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Israel: Regulation of Lawyers and Legal Services in Israel

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I. Introduction

The Israeli legal profession preceded the State of Israel, established in 1948 when the British mandate ended and Israel gained independence. One legacy of this period was a common law system, since supplemented by other elements; civil law, mainly from Germany, and US law. The legal profession has always consisted of one group: advocates. Before and after the creation of the State of Israel, only advocates were lawyers. Only they can perform legal services and there are no other groups such as para-legal or legal assistant. The advocates' law firms can only operate as a sole practice, partnership or company in which all members and managers are lawyers.

The current professional regulation of lawyers and legal services in Israel was determined in the Israel Bar Association Act of 1961. This Act established the Israel Bar Association (IBA) as a statutory entity mandated to 'incorporate the advocates in Israel and [to] take good care to observe, supervise and ensure the standards and ethics of the legal profession'.[1] Membership in the IBA is mandatory.[2] The IBA consists of various institutions, national and regional, with occupants of the respective positions voted into office, including the President, who heads the bar. Voting is conducted in a manner similar to voting for the Israeli parliament (the Knesset). Candidates for the national or regional bodies (there are six districts) act as representatives of political factions; upon conclusion of the balloting, negotiations are conducted to form a coalition that will enable its members to reach decisions according to a majority of votes.

According to the IBA Act, the association is responsible for overseeing every stage of professional licensing and the disciplinary system. It is authorised to promulgate rules governing the behaviour of all lawyers approved by the

[1] Israel Bar Association Act, 1961 s 1 (IBA Act, 1961).
[2] IBA Act, 1961 ss 42, 46.

Ministry of Justice. A comprehensive international comparison of similar laws indicates that the professional regulation of lawyers in Israel is unprecedented in the Western democracies, with respect to both the degree of autonomy enjoyed by the profession and the scope of monopolisation of the market for legal services.[3] Based on the indicators specified in the International Bar Association's task force report,[4] it appears that the legal profession in Israel has full independence.

As I will elaborate in section II of this chapter, in relation to entry into the profession and the disciplinary system, the independence of the IBA might be too broad and might come at the expense of other public interests. Section III considers the reasons that have enabled the Israeli Bar to keep its unique statutes and powers for more than half a century. Section IV describes the legal profession's regulation from establishment of the State of Israel in 1948 and enactment of the IBA Act in 1961 up to 2013, and section V continues the timeline to the present day by focusing on the Report of the Public Committee regarding the IBA and the subsequent changes in the IBA Act, to take effect in 2017. Section VI describes how all four routes of entry into the profession are controlled by the IBA. Expulsion from the profession is dealt with in section VII, which describes the autonomous disciplinary system that operates with minimal external oversight. Section VIII examines the broad monopoly enjoyed by the profession and the ways in which the IBA prevents outside competition in the legal services market. Section IX identifies possible future threats to the Bar's hegemony.

II. Reasons for Maintaining the Bar's Special Status and Powers

Despite the enormous changes experienced by Israeli society, its laws and the legal profession in the half-century since regulation was instituted, no meaningful changes have taken place regarding the Bar's status and powers. A number of reasons account for this situation. The first is historical: when enacted in 1961, the IBA Act allowed for very broad professional autonomy and monopoly powers, subject to almost no external oversight or regulatory apparatus. As elaborated later in this chapter, lawyers were able to leverage their contribution to establishment of the State in 1948, as well as to the preservation of the rule of law in Israel's then fragile democracy, into arguments allowing them to convince the Knesset that they were trustworthy and deserving of full autonomy in managing their internal

[3] E Salzberger, 'The Israeli Lawyers' Connection: On the Israel Bar Association and its Allies' (2002) 32 *Mishpatim L Rev* 43, 62 (Hebrew). The article compares the legal profession in Israel to two professions in Israel—medicine and accountancy and with the legal professions in England, Belgium, Holland, Italy and the US.

[4] Report of the IBA Presidential Task Force on the Independence of the Legal Profession (Draft, September 2016).

affairs. As I will show, lawyers managed to channel the legislative process to their own benefit. Thanks to this law, the profession was able to bypass most of the stages associated with professional institutionalisation.

The fact that as early as 1961 the Knesset adopted the lawyers' position on professional independence indicates the second reason for the IBA's ability to maintain its special status: its alliance with the legislative branch. Over the years, lawyers have benefited from a strong lobby, active in Knesset corridors. As I will show, all the amendments to the IBA Act that touch upon professional self-regulation were never ratified as proposed and were always modified in accordance with the Bar's objections.

A third reason for the profession's sustained self-regulation is the longstanding position of the executive branch, and particularly Israel's Minister of Justice, as a stalwart ally of the Bar. Ministers of Justice have cooperated with the Bar and assisted it in preserving its power because of three main factors. First, the strong alliance with the Knesset includes the Ministers, as they are part of the Knesset-coalition. Second, the majority of Israel's Ministers of Justice were appointed after pursuing a legal career, and some were also formerly political activists within the IBA's framework. Third, the IBA's statutory status in the Judges' Selection Committee lends it political leverage. The Committee has nine members: two Knesset members, three Supreme Court justices, the Minister of Justice and another minister, and two IBA representatives. Ministers interested in having their candidates accepted by the Committee generally require the votes of the two IBA representatives.

