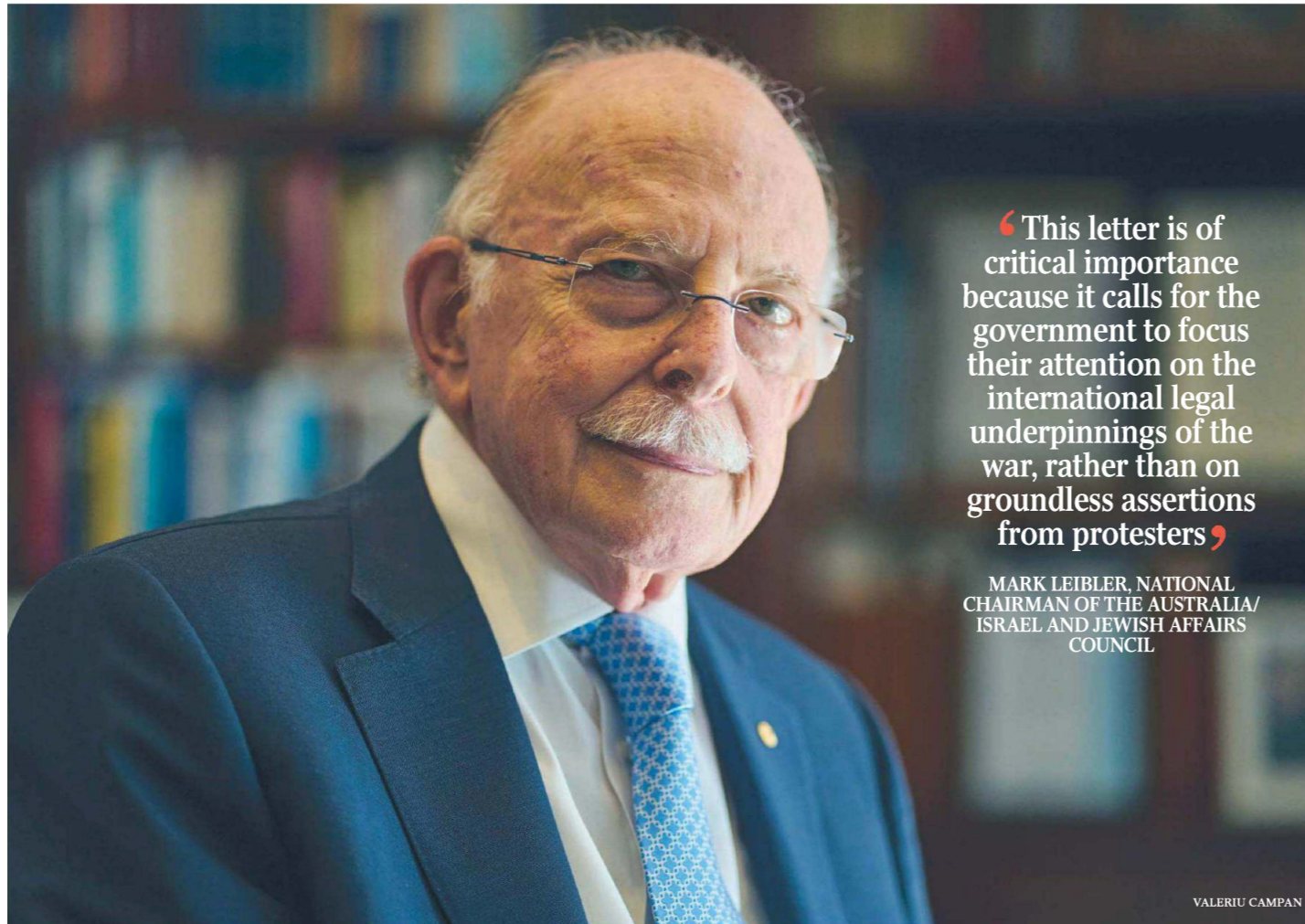


Prosecuting the case for the moral high ground on Israel's right to strike



“This letter is of critical importance because it calls for the government to focus their attention on the international legal underpinnings of the war, rather than on groundless assertions from protesters”

MARK LEIBLER, NATIONAL CHAIRMAN OF THE AUSTRALIA/ISRAEL AND JEWISH AFFAIRS COUNCIL

VALERIU CAMPAN

EXCLUSIVE

ALEXI DEMETRIADI
NSW POLITICAL REPORTER

Almost 500 of Australia's leading lawyers have prosecuted the case for Israel's legal right to defend itself directly to Anthony Albanese and his ministers, warning against an "incorrect application of the law" by Palestinian advocates and deepening a rift in the nation's legal fraternity over the months-long conflict.

