

2024 Conference of CSOs working on the Question on Palestine
“Building Bridges with International Civil Society to Address the Ongoing Nakba”
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**“The Role of Civil Society Organizations in Ensuring Third Party Responsibility: Perspectives from
Global and Regional Voices”**

Rawan Arraf
Australian Centre for International Justice

Thank you Chair, and to the Committee for the opportunity to present at this important conference and to be on this esteemed panel. I am honoured to be providing the Committee and all present today a brief insight into Australian grassroots and civil society’s response to the most ferocious military assault on Gaza and the Palestinian people since the 1948 Nakba.

The response has been multifaceted and widespread given the majority support from the Australian people for a permanent ceasefire.¹ Visibly it has been evident in the weekly weekend protest marches across the country, since the assault began in what is now the largest anti-war movement in Australia since the war against Iraq.²

Very early on civil society rallied to put out a statement calling for a permanent ceasefire, supported by over 100 organisations,³ especially as Parliament remained silent on the atrocities unfolding in Gaza, and focused only on the unlawful attacks and violence committed on 7 October by Palestinian armed groups in Israel. While it was evident that Israel’s attacks from the outset were manifestly in violation of international law and at minimum ought to have been condemned, the Australian Government and the majority of the Australian Parliament ignored Israel’s attacks,⁴ even in the face of what was prima facie evidence and statements of genocidal intent and policies, coming from Israeli authorities.⁵

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- ¹ See, Caritas Australia, ‘Support for Gaza Ceasefire and More Government Actions Swells in Australian Community’ (27 February 2024) <<https://www.caritas.org.au/news/media-releases/support-for-gaza-ceasefire-and-more-government-action-swells-in-australian-community/ment-action-swells-in-australian-community/>>.
 - ² Mostafa Rachwani, ‘Tens of Thousands Demand Gaza Ceasefire at Pro-Palestine Rallies Across Australia’ *The Guardian* (19 November 2023) <<https://www.theguardian.com/australia-news/2023/nov/19/tens-of-thousands-demand-gaza-ceasefire-at-pro-palestine-rallies-across-australia>>; Mostafa Rachwani, ‘My heart is chanting’: Palestinian Voices Ring Out At Largest Anti-War Rallies in Australia Since Iraq War’ *The Guardian* (9 November 2023) <<https://www.theguardian.com/australia-news/2023/nov/09/my-heart-is-chanting-palestinian-voices-ring-out-at-largest-anti-war-rallies-in-australia-since-iraq-war>>.
 - ³ See statement, Amnesty International Australia, ‘Joint Statement from 77 Civil Society Groups Call for Action on Gaza Crisis’ (19 October 2024) <<https://www.amnesty.org.au/joint-statement-from-77-civil-society-groups-calls-for-action-on-gaza-crisis/>>. Please note, the final list of signatories is at 104 as of 26 October 2023, see <https://www.amnesty.org.au/wp-content/uploads/2023/10/Joint-statement-updated-26_10_23-1.pdf>.
 - ⁴ Commonwealth, Hansard, House of Representatives, Motion – Israel, 16 October 2023, 52 (Anthony Albanese, Prime Minister of Australia) <https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/27170/&sid=0132>; Commonwealth, Hansard, Senate, Motion – Israel, 16 October 2023 (Penny Wong, Foreign Minister of Australia) <https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/27132/&sid=0024#:~:text=We%20reject%20hate%20and%20condemn,We%20stand%20against%20Islamophobia>.
 - ⁵ The early warning signs were sounded by Palestinian human rights organisations and the Center for Constitutional Rights in the US. For more, see Center for Constitutional Rights, ‘Emergency Legal Briefing Paper: Israel’s Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide’ (18 October 2023) <https://ccrjustice.org/sites/default/files/attach/2023/10/Israels-Unfolding-Crime_ww.pdf>; Al-Haq, Palestinian Centre for

The civil society response has at many times been difficult and marred by anti-Palestinian racism where concerted actions by the right-wing press, some politicians and pro-Israel lobby groups to derail focus from Israel's genocidal attacks on Gaza, and resort to attacking Palestinians and their supporters who advocate for Palestinian human rights.

The response has also included civil society opening their arms to Palestinians arriving from Gaza. Palestinian-led civil society groups⁶ have welcomed, advocated for, and mobilised to help support and settle those arriving from Gaza, about 350 so far.

