

Ep 48. Mark Leibler AC

Voiceover [00:00:05] This is William and Lonsdale, a podcast about the legal ecosystem and the fascinating people who make it tick. Today, your host, Michael Green, speaks with Mark Leibler AC, senior partner at Arnold Bloch Leibler. Mark is well known for being one of the leading tax attorneys in the country, in addition to a love of the law. His two other great passions, aside from his family, are the Jewish community and the cause of reconciliation in Australia. And he has made myriad contributions and held national and international leadership positions in all three areas. During his education podcast, his high school share the Supreme Court prize of the top law student at the University of Melbourne and did a masters of law at Yale University. So for someone with such a love of learning, it was a genuine surprise to hear that Mark actually hated school.

Mark Leibler [00:00:56] I didn't like school because frankly, I didn't like discipline. I didn't like being told what to work to do, when to do it, and how to do it. I really rebelled against that sort of control and my tendency when I was told to do one thing, my tendency was to do precisely the opposite. I don't know, by the way, that I've ever really changed. And that explains why, apart from a very short period of time, I never took up employment. I was always, whether it was as a partner in a law practice or whatever it is that I did in life. I was not in a position and did not put myself in a position that I had to take instructions from others as to what to do.

Michael Green [00:02:12] Our guest this morning in Lives in the Law is Mark Leibler. Mark is the senior partner in Arnold Bloch Leibler, a commercial law firm here in Melbourne. Good morning, Mark, and thank you very much for coming in.

Mark Leibler [00:02:24] Morning. Pleased to be here.

Michael Green [00:02:26] Mark, your parents were born in Poland and came to Australia in 1939, fleeing the Nazi persecution of Jews. Can you tell us a bit about your parents background?

Mark Leibler [00:02:36] Well, I think it's fair to say that their original background is Poland, and then they ended up in Antwerp, Belgium, where they were involved in the diamond business. It was a very thriving Jewish community there until it was destroyed by the Nazis. And my grandparents on my father's side were fortunate to have left from there to go to the United States. But unfortunately, my grandparents on my mother's side ended up being murdered by the Nazis and Auschwitz. And my father happened to be in 1939 on a business trip to Australia. And then he received the message. I think it was a telegram from my mother saying, Don't come back, we're coming. So she hopped onto a ship with her younger sister and her first born, my older brother Izzy, and came here to Melbourne. Start a new life.

Michael Green [00:03:41] Your dad died relatively young. He was a man of 47 and had a heart attack. From reading about your background, it seems you had a quite amazing mother, a very strong woman who was a wonderful mother to you and your brothers.

Mark Leibler [00:03:53] She was she was very strong and she was totally dedicated to myself and my two brothers. She had opportunities to remarry, but she declined them all because her principal objective in life was to look after her family. Look, it wasn't easy to be alone, to be a widow in those circumstances. She was only, I think, 42 years old at the time. My older brother didn't come back for my father's funeral. He was told he was in Israel at the time and was thinking about entering the diplomatic service. But my mother told him, don't come home, go to Antwerp, learn the diamond business so that when you come back to Melbourne you'll be in a position to run the business and look after the family. So, you know, that was that was the family that I was born into.

Michael Green [00:04:50] And your dad was a diamond merchant?

Mark Leibler [00:04:52] My father was a diamond merchant. That was his business right from the outset.

Michael Green [00:04:59] You got to Mount Scopus and in Burwood for both primary and secondary schooling. It seems like it's a breeze for you because you dux the school in year 12. But you say you hated school from the beginning to the end. Why was that?

Mark Leibler [00:05:11] Well, I'm not sure that it was a breeze for me. Look, I didn't like school because, frankly, I didn't like discipline. I didn't like being told what to do, when to do it and how to do it. I really rebelled against that sort of control. And my tendency when I was told to do one thing, my tendency was to do precisely the opposite. So I don't know that was me that was me at the time. And I don't know, by the way, that I've ever really changed. And that explains why, apart from a very short period of time, I never took up employment. I was always, whether it was as a partner in a law practice or whatever it is that I did in life. I was not in a position and did not put myself in a position that I had to take instructions from others as to what to do.

Michael Green [00:06:12] And of course, it's a good thing to know yourself and if you know yourself, that's the first step towards wisdom, they say.

Mark Leibler [00:06:17] Well, it took me a while to actually discover myself. Yes, to understand oneself is helpful in terms of making one's way in life.