The fourth factor sustaining lawyer self-regulation is the support received from the judiciary, the third branch of government. The relationship between lawyers and judges began with termination of the British Mandate and establishment of the State in 1948, when the majority of new judges appointed came from the ranks of private sector lawyers. Shared origins led to the creation of especially strong professional and social ties.[5] During the State's first two decades, when lawyers and judges shared a common, liberal ideology, the socialist ideology was prevalent in Israeli society. Hence, lawyers and judges were viewed as alien bourgeois elements and the rule of law was seen as a barrier to realising the collectivist dream.[6] In these circumstances, lawyers and judges became mutually dependent; judges drew their power from lawyers and lawyers drew their status from their proximity to the judicial system and their roles as protectors of the rule of law in its formal sense.[7] An analysis of High Court of Justice (HCJ) decisions

[5] I Rosen-Zvi, '*Constructing Professionalism: The Professional Project of the Israeli Judiciary*' (2001) 31 *Seton Hall L Rev* 786, 771–72.

[6] ibid, 773–77; See also N Ziv, 'The Legal Profession: Looking backward: Combining Professionalism, Nation Building and Public Service: The Professional Project of the Israeli Bar 1928–2002' (2003) 71 *Fordham L Rev* 1621, 1633–1635. It should be noted that as of 1980, Israeli society renounced socialism to embrace individualism and capitalistic society, with the status of lawyers rising to new heights and their roles expanding accordingly.

[7] ibid, 775–76.

in cases dealing with various aspects of the IBA's autonomy indicated that until the early 2000s, the Bar enjoyed preferential treatment when compared to other sectors of society. During the last 15 years, there has been a weakening of the alliance between lawyers and judges, with their traditional relationship replaced by a tentative, ad hoc approach. The courts have supported the Bar's position in some cases (eg in the *Stanger* case, discussed in section II). However, in other instances, the courts ruled against the Bar (eg in a petition regarding its monopoly power, discussed in section VI).

The fifth reason sustaining the profession's self-regulation is the readiness of IBA presidents to protect this arrangement, especially regarding the IBA's autonomy and monopoly. The IBA's presidents have always been resolute in declaring the legal profession's important role in protecting the democracy, human rights and the rule of law[8] even though the Bar has exerted no special effort to benefit society throughout the first four decades of its existence.[9] Throughout that period, the Bar's campaigns promoted its members' interests, often at the cost of society's interests.[10] A change in approach began only in the early 2000s, with attorney Shlomo Cohen's election as the Bar's President. Cohen, who entered office with a left-liberal agenda, consistently employed the Bar's power to defend the Supreme Court, which was then the object of severe attacks from some segments of society (orthodox groups and right wing conservative parties that claimed the Supreme Court was being too activist).[11]

During Cohen's presidency the Bar also began to make its voice heard with respect to human rights issues.[12] In 2003, he established the Bar's pro bono programme, in which lawyers volunteered to provide free legal assistance to those needing legal representation but ineligible for State assistance. In so doing, the Bar, for the first time in its existence, employed its permissive legal authority, resting on the 1961 Act, to provide organised legal assistance to the needy. Cohen's successor promoted an amendment declaring this requirement from the Bar (not from lawyers) to be obligatory.[13] It is important to note that the pro bono

[8] See, Interview 'The former presidents of the Israel bar discuss the profession's problems' (1986) *Hapraklit, Special Issue in Celebration of Its 25th Anniversary* 5, 9 (Hebrew); The Israeli Association, *Jubilee Book—The Israeli Bar's 50th Anniversary, 1961–2011* (2011) 132–49 (Hebrew).

[9] G Barzilai, 'The Ambivalent Language of Lawyers in Israel: Liberal Politics, Economic Liberalism, Silence and Dissent' in Terence C Halliday et al (eds), *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberalism* (2007) 247, 250–51, 256–57; Salzberger (n 3) 67–68; Ziv, 'The Legal Profession' (n 6) 1639.

[10] Examples are found in, Salzberger (n 3) at fn 115: The Bar opposed establishment of the public defender's office; it also posed changes in the *Compensation of Victims of Traffic Accidents Law, 1975*, that would permit receipt of compensation directly from the National Insurance Institute without proof of guilt.

[11] S Navot, *The Constitution of Israel* (Oxford, New York, Hart Publishing, 2014).

[12] IBA *Jubilee Book* (n 8) 78.

[13] The IBA Act was amended in 2009 but the obligation of the IBA to provide legal aid for needy people only came into force five years later when the IBA and the Ministry of Justice finally signed special regulation. It is unclear why it took five years. See the IBA Rules (providing legal aid for needy people), 2014 (Hebrew).

programme handles a very small number of cases every year, around 1,000 from around 25,000 phone applications.[14]

An additional high point in the emergence of the Bar's social role was reached in 2016 when, as part of Amendment 38, the IBA Act was amended to include, within the mandatory role of the IBA, an obligation 'to protect the rule of law, human rights and the basic values of the State of Israel'. This initiative expressed the current IBA President's policy. He presents the Bar's role as the public trustee of democracy and the rule of law together with its demands for independence and its achievements in protecting the interests of its members.