Activists, academics, unions, writers, artists⁷ have all responded, with statements, protests, sit-ins, workshops, and in some cases direct actions at Australian ports of entry targeting Israeli shipping lines who play some role in Israel's crimes in Gaza.

'Mums/Teachers/Lawyers/Healthcare Workers for Palestine' are just some of the many groups that have sprung up in the last several months where people are organising in their own local communities and professions. I was recently invited to the small city of Newcastle, on the country of the Awaba peoples who are the traditional owners of that land and who have never ceded sovereignty. The local community are hosting 'Conversations for Palestine' a series of public forums to educate communities and organise in strategic ways to end Australian complicity with Israeli crimes, in all its forms. They are horrified for example, that in their community, the Australian arms manufacturer Varley Group, self-described as a "strategic supplier" in the global F-35 fighter jet program produces parts that could be on Israeli jets bombing Gaza. Varley is also involved in a joint venture with Israel arms manufacture, RAFAEL Advanced Systems, in several contracts selling Israeli military technology to the Australian military.⁸

I was on a panel with a local Aboriginal elder and veteran activist for Aboriginal rights, Aunty Tracey Hanshaw, founder of Justice Aunties, who also helped set up Palestine Action Group in Newcastle years ago. It has been heartening to see the Blak-Palestinian solidarity movement among Palestinian communities and First Nations peoples on the Australian continent continue to grow as a testament to shared global struggles against settler-colonialism. The statements from Victorian⁹ and NSW¹⁰ Aboriginal Legal Services calling for a ceasefire and an end to Israel's colonial state violence, occupation and apartheid, are just some examples of that solidarity in action.

It's true that Australia supports a ceasefire, but it took almost three months for Australia to support that call by voting in favour of the December General Assembly Resolution. It has hardly condemned

Human Rights, Al Mezan Centre for Human Rights, 'Urgent Action: Palestinian Human Rights Organisations Call on Third States to Urgently Intervene to Protect the Palestinian People Against Genocide' (13 October 2023) <<https://www.alhaq.org/advocacy/21898.html>>.

⁶ For more, see Palestine Australia Relief and Action (PARA) <<https://para.org.au/>>; Palestinian Christians in Australia (PCIA) <<https://palestinianchristians.org.au/>>.

⁷ See for example, Karen Wlyd, 'Indigenous Writers in Solidarity with Palestine' *IndigenousX* (15 November 2023) <<https://indigenousx.com.au/solidarity-with-palestine/>>.

⁸ See for example, 'Varley Australia Plans Local Spike Anti-Tank Missile Manufacture' *Israel Defense* (16 March 2023) <<https://www.israeldefense.co.il/en/node/57595>> and Minister for Defence Industry, the Hon Christopher Pyne MP, 'Varley and Rafael Australia - A High Tech Partnership' (Media Release) (22 August 2018) <<https://www.minister.defence.gov.au/media-releases/2018-08-22/varley-and-rafael-australia-high-tech-partnership>>.

⁹ Victorian Aboriginal Legal Service, 'VALS Statement in Solidarity with Palestinians' (8 December 2023) <<https://www.vals.org.au/wp-content/uploads/2023/12/VALS-statement-in-solidarity-with-Palestine33.pdf>>.

¹⁰ Aboriginal Legal Service (NSW), 'Statement in Solidarity with the People of Palestine' (25 January 2024) <https://www.alsnswact.org.au/media_release_statement_in_solidarity_with_the_people_of_palestine>.

Israel's actions. Australia sees itself as a middle power,¹¹ committed to international law. Yet successive Australian governments, whether conservative or progressive, have allied with Israel and provided it with political cover, and engaged enthusiastically in developing significant economic and military ties, despite Israel's countless violations of international law. This impunity from UN Member States like Australia must end. Australia's Foreign Minister has in the last several months sought to paint Australia's role as limited in its ability to influence. In light of Australia's significant political, military and trade links, this is a subversion of reality when Australia should be doing more by imposing the countermeasures it has available to it when States are in the commission of internationally wrongful acts.

Given the reveal that Australia has approved 322 arms export permits to Israel since 2017¹² without any information about what was exported, our legal centre, representing three leading Palestinian human rights organisations filed in the Federal Court against the Minister for Defence in an attempt to gain more transparency over the process.¹³ We had to discontinue that application for reasons that I cannot discuss, but are still related to the problem of transparency. However, we are determined to continue to find avenues to uncover information and challenge those decisions, including in particular, we are concerned about exports via third countries. We therefore remain concerned the Minister for Defence is failing to act on Australia's legal obligations.