Michael Green [00:06:33] And so whether it was a breeze or not at Mount Scopus, you did very well at school and you choose to do law. It wasn't your first choice.

Mark Leibler [00:06:41] I think it's fair to say that at a point of time where I started thinking about what to do with myself in later life, I was inclined towards being a doctor. I was inclined towards doing medicine. And I do recall having been exposed to a very bad accident and seeing all the blood and feeling quite ill, and then reached the decision that maybe being a doctor was not for me. But that was combined with something else. And that is I always enjoyed the humanities. I was not good at maths, which would have been a prerequisite for doing medicine. I remember in my... I think it was my 11th year doing what everyone used to call veggie maths, Maths A. And I remember getting 51 out of 100, which was the and lowest mark I ever got in anything when I was going through school and university. So I decided that wasn't for me. And in the end, you know, I decided on law.

Michael Green [00:07:45] Did you enjoy studying law in the early to mid 60s when you're at Melbourne University?

Mark Leibler [00:07:49] I loved it. First of all, I loved the university, the freedom, having to make up your own mind what to do and how to do it, not being ordered around and being told what to do. For me, that was like heaven. Frankly, I enjoyed every minute of it.

Michael Green [00:08:07] Did you participate in the social life of the university?

Mark Leibler [00:08:11] Yeah, I remember. I think I was a member of the what was it called? The Political Studies Club. I was active in the and in fact, was at one point president of the Melbourne University Jewish Students Society. So I enjoyed the law. I actually enjoyed reading cases I enjoyed participating in and the Socratic method of teaching where it wasn't simply a question of reading cases and reviewing them, but there was a to and fro dialogue in terms of trying to get to the bottom of where the judges and in particular cases were really coming from. It sharpened one's brain and it taught one how to think.

Michael Green [00:08:57] And that fascination with the law, I think you said, remains with you until this day.

Mark Leibler [00:09:01] Yeah, absolutely. In the early days you sort of think of the law as the combination of what's in the statute books and the common law and the cases that you study once your practising law. And as time goes by, you begin to understand that the law is also a very human process. Decisions are not handed down by computers. They're handed down by human beings. And human beings have their own sort of even if their subconscious, but their own predilections and their own views and their own biases. You have to understand all of that if

you're going to be a good lawyer. And also most lawyers have interaction with administrators, different government authorities, you can understand what makes them tick. You've got to understand how they arrive at decisions. And you've also got to understand why often they're going to be constrained by issues which are quite different than those which are applicable when you're dealing with an ordinary commercial dispute.

Michael Green [00:10:19] So to be a successful lawyer, you would say, Mark, that it requires an understanding of your fellow human beings.

Mark Leibler [00:10:25] That's absolutely in my view, that's absolutely critical. And also, there's the whole question of human interactions. For example, if you're dealing with actually if you're dealing with anyone, but it becomes particularly important if you're dealing with regulators. I mean, my principal field of practice was tax law, so I have known personally every single commissioner of taxation and the most senior people going back, I don't know, 40, 50 years and I think of critical importance is the concept of trust. You've got to be a trusted person because if you're not trusted, people won't deal with you. If you're not trusted, it'll be very difficult to settle a dispute. So trust is of critical importance. And regulators need to understand that if they're dealing with a lawyer and the lawyer tells them unequivocally that something is the case, they've got to be able to rely on that. If they can't, it makes the sort of dealings almost impossible. And, of course. That's the last thing that could be regarded as being in the interests of clients.

Michael Green [00:11:37] And so what you're saying there is to be trusted. You must be a person of your word.

Mark Leibler [00:11:42] Yes. A person of integrity. Absolutely.

Michael Green [00:11:48] In your final year, you share the Supreme Court Prize with Marcia Neave. Subsequently a Supreme Court judge. And then you do articles. How did you get your articles? Because you had to apply for them in order to apply and you had to be accepted by somebody. And how did you enjoy your articles?

Mark Leibler [00:12:05] So first of all, you need to understand that being a Jewish person, it was not easy to get articles. Most of the WASPy large establishment firms, they would not take on Jews.

Michael Green [00:12:20] Really, it wouldn't as a blanket policy, wouldn't take?