III. The Evolution of Self-Regulation

Since establishment of the State of Israel in 1948 and up to passage of the Israel Bar Association Law in 1961, the profession's legal status was determined by two laws enacted during the British Mandate. The first, the Advocates Ordinance, 1922, defined the profession's sphere of activity, regulated the licensing of lawyers, determined the lawyer's professional obligations and delegated to veteran judges the authority to devise procedures relating to ethics, among other things. The second law, the Law Council Ordinance, also enacted in 1938, established a body with the authority to oversee the disciplinary system, internship and licensing criteria. Members of the Law Council were initially appointed by the British High Commissioner but after establishment of the State, the Minister of Justice acquired this task. The majority of the Council's members were lawyers; others were not. Israel's Attorney General served as its chair. It was apparent that the profession enjoyed no self-autonomy; it was supervised by a statutory body appointed and controlled by the Ministry of Justice, some of whose members came from other professions.

Throughout this period the Jewish Lawyers Association, a voluntary organisation of lawyers devoid of authority, was also active. The association's primary aim was to establish an autonomous lawyers' representative association that would manage, as independently as possible, the profession's affairs in isolation from governmental institutions. The first years of the infant State were characterised by heavy government intervention, especially regarding regulation of the professions. The Association attempted to offset this trend by requesting that a special law anchor the profession's autonomy, to encourage lawyers' socio-cultural and professional development. This undertaking was far from simple due to the difficulty of convincing Knesset members, and the campaign took place against the background of political centralisation and collectivism. Lawyers grounded their

[14] IBA Annual Report, 2014 <http://www.israelbar.org.il/UpLoadFiles/activity_report_2014_site.pdf> last accessed 26 June 2017.

demands in two arguments: first, their contribution to the establishment of the State's institutions and its laying the foundations of the new system of laws,[15] and, second, their capabilities, status, sophistication and reputation.[16]

As Ziv points out, lawyers did not bring up any 'trade-off' between the profession and society, and nothing was offered to society in exchange for the preferential status lawyers had demanded.

Although the then Minister of Justice, who presented the proposed law to the Knesset, did stress the profession's private and public obligations, throughout the lengthy debate over the proposition no mention was made about the substance of lawyers' obligations to society or their other social commitments. Moreover, some of the law's stipulations, intended to emphasise lawyers' heightened social obligations, were either deleted or revised.[17] For instance, although the proposal stipulated that the Bar was to promote justice, the relevant section was subsequently deleted. It was decided to list pro bono services as a prerogative rather than an obligation; it took a further 40 years for the Bar to create a funded program of pro bono representation. Furthermore, in 2009, as part of a program to reinforce its public status and image, the IBA initiated an amendment to the section and placed provision of legal aid among the Bar's obligations. However, this duty came into force only five years later when a special regulation was finally signed.[18]

Another opportunity missed during the debates surrounding passage of the IBA Act was the possibility of introducing a system of regulatory checks and balances that would coordinate relations between the State and the future Bar (see below). At the time when the Law was enacted no interest groups or civil society organisations existed for defending the public's interest. Although several Knesset members raised fears regarding the Bar's exclusive control over the market for legal services, and the damage this might cause to the public interest, lawyers managed to quell the opposition.[19]

The Israel Bar Association Act came into effect in 1962. Its provisions diverged from those regulating the other professions active in contemporary Israeli society. There was no free profession—whether medicine, engineering, accountancy or others—enjoying a similar status in terms of its almost complete autonomy, the scope of its authority and the requirement to belong to a single professional representative association. This remains so, despite demands that the IBA compensate society for its preferential status and freedom from any legally meaningful system of checks and balances.

[15] Y Herman, 'From a Voluntary State to a Statutory State' (1961) 17 *Hapraklit L Rev* 362 (Hebrew); J Rotenstriech, 'About the Establishment of the Israeli Bar' (1987) *Hapraklit L Rev* 38 (Hebrew). J Rotenstriech was the founding father and the first IBA President from 1962–1972.

[16] Ziv, 'The Legal Profession' (n 6) 1645.

[17] ibid, at 1645–46.

[18] See n 13.

[19] Ziv, 'The Legal Profession' (n 6) 1648–49.

An important milestone reached in the regulation of Israel's lawyers, is the decision handed down by the HCJ in the matter of *Stanger*.[20] The issue facing the court was whether the IBA Act governing Bar membership and payment of fees undermines the freedom of occupation in a way that contradicts Basic Law: Freedom of Occupation (1994) and, if so, whether these requirements should be nullified. The HCJ accepted, without critique, the Bar's position that the existing arrangements allow the IBA to fulfil an important social goal: 'to ensure by means of a statutory body established to provide professional oversight and regulation of the legal services lawyers provide their clients so that they may be delivered at the proper level while guaranteeing obedience to professional ethics'.[21] The decision failed to mention the Act's utilitarian rationales, but proposed, for the purpose of dismissing them, a list of regulatory alternatives to the profession's regulation. These included the division of responsibility among several bodies and a statutory body comprised of representatives from the profession as well as the public. The court then stated that despite the various models available, the legislature had chosen self-regulation, adding that 'at the foundations of the existing model, we find the rationale of guaranteeing the independence and expertise of the Bar'.[22] The HCJ's decision thus powerfully affirms the existing arrangement of IBA self-regulation and autonomy.

