeera, (2024). “‘Pure terrorism’: World reacts to Israeli settler attack in West Bank,” <https://www.aljazeera.com/news/2024/8/16/pure-terrorism-world-reacts-to-israeli-settler-attack-in-west-bank>

⁶⁵ Fabian, E., (2024). “‘We failed’: IDF finds it didn’t act sufficiently to prevent deadly settler rampage,” *The Times of Israel*, <https://www.timesofisrael.com/we-failed-idf-finds-it-didnt-act-sufficiently-to-prevent-deadly-settler-rampage/>

⁶⁶ Scahill, J., (2024). “Israel’s Violent Invasion of West Bank Parallels the Early Stages of War on Gaza: UN Rapporteur on Palestine,” DropSite, <https://www.dropsitenews.com/p/israeli-invasion-west-bank-parallels-gaza>

⁶⁷ *ibid*

⁶⁸ *ibid*



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Recommendations:

5. Broaden sanctions scope beyond individual Israeli settlers to include Israeli government officials, military leaders, and security forces directly involved in or facilitating the illegal settlement and violence against Palestinians.

Balancing alignment with allies and pursuing independent sanctions policy

While the above-mentioned Magnitsky sanctions imposed by Australia upon seven Israeli settlers and Hilltop Youth are a small and welcome first step, it is notable and concerning that Australia has failed to impose sanctions on other Israeli individuals and entities who have been sanctioned by other countries, including Australian allies the US, European Union and Canada.

Since October 2023, both the EU and US have sanctioned Lehava, led by US-designated extremist Ben Zion Gopstein, known for its violent attacks against Palestinians, and Tzav 9, a group of violent Israeli activists that has regularly blocked humanitarian aid trucks from entering Gaza, as well as a host of individual settlers responsible for violence against Palestinians in the West Bank.^{69 70}

The US, UK and Canada have also imposed sanctions on Israeli settler Moshe Sharvit and his “Moshe’s Farm”, which have engaged in settler violence towards Palestinians in nearby shepherding communities.⁷¹

⁶⁹ Council of the European Union, (2024). “Extremist Israeli settlers in the occupied West Bank and East Jerusalem, as well as violent activists, blocking humanitarian aid to Gaza: five individuals and three entities sanctioned under the EU Global Human Rights Sanctions Regime,” <https://www.consilium.europa.eu/en/press/press-releases/2024/07/15/extremist-israeli-settlers-in-the-occupied-west-bank-and-east-jerusalem-as-well-as-violent-activists-blocking-humanitarian-aid-to-gaza-five-individuals-and-three-entities-sanctioned-under-the-eu-global-human-rights-sanctions-regime/>

⁷⁰ US Department of State, (2024). “Sanctions on Individuals and Entities Contributing to Violence and Instability in the West Bank,” <https://www.state.gov/sanctions-on-individuals-and-entities-contributing-to-violence-and-instability-in-the-west-bank/>

⁷¹ PeaceNow, (2024). “Peace Now and Jordan Valley Activists Filed a Petition for the Eviction of Moshe Sharvit’s Outpost Amid International Sanctions,” <https://peacenow.org.il/en/shalom-now-and-the-jordan-valley-activists-filed-a-petition-for-the-evacuation-of-moshe-sharvits-outpost-amid-international-sanctions>



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The EU's foreign policy chief has also, this week, urged the bloc to impose sanctions against Israeli ministers for their “hate messages” against Palestinians.⁷² Other “middle powers”, like France,⁷³ Spain,⁷⁴ Norway,⁷⁵ have imposed their own sanctions and travel bans on large groups of Israeli settlers, while Ireland is considering passing a Bill that would ban all trade with illegal Israeli settlements.⁷⁶

The Australian Government has not clarified why it has neglected to sanction individuals and entities responsible for Israeli settler violence in the West Bank, despite these actors already being sanctioned by its closest allies. This discrepancy underscores a troubling gap, and a minimal and overly cautious approach to Australia's application of its sanctions regime, which, in this case, falls short of the actions taken by its international partners.