Mark Leibler [00:12:23] Pretty much, be very difficult. Now it's a different state of affairs altogether, but that was the case in those days. So I knew the late Arnold Bloch and I was his first partner. But at the time I had finished university, I'd received a scholarship to go to Yale University to do a master's. And I must say that in getting that scholarship, the late Zelman Cowan was one of my referees and was instrumental in me succeeding in winning that scholarship. Arnold Bloch had been a family friend. He was a sole practitioner. I had worked during my summer break there for a while and he'd accepted me for articles and I hated every minute of it. I felt during that year of articles totally and utterly inadequate. Notwithstanding winning the Supreme Court Prize first class honours top student, I felt that, you know, the most junior secretary there was actually contributing more than I was. And of course, in those days, law firms didn't have the sort of sophisticated training the graduates can take advantage of, didn't exist. And it was all a bit of hit and miss.

Michael Green [00:13:52] You couldn't raise that with Arnold Bloch? In today's climate again, young people are open and say what they want to say and raise issues. Culturally as a article clerk with a senior solicitor. Did you feel you couldn't raise with him the fact that you thought you were really doing nothing?

Mark Leibler [00:14:10] I don't know. It's a bit difficult for me to think back over so many decades, but I was seriously thinking at the time about either going to the bar or pursuing an academic career at the end of articles and that was it. So I sort of took off to Yale, to New Haven. I had my first , my wife, Rosanna and I, we had our first baby, our oldest boy, and we spent a year

in the States. And it was, I must say, it was quite fascinating in those days. You know, classes at Melbourne University had about 150 people in them. Even when professors used the Socratic method, you'd be lucky to get, you know, five or 6 or 7 people to put up their hands and participate. But at Yale, the classes were much smaller, about 30, 35 odd, and every one of them was as bright as a button. It was quite a remarkable experience to be able to participate in that, to be exposed to it. And of course, the master's program comprised a total of 30 and half of them came from the United States. The other half came from countries all over the world. They generally took one Australian a year. So it was for me, it was a remarkable experience. But what it taught me was that as much as academic life was interesting and a bit challenging, I wanted to be in a position where I was doing practical things which really help people. And I could only do that through the practice of law and not as a result of being an academic. Anyway, after or during the course of my year at Yale, towards the end of it, I received a letter actually.

Michael Green [00:16:12] In the days of letters.

Mark Leibler [00:16:13] Those were the days. It wasn't even a phone call. It was a letter from Arnold Bloch saying that, you know, he hoped that when I came back I would come to work with him, that there was a great career in the law ahead for me and substantial prospects. Now, I had a choice between doing that and I guess going to the bar. I could have done either, but I think the reason why I came back to being a practicing solicitor was that there were a whole lot of other things I want him to do in my life, and it's very, very difficult to do that as a barrister because for every minute that you spend doing other things, you're not making a living. Whereas if you're part of a partnership and practising as a solicitor, then there were many more opportunities, if you will, organised to incorporate a whole lot of other things during the course of your own average day.

Michael Green [00:17:15] Can you tell us what those other things were, what you had in mind that you would like to fill your life with as well? Obviously your family is a major part of it, but beyond that.

Mark Leibler [00:17:24] This is not something which happened immediately that I came back from Yale. But if you look at my life since then, fundamentally there were three different areas that I was focussed on in terms of making a contribution over and above simply practising law, which in itself, by the way, was completely fascinating. I loved and still do my tax practice. I found it interesting and challenging, but I wanted to make contributions in three areas. First of all, in terms of tax policy. So not only a question of looking after clients, but trying to improve the way tax law operated. And in that area, my particular interest was the administration of our tax system. And for it to be constructed in such a way that taxpayers would be treated fairly. And if the commissioner had an established practice in certain areas, he couldn't simply resile from those practices and leave taxpayers in the lurch. That was what was challenging. The other area was looking after the interests of the Jewish community. Here I assumed several leadership positions and still have them. My principal focus was on Australia's relationship with Israel and the Jewish communities relationship with Israel. Because I was very conscious of the terrible thing that had happened to the Jewish people in the Holocaust where 6 million Jews were wiped out. I mean, that was an attempt to wipe out the whole of the Jewish people and that wouldn't have succeeded had there been a state of Israel as there is today, and that the relationship with the state of Israel, it's an essential component and love of Israel, of Jewish identity today. So that was another area of activity. And finally and I came on to this later in life was my work in the area of Indigenous Australians, Aboriginal and Torres Strait Islander peoples. Look, Australia is a wonderful country, yet to choose a place to live nowadays. You just couldn't find a better place than this country. And when you look around, the one blot is the state of our indigenous communities. The extent of racism which has been visited upon them, the huge gaps when it comes to life expense, life expectancy, incarceration rates. And I could go on and on. So, you know, having gotten so much out of living in this wonderful country, I've always felt we have an obligation to give back. And if we're going to give back, this is ought to be the primary area of our concerns.