It is a surprising fact that the 1961 Act continues to exist in substantially its original form. Amendments introduced over the years include amendment 32, relating to the disciplinary system, and, more recently, amendment 38, dealing with IBA institutions. Some view the very introduction of these comprehensive amendments by the Ministry of Justice, which were not initiated nor supported by the IBA, as signs of the steadily increasing intervention of the State in professional regulation to a point threatening self-regulation.[23] It should be recalled that these amendments were not introduced because of the extension of state regulation but, rather, because of the public pressure that led to the creation of public committees that would later recommend implementation of these amendments. Hence, the legislature had no choice but to amend the law and it did so in a way that accorded with the Bar's position, which had never agreed to any reduction of its power of self-regulation. Although these amendments might have been used to introduce meaningful changes into the profession's regulation, nothing was done due to the Bar's power and its allies in the legislative and executive branches. Viewed in terms of its results, the revisions neither changed nor narrowed the existing scope of self-regulation.

In the half-century since the passage of the IBA Act, Israeli society has undergone a fundamental transformation, from a socialist to a capitalist, neo-liberal society.

[20] HCJ 2334/02 *Atty Stanger v Chair, the Knesset et al*, Dec no 58(1), 786 (Nov 26 2003).
[21] ibid, para 10.
[22] ibid, para 13–14.
[23] N Ziv, 'Regulation of Israeli Lawyers: from Professional Autonomy to Multi Institutional Regulation' (2009) 77 *Fordham L Rev* 1763.

Relations between the three branches of government have undergone dramatic changes, as has the political system. Israel's judicial system has also experienced significant changes: the decline of formalism together with the rise of normative standards; the constitutional revolution and the increased status of the freedom of occupation; the weakening of professional monopoly and of centralised bodies; tightening of oversight over statutory bodies; and the effect of globalisation on local law. Beginning in the 1990s, and continuing to date, the legal profession has experienced a dramatic rise in the number of lawyers. This is due to the opening of law colleges, mostly private, so that the number of law schools increased from 3 to 14. The main result of this change was that the profession has become more heterogeneous as it absorbed increasing numbers of entrants from minority groups, new immigrants and residents of the periphery—groups previously unable to gain admission into the university law schools.[24]

Other results of the acceleration in the number of lawyers were vocational. There was a sharp rise in law firm size, particularly among the largest firms. This led to intensifying competition, a decline in legal fees, the creation of new specialisations and sub-specialisations and higher exit rates from the profession.[25] All these changes had very little effect on the profession's autonomous self-regulation, except for professional conduct norms. In the area of setting professional conduct norms, pluralistic regulation is exhibited by the courts and the bar.[26] In cases of negligence, mainly involving real estate and land transactions, courts have created a broad duty of care owed by lawyers to unrepresented third parties, usually the opposing party. The duty is based on lawyers' social obligations and comes at the expense of client loyalty.[27] This approach is diametric to that of the conduct rules underpinning the disciplinary system, which underscore lawyers' duties to clients as their primary obligation. Another example is attorney-client privilege where, contrary to the IBA's stance, the Supreme Court narrowed the type of information exchanged between the lawyer and client covered by privilege.[28]

From the mid-1990s, growing pressure from within a more heterogeneous and stratified profession combined with public pressure was directed at revising the existing system by delegating authority to external public bodies. In order to deflect this pressure and convince critics that the current arrangement was optimal, the Bar persistently employed two of the rationales originally raised during debates over the IBA Act in the 1960s. The first rationale contends that the legal profession is a free profession whose members are required to enjoy a considerable degree of freedom and autonomy. The factor ensuring these features is

[24] See L Zer-Gutman, 'Effects of the Acceleration in the Number of Lawyers in Israel' (2012) 19 *Int'l J Legal Profession* 247.

[25] ibid.

[26] Ziv, 'Regulation of Israeli Lawyers' (n 23) 1789.

[27] L Zer-Gutman, 'Legal Representation towards Unrepresented Party: Lawyers' Cavent' (2005) 1 *Haifa University L Rev* 153 (Hebrew).

[28] RCA 751/15 *Abargil v The State of Israel* (2016) (Hebrew).

the existence of one exclusive and autonomous professional body endowed with the requisite authority. The existence of the Bar, according to this prescription, ensures that lawyers will be able to zealously represent their clients before the authorities because they will not be professionally dependent on the government nor subject to discipline by any other government institution.[29] Moreover, the Bar's existence as an autonomous entity enables it to protect the profession, such as in cases of proposed legislation that might threaten the profession's status as a free profession.[30] This includes, for example, legislation dictating fixed legal fees in certain areas.