We do think that that the proceeding we filed, though brief, did have an impact on the Australian government and any concerns it may have had about its complicity, because according to media reports, the Government has been stalling export applications to Israel.¹⁴

Following South Africa's application at the ICJ, we wrote to the Australian Government calling on them to support the application, or if they choose not to support the application, to 'do no harm' and refrain from statements that oppose or undermine South Africa's effort to seek stop the genocide unfolding in Gaza.¹⁵ Following the provisional measures ordered by the Court we called on the Australian Government calling on them to issue a public statement.¹⁶

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- ¹¹ Daniel Hurst, 'Australia's Foreign Minister Warns Israel Will Continue to Lose Support Unless It 'Changes Course', *The Guardian* (12 March 2024) <<https://www.theguardian.com/australia-news/2024/mar/12/penny-wong-australian-foreign-minister-warns-israel-will-continue-support-decline-gaza-palestine-hamas>>. The interpretation of Minister Wong's comments: "Wong said Australia was pursuing "middle power diplomacy" even though there were limits to its influence." See, James Curran, 'When the Minister Met the 'Mischievous': What Wong Said to Curran' *Australian Financial Review* (13 March 2024) <<https://www.afr.com/business-summit/when-the-minister-met-the-mischievous-what-wong-said-to-curran-20240312-p5fbvi>>.
- ¹² Daniel Hurst, 'Australia Approved 322 Defence Exports to Israel in Six Years as Greens Fear Equipment Used in Gaza Assault', *The Guardian* (24 October 2023) <<https://www.theguardian.com/world/2023/oct/24/australia-approved-322-defence-exports-to-israel-in-six-years-as-greens-fear-equipment-used-in-gaza-assault>>.
- ¹³ Australian Centre for International Justice, 'Joint Media Release: Palestinian Human Rights Organisations Launch Court Action to Reveal Secret Arms Exports from Australia to Israel' (6 November 2023) <<https://acij.org.au/joint-media-release-palestinian-human-rights-organisations-launch-court-action-to-reveal-secret-arms-exports-from-australia-to-israel/>>.
- ¹⁴ Andrew Greene, 'Australian Going Slow On Processing Military Export Requests From Israel Over Gaza War Concerns' *Australian Broadcasting Corporation* (31 January 2024) <<https://www.abc.net.au/news/2024-02-01/australia-stalls-military-export-requests-israel-gaza/103410528>>.
- ¹⁵ Australian Centre for International Justice, 'Letter: Australia Should Support South Africa's Application at the ICJ Alleging Israeli Breaches of the Genocide Convention Against Palestinians in Gaza' (9 January 2024) <<https://acij.org.au/letter-australia-should-support-south-africas-application-at-the-icj-alleging-israeli-breaches-of-the-genocide-convention-against-palestinians-in-gaza/>>.
- ¹⁶ Australian Centre for International Justice, 'Australia Has a Duty to Prevent Genocide in Gaza and To Act To Implement ICJ Ruling That Israel Actions in Gaza Are A Plausible Genocide' (27 January 2024) <<https://acij.org.au/media-release-australia-has-a-duty-to-prevent-genocide-in-gaza-and-act-to-implement-icj-ruling-that-israels-actions-in-gaza-are-a-plausible-genocide/>>.

The Australian Government initially ignored the ICJ order and along with other Western states, immediately suspended funding to the largest humanitarian support line to Gaza, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (**UNRWA**) based on what was criticised at the time,¹⁷ and subsequently proven to be, weak and unsupported Israeli propaganda.¹⁸ Australia only reversed its disgraceful decision two weeks ago.¹⁹

Prior to the ICJ order, the Foreign Minister stated that Australia does not “accept the premise of the South African application.”²⁰ The finding of a plausible case of genocide by the ICJ forced Australia to change its response to the South African application. Australia finally acknowledged the ICJ order almost a week later²¹ and there was a more substantial statement calling on Israel to comply with the Court’s decision in mid-February.²²

In its initial statement, Australia stated that the ICJ’s decision is binding “on the parties”. That however does not discharge Australia of its own legal obligations. The prohibition of genocide is a *jus cogens* norm that all States have a duty to bring to an end any violations of these norms, through lawful means.²³