The letter, sent to the Prime Minister, Foreign Minister Penny Wong and Attorney-General Mark Dreyfus on Sunday, sets out Israel's "responsibility" to defend

itself against Hamas and opposition to any permanent ceasefire.

It follows a November 8 letter, now with more than 1000 signatories, that called on Mr Albanese to negotiate a ceasefire and halt arms exports to Israel and alleged that Israel had committed "atrocious crimes".

Predominantly but not exclusively signed by leading Jewish lawyers, Sunday's letter sought to clear a legal "fog" that had "descended" on the conflict.

"Israel has the right, indeed the obligation, to protect her population from terrorist attacks committed by various terrorist groups that surround its borders, which include Hamas," the letter said.

It also took aim at terrorist

group Hamas for putting civilians in harm's way and for using hospitals for military purposes.

The letter came as Israel and Hamas brushed off international calls to renew an expired truce.

Israeli airstrikes pounded militant targets along the Gaza Strip on Sunday (AEDT), as Hamas and fellow terror group Islamic Jihad announced "rocket barrages" against multiple Israeli cities and cities, including Tel Aviv.

The letter to the Prime Minister, signed by 469 legal practitioners from across Australia, was spearheaded by international law professor Gregory Rose, barrister David Knoll, and Perth-based solicitor Eli Bernstein and also rebuked the November 8 letter that

called for a ceasefire. Retired judges Philip Mandie, Nigel Rein and Selwyn Selikowitz are signatories, as are retired magistrates Susan Blashki and Greg Levine.

High-profile legal practitioners Rebekah Giles, Philip Solomon, new Executive Council of Australia Jewry president Daniel Aghion, Peter Braham, Daniel Meyerowitz-Katz and Mark Leibler are signatories.

Mr Leibler, one of the nation's pre-eminent corporate lawyers and national chair of The Australia/Israel & Jewish Affairs Council, said it showed responsibility for loss of life "clearly lied with Hamas".

"This letter is of critical importance because it calls for the

(government) to focus their attention on the international legal underpinnings of the war rather than on groundless assertions from protesters," Mr Leibler said, saying criticism directed towards Israel was based on "misunderstanding" or "distortion" of international and armed-conflict law.

"With Hamas having declared that it is going to repeat the brutal attack of 7 October until Israel is destroyed, the war in which Israel is engaged is, without doubt, a just war," he said.

The letter said it would be

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LEADING LAWYERS BEHIND THE LETTER



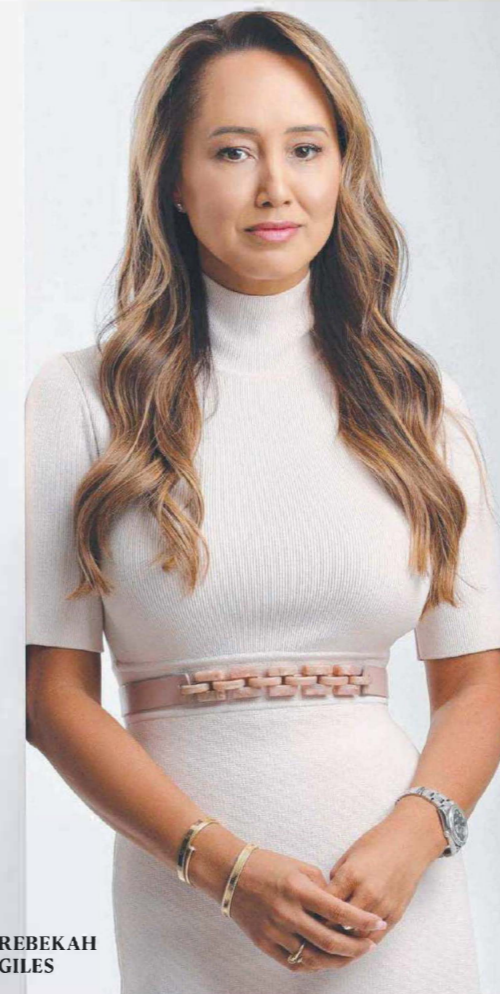
ELI BERNSTEIN



DANIEL AGHION



DAVID KNOLL



REBEKAH GILES

“Israel has a right under international law to defend herself against the threat posed by Hamas, including by taking such military action as is necessary to ensure it is unable to repeat atrocities”