The second argument used to sustain the Bar's unique status reflects the profession's position within the State's democratic institutional infrastructure. The legal profession functions as an extension of the judiciary as one of the State's three branches.[31] Lawyers represent an integral part of the judicial process; as such; they assist the courts in dispensing justice.[32] Hence, the IBA is not just another association attending to the professional needs of its public; it also actively takes part in the public debate surrounding the rule of law and human rights in their broadest sense. Only an exclusive and autonomous association can effectively confront the currents aimed at undermining the rule of law, or the judicial branch's independence, which occasionally penetrate the public agenda. Another rationale intermittently cropping up over the years maintains that, for the 55 years since the Bar's establishment, no serious mishap has occurred that might warrant changing the existing system.[33] This argument, reflecting the crude wisdom 'If it ain't broke, don't fix it', was recently employed by the public committee appointed to review the Bar's functioning to justify retention of the current form of professional regulation.[34]

IV. The Public Committee to Examine the Israeli Bar and Subsequent Changes in the IBA Act

The IBA operates by means of institutions, the members of which are elected every four years; only those lawyers paying membership dues hold membership cards and are eligible to vote. Voting is conducted by means of four ballots, for

[29] See, G Kling, *Ethics for Lawyers* (Israeli Bar Publication, 2001) 14 (Hebrew); D Arad-Ayalon, 'Publication of Disciplinary Hearings and the Establishment of a Professional Complaint Authority' (2004) 45 *The Lawyer Magazine* 48–49 (Hebrew).

[30] Kling (n 29) 19–20.

[31] ibid, at 11; IBA *Jubilee Book* (n 8) 29.

[32] See IBA Act, 1961 s 54: 'In carrying out his functions, an advocate shall serve the best interests of his client loyally and devotedly and shall help the court dispense justice.'

[33] Kling (n 29) 20.

[34] See the Report of the Public Committee to Examine the Israeli Bar and Subsequent Changes in the IBA Act, p 118 (2013) (Hebrew).

each of the following positions: the Bar's president (who also serves as Chair of the Central Committee); a party for the Central Committee; the head of the lawyers' district (who also serves as Chair of the District Committee); and a party for the District Committee. Although the turn-out in these elections is only around one-third of those eligible to vote, and those elected serve voluntarily, these facts do little to blunt the intensity of the conflicts constantly waged.

In 2011, immediately after the election to the IBA, severe antagonism erupted between the majority of the members of the Bar's institutions and the newly elected president. As result, the new president could not control the Bar's institutions and, even worse, all the heads of the five district committees united in their opposition to him. Almost all IBA institutions were paralysed, a situation that led to continuing failures in the execution of mandatory, ongoing activities; internships lapsed, causing considerable damage to interns dependent on Bar decisions. The disputes reached the courts for resolution and dominated the press, with a stream of headlines reporting the mudslinging accompanying the conflict between the parties. At this point, the Minister of Justice decided to appoint a Public Committee to conduct an in-depth review of the IBA's statutory structure, the duties set out in the Act, its national and local institutes, financial management and the need for outside controls. The Committee, headed by former Supreme Court Justice Ayala Procaccia, included four more committee members, among them the author of this chapter. This was a rare and opportune moment to introduce meaningful change in the law and to review the IBA's status.

The Committee considered three options. One was based on the supposition that the crisis, which was not the first of its kind, indicated an inherent fallacy in the structure of the IBA. This conclusion would necessitate deep-seated reform in the IBA's status as a statutory autonomous entity. Under a new scheme, lawyers' professional organisation would become voluntary and the existing authority would be allocated among diverse external public entities.

All the Committee's members rejected this option. They were convinced that the IBA should remain an autonomous statutory entity, with membership remaining a necessary condition for practising law. There was agreement that this step was imperative in order to allow the IBA to protect lawyers as well as the rule of law that was then, as now, under constant attack by various factions, some belonging to the executive as well as the legislative branch. Even though the Bar's voice was not always heard during conflicts over the rule of law, and despite its occasional defence of lawyers, as opposed to the public interest, the Committee believed no alternative was then available to the Bar in its current form. The little it did was to be preserved, while the Bar should be encouraged to more forcefully fulfil its public role.

The second possible approach was less radical. It assumed that the resolution of the conflict rested upon partial reform of the Bar's status, leaving its statutory autonomy intact. Under this proposal, obligatory membership of the Bar would continue as a condition for practising law. However, in light of the inherent conflict of interest in which the Bar found itself, responsibility for the internship,

licensing and disciplinary system would be transferred to external bodies established and funded by membership dues.[35] The third option, favoured by the majority of Committee members, assumed that comprehensive reform of the existing regulatory arrangements was unnecessary. Introduction of diverse internal changes, institutional as well as others, in the Bar's organisation and functions, would suffice. This step was considered an important contribution to the conduct of the Bar's institutions in accordance with democratic values and proper administrative norms. In accordance with the majority opinion, the Committee's report offered many revisions in the IBA Act that aimed to reduce the number of IBA institutions, imposing precise delineation of its authority and guaranteeing the elected President's controlling powers.

Based on the Public Committee's report, the Ministry of Justice prepared a detailed proposal for amending the IBA Act: Amendment 38. In the meantime, new elections were held in 2015. The two largest factions, both of which opposed the outgoing president's bid for a second term, succeeded in uniting behind an alternative candidate. The new bloc won in all four spheres and the new leadership has since exhibited an impressive level of unity. Under the current president, and heads of the five districts, internal conflict has been replaced by exemplary harmony. This change in leadership has enabled the Bar to constructively discuss the legislative proposal. Amendments rejected by the Bar have either been deleted from the proposal or returned for discussion in the Knesset's Constitution, Law and Justice Committee.[36] In sum, only amendments that won the Bar's approval were ratified. Amendment 38 reflected, again, the strong lobbying the IBA could bring to bear and demonstrated the strength of the new alliance it had forged with the legislative and executive branches.