In the *Bosnia Genocide Case*²⁴ judgement in 2007, the ICJ determined that a State’s obligation to prevent, and duty to act, arise at the instant that the State learns of the existence of a serious risk that genocide will be committed.²⁵ States are required to take all reasonable measures available to them to prevent this risk from that moment onwards including if available means are likely to have a deterrent effect on those suspected of preparing a genocide or of harbouring specific intent.²⁶

Our legal centre and Australian civil society have called on Australia to hold an inquiry and review and assesses its political, military and economic relationships²⁷ with Israel and move to impose

¹⁷ France News 24, *As Donors Suspend Critical Funding o UNRWA, Allegations Against Staff Remain Murky* (5 February 2024) <<https://www.france24.com/en/middle-east/20240205-as-donors-suspend-critical-funding-to-unrwa-allegations-against-staff-remain-murky>>.

¹⁸ Nette Noestlinger and Gabriela Baczynska, ‘No Evidence From Israel to Back UNRWA accusations, says EU Humanitarian Chief’ Reuters (14 March 2024) <<https://www.reuters.com/world/no-evidence-israel-back-unrwa-accusations-says-eu-humanitarian-chief-2024-03-14/>>.

¹⁹ Foreign Minister of Australia, ‘Funding for the United Nations Relief and Works Agency and Additional Support for Gaza’ (Media Release) (15 March 2024) <<https://www.foreignminister.gov.au/minister/penny-wong/media-release/funding-united-nations-relief-and-works-agency-and-additional-support-gaza>>.

²⁰ Foreign Minister of Australia, ‘Press Conference, Jordan’ (Transcript) (16 January 2024) <<https://www.foreignminister.gov.au/minister/penny-wong/transcript/press-conference-jordan>>.

²¹ Foreign Minister of Australia, ‘Joint Statement on Australia and New Zealand Relations (AZMIN 2024) (Joint Statement) (1 February 2024) <<https://www.foreignminister.gov.au/minister/penny-wong/media-release/joint-statement-australia-new-zealand-ministerial-consultations-anzmin-2024>>.

²² Prime Minister of Australia, ‘Joint Statement By the Prime Ministers of Australia, Canada and New Zealand’ (Joint Statement) (15 February 2024) <<https://www.pm.gov.au/media/joint-statement-prime-ministers-australia-canada-and-new-zealand-0>>.

²³ For more see, Jinan Bastaki, ‘ICJ’s Provisional Orders Measures and the Responsibility of Third States’ *Opinio Juris*, (Blog Post) (5 February 2024) <<https://opiniojuris.org/2024/02/05/the-icjs-provisional-orders-measures-and-the-responsibility-of-third-states/>>.

²⁴ Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia-Herzegovina v Serbia and Montenegro*) (Judgment) (International Court of Justice, 26 February 2007) (‘*Bosnia-Herzegovina v Serbia and Montenegro*, Judgment [2007]’).

²⁵ *Bosnia-Herzegovina v Serbia and Montenegro*, Judgment [2007] [431]-[432].

²⁶ *Bosnia-Herzegovina v Serbia and Montenegro*, Judgment [2007] [430]-[431].

²⁷ Australian Centre for International Justice, ‘Australia’s international obligations relating to trade with Israel: Joint NGO Submission to the Department of Foreign Affairs and Trade’ (7 May 2021) <<https://acij.org.au/joint-ngo-submission-australias-international-obligations-relating-to-trade-with-israel>>.

diplomatic sanctions and travel bans against Israeli officials. At minimum, Australia should impose an arms embargo, a call now supported by several UN Special Rapporteurs.²⁸ A comprehensive response must consider a two-way arms embargo and Australia should rescind existing contracts with Israeli arms manufacturers as they are heavily involved in supplying Israel's military.

Furthermore, Australia should issue an advisory to dual nations warning them of criminal liability when serving or volunteering abroad in the Israeli military, Australia should monitor those individuals who are abroad, and investigate them on return and refer for prosecution where appropriate.²⁹

²⁸ UN Office of the Higher Commission for Human Rights, 'Arms Exports to Israel Must Stop Immediately: UN Exerts' (Press Release) (23 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts>>

²⁹ Australian Centre for International Justice, 'Letter: Australia Should Investigate Citizens Fighting in the IDF' (22 December 2023) <<https://acij.org.au/wp-content/uploads/2023/12/2023-12-20-Letter-to-Ausgov-regarding-Australians-in-the-IDF.pdf>>.