Evidence suggests that sanctions that are matched by a diverse coalition of countries are significantly more impactful in altering state behaviour and achieving international objectives because “they impose a higher cost on the target by reducing its ability to find alternative markets that help to circumvent the effects of sanctions.”⁷⁷ Thus, aligning with our allies' measures represents not just a step towards effectiveness and consistency, but a bare minimum requirement for a strategic sanctions regime.

However, meeting the bare minimum of aligning with allies' sanctions should not be the only benchmark towards which Australia works – it must aspire to a far more robust and principled approach to foreign and defence policies. This includes the development of a transparent, and accountable framework that deploys sanctions independently when necessary to uphold international law, promote human rights, and advance justice. The current approach, which fails on two fronts – in fully addressing the scale of Israel's atrocities in Gaza and the occupied West Bank *and* in matching

⁷² Al Jazeera, (2024). “EU's top diplomat seeks sanctions against Israeli ministers,”

<https://www.aljazeera.com/news/2024/8/29/eus-top-diplomat-seeks-sanctions-against-israeli-ministers>

⁷³ Irish, J. (2024). “France to impose travel bans on violent Israeli settlers,” *Reuters*, <https://www.reuters.com/world/france-impose-travel-bans-violent-israeli-settlers-2024-02-13/>

⁷⁴ Binnur Donmez, B., (2024). “Spain initiates process of sanctioning '1st group' of 12 Israeli settlers in West Bank,” *Anadolu Ajansi*, <https://www.aa.com.tr/en/europe/spain-initiates-process-of-sanctioning-1st-group-of-12-israeli-settlers-in-west-bank/3154778>

⁷⁵ Nezirivic, L., (2024). “Norway joins EU to sanction illegal Israeli settlers, organizations” *Anadolu Ajansi*, <https://www.aa.com.tr/en/europe/norway-joins-eu-to-sanction-illegal-israeli-settlers-organizations/3284295>

⁷⁶ McNally, T., (2024). “Ireland is fully entitled to ban trade with illegal Israeli settlements, experts say,” *Irish Examiner*, <https://www.irishexaminer.com/news/arid-41468944.html>

⁷⁷ Caetano, J., A. Galego, and A. Caleiro. 2023. “On the Determinants of Sanctions Effectiveness: An Empirical Analysis by Using Duration Models” *Economies* 11, no. 5: 136. <https://doi.org/10.3390/economies11050136>



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the measures of our allies – demonstrates a disturbing reluctance to take a strong stand on issues that demand decisive action.

The abovementioned escalation of Israeli international law violations across Gaza and the occupied West Bank highlights the urgent need for a more proactive, independent and decisive stance. The Australian Government must urgently review the systemic failures that underlie its lag in sanctioning Israeli individuals and entities responsible for human rights abuses in Palestine and aligning with, if not exceeding, the sanctions of its allies. Establishing a transparent, independent sanctions framework is crucial for effective and autonomous action. By integrating a robust human rights commitment into its foreign and defence policies, Australia can lead more effectively in promoting justice and upholding international law.

Recommendations:

6. Investigate the systemic failures that have led to Australia lagging so seriously behind its allies and their deployment of sanctions against Israeli figures and entities responsible for human rights and international law violations in Palestine.

7. Match and exceed the sanctions commitments of its allies, and pursue alliances with other middle powers in order to deploy sanctions, as a means of reinforcing Australia's stance against human rights abuses and enhancing the effectiveness of its measures.

8. Establish an independent, transparent and accountable sanctions framework that centres human rights and international law, capable of deploying sanctions autonomously when necessary to address violations and promote justice.