Amendment 38 introduced several structural changes to the IBA Act. These changes will come into effect only after the next IBA elections, to be held in 2019. It is therefore too early to contemplate their impact on the system. The respective changes will subject the IBA to the new, up-to-date rules enacted with respect to public corporations, such as those for public broadcasting and electricity, ensuring that the IBA will have professional management, transparency, budgetary control and so forth. For example, among the amendments we find provisions requiring the appointment of independent professionals including a general manager, an auditor, a legal counsel, and an internal comptroller, all to provide professional, non-political, ongoing management. Some of these functions existed earlier, although the Act now stipulates, for the first time, explicit appointment and termination procedures for each position-holder as well as setting out his authority.

The most important of these amendments concerns creating new authority. For the first time, this establishes a foothold for the Minister of Justice in the

[35] The present author was the only Committee member supporting this approach in a detailed minority opinion in the Committee's report.

[36] The original proposal included elimination of the five districts so that the IBA could operate only through its national institutions. The IBA objected to this item and it was soon removed.

determination of several issues that had been and presently continue to be under the IBA's full autonomous control. It confers a right to intervene in crises entailing the Bar's neglect of a role assigned it by law, and to issue a decree ordering the Bar to comply in the time indicated on the order.[37] The Minister can even prevent IBA institutions from operating and order new elections.[38] The other two powers the Minister will have relate to budget and membership fees, but they are more declaratory than operative.

V. Control over Entry: Internship and Licensing

Section 24 of the IBA Act prescribes three conditions for acceptance into the legal profession: an LLB awarded by an authorised institution of higher education, completion of an internship and passing the IBA's licensing examinations. The authority to authorise law schools is vested in the Council for Higher Education, a statutory body belonging to the Ministry of Education. Starting in the 1990s, a high demand for studying law, combined with a lax regulatory framework for establishing higher education institutions, led to the opening of many law colleges, most of them private. The number of law schools rose from 3 to 14 and the number of lawyers doubled in each decade from 10,697 in 1990, to 23,127 in 2000 and 46,515 in 2010. The number of lawyers per-capita in Israel was the highest in the world at 1/157 in 2011.[39]

The two other conditions to be met in order to be accepted into the legal profession, an internship lasting one year (to become a year and a half) and passing the licensing examinations, are under the IBA's control. Section 2 of the IBA Act, listing the Bar's obligations, requires the IBA to '[r]egister, supervise internship and examine legal interns, qualify lawyers by admitting them as members of the Bar'.

Section 27 grants the IBA the authority to refuse a candidate as an intern if facts are discovered suggesting that the candidate is unworthy of being a lawyer.[40] The section grants broad powers to the IBA given its phrasing, which is unclear as to what considerations can appropriately be considered and how discretion is to be exercised. Decisions are made in the absence of written criteria or rules, debates are held behind closed doors and decisions are not publicised, even as general data, all of which make it impossible to examine how discretion is applied in practice.

Only in those cases where candidates appeal to a regular administrative court to reverse the decision is a window opened allowing us a brief peek into the

[37] IBA Act, 1961, s 10b.

[38] IBA Act, 1961, s 10c.

[39] Zer-Gutman, 'Effects of the Acceleration' (n 24) 248–50.

[40] Such facts are usually mentioned in affidavit, transmitted under oath that is required of all candidates upon their presentation to the Internship Committee. Within that statement, accompanied by the relevant documents, candidates are required to disclose any criminal or disciplinary convictions, and whether any police investigations have been directed at them.

decision-making process. This window has revealed the problematic nature of the process, its incoherence, and the danger that arbitrary or politically motivated decisions will be made.[41] The discretionary authority to approve internship requests is in the hands of the IBA's elected politicians, who are assisted by the Internship Committee, which it appoints. Amendment 39, passed in 2017, transfered authority from the politicians to the Internship Committee.[42] The purpose of this change is to render the process more professional and politically neutral. However, we should bear in mind that the Internship Committee's members would continue to be appointed by the IBA's elected politicians, that the Committee will continue to include only members of the Bar with no public representatives, and the process will continue to lack transparency.

The main barrier to entry into the profession is the licensing examination, which is stipulated in the IBA Act and special procedural rules. The examination, is offered twice annually.[43] The exam is conducted by the Examining Board whose members, appointed by the IBA, are responsible for drafting and responding to comments regarding the questionnaire.[44] The Board's composition is determined in the procedures and is meant to create a balance: three judges, three lawyers from the private sector and three from the public service.[45] In response to Amendment 38, changes, which will come into effect in 2017, were made to the Examining Board's composition, with the number of lawyers reduced to four out of nine. In addition, two faculty members selected from law schools are to be appointed for the first time; the number of judges will remain three. Another important change gave the Minister of Justice the authority to appoint the Board's members.[46] These changes were made with the IBA's consent in response to the piercing public criticism voiced in recent years, primarily by internees who had failed the written examination. Critics pointed to the declining percentage of students passing the exam

[41] M Ofer-Tzofni, 'Who is Worthy of Becoming a Lawyer? The Regulation Governing Admission to the Bar—Ideals and Reality' (2017) 22 *Hamishpat L Rev* (Hebrew).