Voiceover [00:20:37] William and Lonsdale is brought to you by Greens List, one of the leading multidisciplinary barristers lists in Australia. Greens list believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

Michael Green [00:20:55] Mark, I'd like to just for the moment, take us back to the start of your career and the start of your partnership or initially employment with Arnold Bloch. He was a person who had a significant professional influence upon you, it seems to me. And had I what at the time may have made a unique outlook on how to practice the law. What was important in practising the law? Would that be right?

Mark Leibler [00:21:19] Yeah. First of all, he had a remarkable intellect when it came to analysing issues. He was a leading tax lawyer at the time, although when I first came across him, the practice was heavily oriented towards conveyancing and property law. His personal main interest was in the area of tax. He had conveyancing clerks and various other people that he employed to do the property work. But his main interest was in tax and he came up with some, you know, pretty unique ideas. Arnold was one of the originators of the modern form of discretionary trust deed and discretionary trusts were hugely advantageous. I mean, less so nowadays than then, although they're still in very common use and they do have their advantages nowadays. But in those early days, they had advantages in terms of the minimisation of tax. They had advantages. We don't have to worry about that nowadays. But then they had advantages in terms of minimising death duties which were abolished in the 80s. But the biggest advantage was that the assets, vested in trusts were not owned by anyone. Legal title was held by the trustee, which was usually a company, but all of the rest of the assets were basically there. They could be appointed at any time in favour of anyone. But until that occurred, they were just a bundle of things which were not owned by anyone. So the trust was a major tool in facilitating generation skipping during those early times to minimise death duties, splitting income to minimise income taxes and nowadays to minimise capital gains taxes. So all in all, discretionary trusts are a very sort of useful instrument.

Michael Green [00:23:35] And Arnold Bloch was one of the first people to use them or in fact, to create them.

Mark Leibler [00:23:41] Absolutely. He was the first one to actually create the modern form of discretionary trust deed, which is in you throughout Australia today.

Michael Green [00:23:52] I was interested in reading about his strong focus on customer service, which maybe in those days and maybe even today, it's not as common as it should be in the legal profession. But he seemed to have a great understanding of human nature and the need to therefore not only do the work for people, but to have them understand what you were doing for them.

Mark Leibler [00:24:12] Yeah, it was quite remarkable. I mean, nowadays when you're expected to respond even before the question is asked, in those days, you know, it was all about snail mail and you'd dictate a letter. The letter would go out in the mail to the other lawyer or whoever the letter was addressed to would get it in due course. And, you know, over a couple of weeks you might get a letter out and get a response.

Michael Green [00:24:40] I used to think about two weeks was about was reasonable, not unreasonable.

Mark Leibler [00:24:43] That's right. I mean, I still remember Arnold Bloch and he used to do this more than on more than one occasion. You know, a client would come in to see him. He'd sit down and listen to the problem. He'd give advice. He'd arrange for the client to be given a cup of tea. And while that is taking place, he'd actually dictate the letter, get the letter typed up, and there the client would walk out of the office with the letter of advice. That was really something. The other thing, and this is, by the way, I mean, for decades now I have been addressing and answering questions from groups of seasonal clerks that come in and out of our office. And one of the messages which I invariably give them, actually not only them, but to my partners from time to time as well, is that, look, if you draw up a brilliant contract and it caters for a whole lot of things going forward, 99 times out of 100, it's not going to be tested because people, when they've got commitments, they will keep to their commitments. But what the client will notice is if he tries to call you and you don't call him back for a couple of days, he can get agitated, he can get fed up. And it doesn't matter if you've got the most brilliant mind in the world. He's likely to look around for another lawyer. In other words, the rule is either call back a client the same day or

get your pay if you're tied up in court or somewhere else, to call them up and explain that you're tied up in court and you'll call him the next day or something like that. Client service is terribly important. And he was great at that. He taught me a few lessons.

Michael Green [00:26:26] So you quickly build yourself a reputation as a tax lawyer and a leading tax lawyer. Were you strategic about your career? Did you have aims and goals and did you have plans on how to achieve those aims and goals, or was it a product of doing a good job, a reputation and a career grew and a practice grew?