“The undoubted suffering that this necessarily causes in Gaza (which Hamas no doubt anticipated) does not itself render Israel's actions illegal”

“It is the conduct of Hamas that places civilians in harm's way, and it is that conduct which complicates the assessment of proportionality and the implementation of precautionary measures”

THE LETTER SIGNED BY ALMOST 500 OF AUSTRALIA'S LEADING LAWYERS

Prosecuting case for moral high ground

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"impossible" not to feel compassion for the "heartbreaking images out of Gaza" but suffering was unavoidable given that Hamas used civilian infrastructure for "military purposes".

"(We) are concerned about the incorrect application of the law of armed conflict and other relevant international laws as a means to delegitimise Israel and diminish her legal right to self-defence," the letter opens.

"Israel has a right under international law to defend herself against the threat posed by Hamas, including by taking such military action as is necessary to ensure that it is unable to repeat atrocities.

"The undoubted suffering that this necessarily causes in Gaza (which Hamas no doubt anticipated) does not itself render Israel's actions illegal."

The signatories said the November 8 letter, now signed by more than 1000 Australian law-

yers, made allegations that "cannot be allowed to stand uncorrected", "contained errors in its application of legal principle" and rested on "unreliable Hamas data sources".

"It is the conduct of Hamas that places civilians in harm's way, and it is that conduct which complicates the assessment of proportionality and the implementation of precautionary measures," the letter read.

The letter said it was a "false allegation" that hospitals are "immune" to conflict "even when used as military bases".

"There is clear evidence to suggest that the hospitals are being used for military purposes, and the evidence does not support the allegation that protected health-care facilities have been deliberately attacked by the Israel Defence Forces," the letter said, citing "hard evidence" of weaponry and a command centre inside Gaza's al-Shifa hospital.

It described that practice as the "ISIS model", and how Mosul

Hospital in 2016 was used as a command headquarters and later aerially targeted by the US-led coalition.

"Notwithstanding its status as a military target, Israel did not bomb or destroy the hospital," the letter read.

'Israel must respect international humanitarian law and protect civilian lives ... in its military operations against Hamas'

FOREIGN AFFAIRS
DEPARTMENT SPOKESWOMAN

"The IDF issued appropriate warnings, then entered on foot risking their soldiers' lives while minimising risks to civilians. They delivered humanitarian supplies, then facilitated the evacuation of patients and hospital staff who were in harm's way."

The letter also said Israel had cancelled airstrikes when civilians were close to its targets and that - "given Hamas was stockpiling to serve its own needs" - blame on Israel for not supplying more humanitarian aid was misplaced.

A week-long ceasefire to allow the release of hostages and prisoners ended on Saturday.

The letter to the government called both a permanent ceasefire and arms embargo "misguided", and said that the recent short ceasefire "risked rewarding Hamas".

"Israel would be left isolated and militarily paralysed; an outcome that would be met with cheers by Hamas, Hezbollah, Russia and Iran - none of whom appear to show much regard for international law and human rights," it read.

The letter urged the Albanese government to "act with diplomatic restraint" concerning the conduct of its "ally Israel".

A Foreign Affairs Department

spokeswoman said Senator Wong had been "clear" that Australia affirmed Israel's right to defend itself "but that the way it does it matters".

"Israel must respect international humanitarian law and protect civilian lives, requiring the application of the principles of distinction, proportionality and precaution," she said.

"Israel should do everything it can to ensure it observes these principles in its military operations against Hamas."

The organisers of the November 8 letter told The Australian legal obligations trumped Israel's military strategy.

"The preponderance of commentary, legal opinion and reports from expert independent organisations agree that Israel's conduct has not been proportionate and breaches international law," they said.

"Military strategy does not sit above Israel's legal obligations, including adherence to the Geneva Conventions."