9. Commit to proactive engagement by taking decisive action when international laws and human rights norms are breached.

Enhancing Australian Government transparency and engagement with community

For the past 11 months, hundreds of thousands of Australians have actively engaged with the political process, demanding decisive Australian action to pressure Israel to adhere to international law and to secure justice and self-determination for Palestinians. This extensive civil society engagement has



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manifested in various forms, including weekly protests, advocacy campaigns, petitions, joint letters, and formal submissions to the government.

Our organisation, APAN, has repeatedly demanded that the Australian Government impose sanctions on the Israeli Government, ministers, officials, soldiers, security forces, individuals and entities responsible for Israel's ongoing atrocities in Palestine.⁷⁸ Other Australian groups have also been vocal in their calls for sanctions, including:

- Australian Centre for International Justice⁷⁹
- Jewish Council of Australia⁸⁰
- Australian Council of Trade Unions⁸¹
- Australian Council for International Development, together with Australian Global Health Alliance (AGHA), National Council of Churches in Australia (NCCA) and Australian National Imams Council (ANIC)⁸²
- A group of more than 1400 members of Australia's legal community⁸³
- Women's International League of Peace and Freedom Australia, Australians for War Powers Reform and 100 other Australian civil society groups⁸⁴
- Australian Friends of Palestine Association (AFOPA), Glimmer of Hope, Health Workers for Palestine Adelaide, Adelaide Sisters Association and the Islamic Society of SA.⁸⁵

⁷⁸ Australia Palestine Advocacy Network, (2024). "APAN demands Australia sever ties, sanction Israel over West Bank attacks," https://apan.org.au/media_release/apan-demands-australia-sever-ties-sanction-israel-over-west-bank-attacks/

⁷⁹ Australian Centre for International Justice, (2024). "MEDIA RELEASE: Australia must act against Israel's unlawful occupation and protect Palestinian rights from further deprivation, according to landmark ICJ ruling," <https://acij.org.au/media-release-australia-must-act-against-israels-unlawful-occupation-and-protect-palestinian-rights-from-further-deprivation-according-to-landmark-icj-ruling/>

⁸⁰ Jewish Council of Australia, (2024). "Australia must cut all military ties and place sanctions on Israel," <https://www.jewishcouncil.com.au/media/australia-must-cut-military-ties-sanctions-israel>

⁸¹ Australian Council of Trade Unions, (2024). "ACTU Statement on Gaza," <https://www.actu.org.au/media-release/actu-statement-on-gaza/>

⁸² Australian Council for International Development, (2024). Israeli government must face consequences for blocking humanitarian aid, <https://acfid.asn.au/israeli-government-must-face-consequences-for-blocking-humanitarian-aid/>

⁸³ Lawyers Letter, (2024). "Further lawyers' letter re situation in Gaza," <https://lawyersletter.au/further-lawyers-letter/>

⁸⁴ Reynolds, M., A. Broinowski and M. Kostakidis, (2024). "Australian Civil Society submits statement on Gaza genocide to the International Court of Justice," *Pearls and Irritations*, <https://johnmenadue.com/australian-civil-society-submits-statement-on-gaza-genocide-to-the-international-court-of-justice/>

⁸⁵ Australian Friends of Palestine Association, (2024). "AFOPA & Community Organisations Condemn Australian Government on Rafah," <https://www.afopa.com.au/blog/2024/5/28/afopa-amp-community-organisations-condemn-australian-government-on-rafah>



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Meanwhile, international experts and key figures including UN experts⁸⁶ and international president of Médecins Sans Frontières Dr Christos Christou⁸⁷ have directly advised that the Australian Government impose sanctions on Israel.