Mark Leibler [00:26:45] Look. To be frank, I've got to say that if I was starting out today, I'd be more structured about it all. But in those days, it just sort of happened. I learned a lot from watching Arnold Bloch and how he practised the law. I became fascinated and interested in tax law, particularly in the area of trusts, and because I was interested in it. I wrote about it. There were many articles of mine that were published in various tax journals, but then I participated actively in the Law Council's Taxation committee. Eventually I became the chair of that committee. Nowadays, chairs are there for a year or something, but in those days I think I was there for at least 4 or 5 years. And in that capacity I attended meetings of what was called then, it's still called today the Tax Liaison Group, which is basically the various representatives of the professional bodies, me representing the Law Council, meeting with the Commissioner of Taxation himself and some of his senior colleagues to discuss issues in tax law which concerned practitioners and their clients. So I got to know the relevant people and obviously that was more than useful because it meant that when a client has a problem that you wanted to settle, you knew who to speak to. And of course, you know, the people in the tax office themselves also understood that you were respected, which means they think, three times before trying to take advantage of you. That's how I think and explains my, you know, progression in the law.

Michael Green [00:28:37] You made the point that maybe off microphone but that 99% of matters don't go to litigation, even matters that started litigation they normally settle. You have the reputation and you have been quoted by legal journals as being a very good negotiator, if not the best negotiator going around. Have you got views of what makes a good negotiator? What what distinguishes one from another is the quality of the case you've got?

Mark Leibler [00:29:02] Nothing to do with the quality of the case. It's fundamentals. Obviously, the quality of the case is going to make a difference. But in terms of given the quality of the case, how far you can go in getting an acceptable settlement, it's got to do, in my opinion, with two things. First of all, it's got to do with your capacity to put yourself in the shoes of your opponent. That is absolutely critical. Understand where he's coming from, understand what's important to him. Understand the difference between someone who's got their own commercial interests at heart and an administrator who's got different issues that he's got to have a look at..

Michael Green [00:29:49] Such as someone in the ATO.

Mark Leibler [00:29:51] Yes, exactly. Yeah. So there's that. And the other thing is you've got to find a way of giving something to the other side. These settlements won't happen unless to some extent there's a win win. And the key to it, particularly if you're dealing with the tax office, you're dealing with another regular regulator like ASIC or similar sort of administrators or regulators. The key is to give them something which they are looking for but doesn't detract too much from what your client is looking for. In my view, those are the other two keys to a successful negotiation.

Michael Green [00:30:37] So you've got to have an intimate knowledge of what a regulator needs and what the constraints and what the expectations are upon that regulator.

Mark Leibler [00:30:45] Look, I've had cases because of issues of precedent and so on and so forth with the tax office that the settlement arrived at actually produce less tax for the tax office than the alternative, which would have produced a greater amount of tax, but which would have created a precedent that would have been awkward for the Tax Office. So in other words, sometimes understanding where the person on the other side of the negotiation is coming from can actually save money for the client?

Michael Green [00:31:23] Yeah. I'm assuming there must be negotiations where you have doubts about the person on the other side or you may not even trust the person on the other side. What do you do in those situations? Or don't you negotiate with that person?

Mark Leibler [00:31:36] We're dealing with human beings. So if you're looking at an organisation like the Tax Office, by and large, they comprise people that, you should be able to deal with on a reasonable basis. But, you know, frankly, they've got some rotten eggs there, too. And my view is when you come across one of them, you've got to escalate it and deal with someone else. That's higher up, and I've had to do that on a number of occasions, but not too many, really. I mean, I've just found that most of the people who are with regulators can be dealt with on a reasonable basis.

Michael Green [00:32:13] Mark, can we now get back to the work that the firm does with Indigenous Australians and matters involving Aboriginal and Torres Strait Islander people? You see, you said it started with Noel Pearson, who is a leading advocate for Aboriginal rights. How did Noel come to the firm?

Mark Leibler [00:32:32] Noel came to the firm. He was recommended by the late Ron Caston.

Michael Green [00:32:37] And can I say for people who are listening to my recollection, Ron Caston was one of those silks who was regularly briefed to appear in the High Court. He was a leading silk across the country.