[42] Israel Bar Association Act (Amendment—Revision of the Licensing Examination and Other Orders), 2016.

[43] By the end of 2017 a new form of a written examination will take place. The first part of 40% will have multiple choice questions. The second part will require analysing legal cases and drafting legal documents.

[44] IBA Regulations (Procedures for Writing the Examination on the Laws of the State of Israel regarding Professional Ethics as Applied to Foreign-born Lawyers and the Practical Occupations), 1962 s 17.

[45] See, HCJ 110/87 *Bloy v The Minister of Justice*, PD 41(2) p 373. The decision discusses the Committee's makeup for the first time, with the HCJ stressing that in determining its composition, the legislature demanded that decision-making power be placed in the hands of an objective body whose members would include a judge and a lawyer from the public sector. The HCJ also addressed the role of the Examining Board and determined that it has a dual role: Drafting the questions comprising the test questionnaire as well as determining the correct answer for each question.

[46] IBA Act (Amendment 38), 2016, *Sefer Hokim* 2542 662, s 25 that corrects s 40 of the same law.

(from 77 per cent to 37 per cent)[47] and argued that the IBA President controlled the Examining Board in practice and was using the Committee to further the agenda he had professed during the elections; raising barriers to entry in order to halt the profession's inundation.

The peak of the conflict over the examination was reached in 2015 when 13 interns who had failed to pass presented a petition to the HCJ against the Minister of Justice, the IBA and the Examining Board challenging, for the first time in history, the IBA's authority to conduct the examination.[48] The petitioners argued that the Board was afflicted by a serious conflict of interest because its members were appointed by the IBA while simultaneously implementing the IBA President's agenda. They argued that the licensing examinations were used as a tool for the sole purpose to close entry into the profession rather than to improve quality. The petitioners demanded that the Minister of Justice push for legislation transferring the authority from the Bar to the Ministry or to some other neutral body within the government in accordance with the model used to license entrants into other professions regulated by the State rather than representative associations (such as those for medicine and accountancy). The petitioners also demanded alteration of the Examining Board's composition in order to include professionals specialising in examination writing and pedagogy.

The HCJ rejected the interns' petition on the grounds that the Board's membership was very distinguished, including as it did three judges and other notable lawyers, even if they belonged to the Bar. The HCJ justices also saw no indication that the examination had been influenced by any particular IBA policy. As to the Board's composition, the High Court accepted the Minister of Justice's explanation that Amendment 38 changed the composition of the Board. After the following year's examinations, interns who failed that exam returned to the previous 'regular' appeals requesting that the IBA disqualify about 25 per cent of the examination questions. The Administrative Court considered five petitions in tandem, rejected each of the dozens of arguments and decided in favour of the IBA, awarding it especially large legal costs.[49]

The last entry barrier to be discussed here, acceptance to the Bar, awaits those who successfully completed their internship and passed both parts of the licensing examination. The issue is not technical but fundamental. Section 44 of the IBA Act authorises the IBA to deny membership if it discovers some fact indicating that the candidate is unworthy of being a lawyer (the same wording as Section 27 discussed above). According to Section 43, the names of candidates for membership are published in the press; everyone is entitled to express objection to the

[47] The Examining Board press release from 27 November 2016. <http://www.israelbar.org.il/article_inner.asp?pgId=379731&catId=2133> last accessed 2 May 2017.

[48] HCJ 9053/15 *Machness et al v Minister of Justice* (19.4.2016). The petitions before that claimed against the content of each exam, asking the court to disqualify problematic questions.

[49] Petition 3394-06-16 (Administrative, Jerusalem) *Wated et al v the IBA and the Examining Board* (3.8.2016).

candidate's acceptance. Some objections are made by the Bar based on disciplinary complaints filed during the internship. The process resembles that described above in connection with Section 27 (candidacy for internship). Here as well the IBA's broad discretion is devoid of any restricting criteria or procedures. Again, the elected politicians of the bar sit in the deciding committee and no protocol or general data are published. Amendment 39 applies here too.

VI. Autonomous Disciplinary System

Section 2(3) of the IBA Act obligates the IBA to 'take good care to observe, supervise and ensure the standards and ethics of the legal profession'. Public criticism and the IBA's image as a negative, guild-like entity have not brought about any change in the autonomy of the disciplinary system since its creation in 1961. Criticism has focused on two main shortcomings, the absence of transparency and politicisation, both of which arise because the disciplinary system involves the IBA's elected politicians. Because of this criticism, shared with the several committees appointed to discuss the issue since the mid-1990s, the Ministry of Justice decided to introduce a list of amendments to those sections of the Act dealing with discipline. These amendments represent the most comprehensive reform to the disciplinary system. The Knesset passed Amendment 32 in July 2008, with its various reforms coming into effect in January 2010 (the reform).