Community members have also submitted to parliament a range of well-supported petitions calling for arms and trade sanctions against Israel.^{88 89} Ministerial responses provided to these petitions have either failed to directly address these repeated, well-founded calls for sanctions, or have offered a curious refusal to “speculate on sanctions”:

“Consistent with longstanding practice, the Government does not speculate publicly on whether sanctions will be applied. In pressing for change, we have to consider the full range of tools we have available – diplomacy and dialogue, working in coalitions, multilateral forums, and public statements. Sanctions are not our only choice in responding to a situation of international concern, and they will rarely be our first choice.”⁹⁰

Government responses of this nature, which have been standard issue for the past 11 months, raise critical questions about the Australian Government's approach to sanctions. Specifically, why does the government persist in maintaining such opacity and disengagement from civil society demands? After 11 months of persistent advocacy, expert testimonies, and legal arguments, when will the Australian Government deem it appropriate to publicly address the issue of sanctions on Israel and not only clarify its stance, but commit to deploying this vital tool? If legal obligation, expert opinion, overwhelming evidence of international law violations and war crimes, and community advocacy are not adequate for determining Australia's deployment of sanctions against Israel, what is? These questions are particularly urgent given the decades of overwhelming evidence that, under the status quo, Israel has no intention of altering its actions or complying with international law.

⁸⁶ United Nations Human Rights Office of the High Commissioner, (2024), “Arms exports to Israel must stop immediately: UN experts,” <https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts>

⁸⁷ Yosufzai, R., (2024). “‘Total disregard for the laws of war’: Top aid chief calls on Australia to sanction Israel,” SBS, <https://www.sbs.com.au/news/article/total-disregard-for-the-laws-of-war-top-aid-chief-calls-on-australia-to-sanction-israel/6obl028me>

⁸⁸ Parliament of Australia, (2024). “Petition EN6141 - Impose Trade and Arms Sanctions on Israel,” <https://www.aph.gov.au/e-petitions/petition/EN6141>

⁸⁹ Parliament of Australia, (2024). “Petition EN5628 - Retract Governmental Support To Israel, and Demand Ceasefire In Palestine,” <https://www.aph.gov.au/e-petitions/petition/EN5628>

⁹⁰ Parliament of Australia, (2024). “Petition EN6141 - Impose Trade and Arms Sanctions on Israel,” <https://www.aph.gov.au/e-petitions/petition/EN6141>



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Despite this clear and sustained call from civil society for decisive measures, including sanctions, the Australian Government's approach to sanctions policy appears to operate behind closed doors, with minimal feedback or acknowledgement of the extensive effort and expertise of expert bodies, civil society groups and the public.

The offering of standardised, opaque government statements in place of responses that specifically and transparently address the demands and concerns of experts and community have left the public in the dark about how their inputs are considered and integrated into policy decisions, and what other interests are taking priority. This opacity undermines the legitimacy of the engagement process and reflects a troubling disconnect from the gravity of the situation and the demands of its own citizens. It is this lack of transparency, and the contempt that seems to be at the heart of the government's unwillingness to communicate and engage with its own citizens regarding its international legal obligations with regards to Israel that sits at the heart of the "fracturing of social cohesion" that is so concerning to the Australian Government. It also diminishes the impact of Australia's foreign policy actions.

To build trust and ensure that the government's policies align with public and international expectations, it is imperative that there is a shift towards greater openness. This includes providing clearer explanations for policy decisions, actively involving civil society in consultations, and demonstrating how public input influences the formulation of sanctions and other international responses.

Recommendations:

8. Establish an independent, transparent and accountable sanctions framework that centres human rights and international law, capable of deploying sanctions autonomously when necessary to address violations and promote justice.

9. Commit to proactive engagement by taking decisive action when international laws and human rights norms are breached.

10. Investigate the existing systems and processes in place for encouraging, analysing, considering and responding to community and civil society advocacy and submissions concerning the use of sanctions in relation to Israel's genocide in Gaza and occupation and apartheid in the West Bank, with a view to addressing barriers to effective engagement and ensuring that public input meaningfully informs policy decisions.



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11. Commit to active and responsive public engagement for policy-making through formal consultations, ensuring public input is considered and integrated into policy decisions. Address public advocacy and petitions by providing substantive responses and demonstrating how these efforts influence policy.

12. Commit to evidence-based decisions: Base policy decisions on thorough and transparent assessments of evidence, including international expert input and documented violations of international law.