Mark Leibler [00:32:48] Yeah, he was. I mean, he was briefed in the Mabo, you know, the landmark Mabo case. So that's that's how Noel came to us. And he told me that Ron had suggested to him, rather than to go to a firm which specialised in, in dealing with Aboriginal and Torres Strait Islanders or Native title or the like, although I don't think Native Title was around till after Mabo. He suggested it would be best for Noel's training to go to a first class commercial law firm and to learn a little bit about how business and big business was transacted. That's why he ended up coming to us. He was article to me and it was it was a real eye opener for me. I didn't until I saw Noel, I don't think I'd ever met an indigenous person. We're going back now to the early to mid 1990s from recollection, you know, just sitting and talking to someone like Noel is quite an eye opening experience because he's got a very complex intellect and you need to focus and to concentrate in order to follow what he's saying and where he's coming from. He was offered a seat, I think, by Paul Keating when he was Prime minister. And I was so I sort of regretted that he didn't take it. But you know what? I couldn't get him to even be admitted to practice, even though he successfully obviously completed his articles because I couldn't get him to go and and to be admitted as a barrister and solicitor of the Supreme Court, notwithstanding that he had all the qualifications for doing so. I mean, you've got to hand it to Noel, he was completely and utterly focussed on looking after the interests of his own people of Aboriginal and Torres Strait Islanders, and that to him was much more important than, you know, he, whether at the bar or as a solicitor, the man would have made a fortune.

Michael Green [00:34:57] But he had bigger fish to fry. You've said that, and he, Noel Pearson, saw similarities between Jewish culture and Indigenous culture and commented on it to you. And in fact, I think you might have written something about that yourself.

Mark Leibler [00:35:11] Yeah, I think that it I'm not sure that it was so much culture because we each had, you know, indigenous cultures different from Jewish culture. But the point that he made publicly and, you know, quite often for me is that he was looking for Aboriginal and Torres Strait Islanders to emulate and to replicate what the Jewish community, the Jewish people here in Australia, had in his view, succeeded in doing, and that was avoiding assimilation but becoming successfully integrated, in other words, maintaining one's own culture but at the same time become fully embedded in the culture and workings of the wider Australian society and integration, but not assimilation.

Michael Green [00:36:05] Mark, you mentioned earlier that the firm has a significant practice and mainly pro-bono on behalf of Aboriginal and Torres Strait Islander people and for their issues. And I think specifically one of the groups claims that you represent are the Yorta Yorta people and the

Native title claims that they have made and possibly are still making. One, I think you lost in the High Court, but in fact it had a better outcome than a win, you thought?

Mark Leibler [00:36:34] Yeah, it was a long, long saga. Took us, I think, almost ten years, taking that all the way from the beginning through to the High Court. And we lost in the High Court. I think the decision was wrong. Native title, it was decided, had sort of disappeared and been wiped out by the sands of time. But then I must say, a huge amount of credit goes to the Bracks Government at the time. We sort of got into a car to go with our clients, went up to see the Premier and the Attorney General, who I'm pretty sure was Rob Hulls at the time, and we explained what had happened. And at the end it took a bit of negotiation. But in terms of land management, we ended up with a better deal than we would have got had we won the case in the High Court. So in a sense it was a bittersweet ending, if I can put it that way. But it was the sweetness of the end rather than the bitterness which prevailed. So we were very proud with what we achieved there.

Michael Green [00:37:41] And you, for more than a decade, in the early two thousands were on the Board of Reconciliation Australia may have chaired it even. How did this come about and what does Reconciliation Australia do or what did it do then?

Mark Leibler [00:37:54] Well, first of all, how did it come about? It came about because I think it was around the year 2000 or thereabouts. I had a call from the Prime Minister's office. John Howard was the Prime Minister at the time asking me whether I would agree to join the board of the newly government seated body to take over from the Council of Aboriginal Reconciliation, which came to an end at the just before the year 2000. And I must say I thought I was being invited to join the board and act on it, even think about not accepting. So I accepted that only to subsequently find out that the board was ten people, but not in the 30 people. I had received a call like that and many were miffed because only ten of the 30 were actually invited to come on to the board. So that's how it all started. And what does Reconciliation Australia do? Exactly? What its name suggests Reconciliation between Aboriginal and Torres Strait Islander Australians and Australians as a whole that sought to find ways and means of bringing us together, generating unity. And I think also obviously the whole issue of closing the gap was of absolute critical importance. Until we close that gap, we're not going to have reconciliation will not be complete. There are other things as well, too. There are issues to do with treaty truth telling and an appropriate voice. I mean, one of my biggest disappointments has been, you know, the failure of the referendum for the voice. I still really don't quite understand why it failed. But yes, I was co-chair of it for, I think for six years. Not quite sure. I don't remember. But around the few years I was co-chair together with Mick Dodson at one stage because we had two co-chairs, those it was always a non-Indigenous co-chair and Indigenous culture and I think we did. I mean, one of the most positive things that we did during my tenure at Reconciliation Australia was the Reconciliation Action plans whereby corporations large and small, a multitude of them put together and got a tick for having a, a, a plan for how they would deal with Aboriginal and Torres Strait Islander in terms of employment, in terms of culture, in terms of well it goes on and on. Some of these plans were very, very sophisticated and highly structured, but they wouldn't be recognised as such without a tick from Reconciliation Australia. That was one of the most positive things that we ever did.

Michael Green [00:41:01] You've also been on the expert panel on constitutional wrecking. Nation of Indigenous Australians. How does that body differ from Reconciliation Australia?

Mark Leibler [00:41:10] Well, it differs because that by first of all, I was appointed co-chair of the body by Prime Minister Julia Gillard and my co-chair was now Senator Patrick Dodson, who, by the way, I must say, was a pleasure to work with. And the reason for that was it was looking toward constitutional recognition of Indigenous Australians and how we might go about proving that through appropriate recognition in the Constitution. The centrepiece of the recommendations emanating from the expert panel was a an amendment to insert in the Constitution a clause prohibiting racial discrimination across the board. But as it turned out, that was not to be, because, well, from the point of view, both of the political parties that was considered to be akin to a Bill of rights that was considered to give too much power to the courts and to remove too much power from the parliament. And you know how much politicians enjoy losing power. So that didn't go very far, unfortunately.

Voiceover [00:42:29] Lives in the Law is proudly sponsored by City Maps illustrated the recent publication. The Melbourne Map is a celebration of our wonderful city. This stunning, hand-drawn illustration which took more than three years to create, is available as an art, print, jigsaw puzzle and calendar the perfect acquisition for your home office or corporate gifting.

Michael Green [00:42:56] Mark. As much as the title of our talk today is Your Life in the Law. I'd like to switch to current affairs. Absolutely. Current affairs. As we sit here in the last day of October 2023, two and a half, three weeks ago, Hamas attacked Israel, killing hundreds of civilians. Israel is now entering Gaza to try and eliminate Hamas. You, in your role as a leader of many Jewish bodies, have been and currently are, but among the ones you have been. The Zionist Federation of Australia. You've been on the board of a Tel Aviv University. Will Chairman of the Board of Trustees of the United Israel appeal Your position in the Jewish community at the moment must be extremely difficult, I assume, for you and for every other Jewish person on this planet.

Mark Leibler [00:43:39] Well, let me explain to you why it's very difficult. I mean, in a sense, the whole Jewish community is in a double state of shock. The first state of shock simply is a reaction to what was an ISIS Nazi style butchery committed by a shocking terrorist organisation. I mean, it just wasn't an ordinary attack. It was just women, children. It was just unbelievable. So, yes, the Jewish world has been left in a state of shock because this was reminiscent of what happened in the Holocaust. This was the largest number of Jews killed, murdered in one day. I mean, even the Nazis understood that they needed to try and hide what they were doing from the world. Not so these Hamas terrorists. The second reason for a state of shock is before Israel in a state of war had dropped a single bomb in Gaza. There were marches throughout the world, not marches in solidarity with Israel, protesting against this terrible terrorist outrage, but protesting against Israel as if the Israelis were themselves responsible for this carnage committed upon themselves. So the level of anti-Semitism generated by this can only be described as well. It does ease and it's having its reverberations here in Australia. And I must say, particularly in the universities. I know a little bit about this because I happened to sit on the Council of the University of Melbourne. It's just frightening. So, you know, there's a new challenge ahead. So it's a very, very difficult time for me. It's a very difficult time for the Jewish people. I have one. I've got family living in Israel and I have one grandson who's in a combat unit in the Israel Defence Forces. So obviously I worry. I often wake up at night thinking about these things and worrying more. I never thought I'd live to see a day where something like this could take place.

Michael Green [00:46:00] Mark, thank you for sharing that with us. It's obviously an extremely difficult time for you and really for the whole world community, and I do appreciate that you share that with us and give us an insight into how it's affecting you and how it's affecting the whole of the Jewish community. Very, very difficult times.

Mark Leibler [00:46:20] Yes, indeed.

Michael Green [00:46:24] Back to more mundane matters, which is some of the learnings from your career. I find leadership an interesting question or interesting role for people to play. You've obviously been a leader in all areas of your life really over the last 40 or 50 years. Do you have principles that you apply to leadership? Have you developed ideas and thoughts on how to be an effective leader and a good leader? Are the rules or something of that nature which you follow?

Mark Leibler [00:46:55] Well, I think if you're going to be a leader, it means that you've got to lead. If you're going to lead, you need to know where you're going. Which means before you start involving people, you've got to have a plan. You're at point A and you want to move to point B and you've got to have a clear idea how you want to do that. Then what you need to do is to involve people in a consultative way and to shepherd them from point A to point B, But what is of critical importance? You need to do that in a particularly constructive way so that the people who you are leading feel that they themselves are part of a process. Moving from point A to point B, not that they're being pushed there or shoved there. That, in my view, is what leadership is really all about. Having a clear vision of the end point and bringing everyone else with you, but bringing them with you, not shoving them there.

Michael Green [00:48:10] Does that mean persuasion plays a large part in leadership?

Mark Leibler [00:48:14] Yes, it does. But it's got to be it's got to be done carefully and it's got to be done subtly. It's critically important if you want buy in for the people who are buying in to feel that they're part of the process and not just piggy backing on you.

Michael Green [00:48:34] Mark, you've had what can only be described as enormous career, an enormous professional career as a leading tax lawyer in Australia and enormous. I don't like the word career really in terms of community workers. It's not a career. It's actually a part of the very essence of who you are to work within the Jewish community, the overall Australian community, specifically for Indigenous Australians with so much such a big life that you've had and are having. One of the questions in my mind, and I suspect people listening might be asking as well, how do you feel at home? Are you a very good organiser of time? Do you have very good assistants that you work with? Are you a good delegator? Have you got some principles you apply there?

Mark Leibler [00:49:18] Well, the first one is the obvious one, and that is I get less sleep. I'm a night owl as distinct from being a morning man and often be a very late at night sort of working away. I love the night as distinct from the morning because there's an element of quiet and peace and you actually get a chance to think without interruptions. You know, at 1:00, 2:00 in the morning. There's no phones that are ringing to interrupt you. There's no one rushing into your office to want help on this or that. Quite different in the morning mornings. Great to have meetings and so on and so forth. But if serious thinking work is done for me, at any rate, it's done at night. But look, the key to this is organisation. If you're properly organised and I am, you know, I always work off lists and everything's slotted into the appropriate time, so on and so forth. But if you're properly organised and you've got the right sort of administrative infrastructure, which I've got as well too, then it's amazing how much more you can fit into a day. That's been my experience.

Michael Green [00:50:39] And looking back on a very full and busy life from this point. Is there any any of the things you've done in any of the areas of your life which stand out to you as being more important than others?

Mark Leibler [00:50:54] You know, it's the sort of question I get asked from time to time. I can't answer that question because, you know, in each of the areas where I've been active, I've done things which I think are important and that I have no difficulty in recalling, but actually to pick and choose. It depends on who you're talking to. It depends on different things. Have a range of importance depending on the subject matter that you're considering.

Michael Green [00:51:32] Mark, thank you for your time this morning. It has been fascinating to listen to your life in the law and your life in general and in such a busy day to give us a couple of hours of your time where most appreciative. Thank you very much.

Mark Leibler [00:51:46] My pleasure.

Voiceover [00:51:54] Show notes from today's episode can be found@craigslist.com dot IU forward slash podcast. There you'll find links to things we've talked about in this episode, a transcript of the show, and some wonderful photos of our guests. If you're enjoying lives in the more, please tell your networks. Subscribe, write and review the show. Your host is former lawyer and Greens list clerk Michael Green. Our show is produced and edited by me, Catherine Green, mixed and mastered by Windmill Audio and recorded by Alex Macfarlane, who also wrote and performed all the music for the series. We're coming to you from the iconic Owen Dixon Chambers on the corner of William and Lonsdale streets in our beautiful city of Melbourne. We acknowledge the grand jury people of the cooling nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue that discussion here today.