Passage of the reform took five years. The attendant debates between the Ministry's and the IBA's representatives provide an excellent example of how an organisation intent on preserving its power responds to growing public demands for transparency and openness. In the end, the Bar won its uncompromising battle with the Knesset, with the reform bent to its wishes. Only amendments accepted by the Bar entered the law. One of the Bar's representatives attending the debates described the situation very well:

> After the majority of IBA demands regarding the amendment were accepted, it declared its support for the law, which was passed in the Knesset by a vote that crossed all party and factional lines. This amendment expresses adaptation rather than revolution. The principle of professional autonomy—the raison d'etre of the disciplinary system—was fully preserved. The process of dealing with complaints as well as the process of disciplinary charges will continue to be conducted by the IBA and its institutions, with the burden of fulfilling the respective tasks voluntarily filled by its members.[50]

I present here one example from the reform process that illustrates the conflict between the Ministry of Justice and the IBA that culminated in the latter's favour. Based on an auxiliary committee report from 1995, eight years later the Ministry

[50] D Arad-Ayalon, 'The Reform of Disciplinary Hearings' (2008) 27 *Professional Ethics* 1 (Hebrew with the author's translation to English).

of Justice requested, as part of the reform, separation of the disciplinary system from the political party interests prevailing throughout the IBA. The Ministry asked that the decision to serve disciplinary charges be in the hands of a neutral board, appointed by an external selection committee to be created in the future.[51] The IBA strongly objected to transferring this authority to a neutral board for two reasons. First, it viewed establishment of such a committee as effective appropriation of its authority by a body significantly, if not absolutely, under the sway of the Ministry of Justice. Such a step would inflict real harm to autonomy, the heart of the disciplinary system.[52] Second, the greater part of the work performed by the IBA's elected leadership to the regional committee concerns being a member at the ethics committee; appropriation of that authority would leave them with no influence. The IBA proposed that parallel to the District Ethics Committee, a 'Professional Grievance Administration', headed by an attorney, would be instituted to counsel the District Ethics Committee regarding every grievance. Decision-making authority would remain with the ethics committee.[53] The IBA prevailed in the deliberations; Amendment 32 created the administrator suggested by the IBA, called 'Counsel to the Ethics Committee'.[54] The main problem with the Counsel is that he is subordinate to the chair of the ethics committee, a situation compromising his autonomy.[55]

I have previously concluded that the reform of discipline, welcomed by so many, failed in its mission to correct deficiencies in the system.[56] It did not eliminate the politicisation infusing the Bar's disciplinary system, nor did it create the transparency required of an autonomous judicial system controlled by the profession's representatives. Once again, the IBA's longstanding alliance with the legislative and executive branches helped to remove threats to self-regulation.

The legal profession's disciplinary system is comprised of two stages, each of which is conducted before a different IBA organ having its own specific powers. The first stage involves investigation of the grievance in order to decide whether to file disciplinary charges. Data released by the IBA indicates that, in this stage, the ethics committee dismisses 90 per cent of the filed complaints.[57]

[51] Memorandum to the IBA Act (Amendment—Changes in Disciplinary Hearings and Other Procedures), 2003; Protocol 340 of the Knesset Constitution Law and Justice Committee meeting, 17th Knesset, 46 (14 November 2007).

[52] Arad-Ayalon (n 50).

[53] Letter, Office of the Minister of Justice, 18 November 2003 (original retained by the source) (Hebrew).

[54] IBA Act, 1961 s 18c.

[55] For details regarding the appointment, term and termination of this new office, see IBA Rules (Appointment of Counsels to Ethics Committees and Their Termination) 2010, Book of Statutes 6864 (1 February 2010). In several ethnics committees, especially the two major ones: the National Ethics Committee and the Tel Aviv District Ethics Committee—the lawyer nominated in 2010 to his first term as committee counsel had previously served as a full time employee of that committee.

[56] L Zer-Gutman, 'The Reform in Lawyers' Disciplinary System: Were the Deficiencies Corrected?' (2010) 15 *Hamishpat Law Review* 27 (Hebrew).

[57] See D Arad-Ayalon, 'A Summary of the National Ethics Committees Performance during Its Term' (2007) 23 *Professional Ethics* 1 (Hebrew).

Regional and national ethics committees conduct the first stage.[58] Sole practitioners nominated by the bar elected leadership compose these committees. In the second stage, the remaining grievances are heard in one of the disciplinary tribunals located within each Bar's district, where all the sitting judges are practising lawyers. Until the reform, all judges were selected by the IBA elected politician, according to a clear-cut party allegiance, a practice previously criticised by the HCJ.[59] One of the reform's main accomplishments was that judges would now be chosen by an External Selection Committee headed by a former judge.

Those wishing to appeal a decision of the District Disciplinary Tribunal must first turn to a single National Disciplinary Tribunal.[60] Like the District Disciplinary Tribunal, it is comprised of three judges, all members of the Bar. Only the third instance, the second instance of appeal by right, belongs to the regular court system: the Jerusalem District Court. We can therefore view the two stages of the disciplinary system as managed by organs belonging to the IBA. The same authority, the IBA, investigates the complaint, decides whether to present a disciplinary charge, prosecutes and acts as the judge in the hearing. In such a problematic structure, the presence of external oversight would help balance the IBA's power and prevent arbitrary and political use of its power. The IBA Act assigned the task of external oversight to the Attorney General and the State Attorney, the law officers, but they almost never made use of that authority. It appeared that this situation might change when the IBA Act granted the law officers the authority to receive grievances and file disciplinary charges—the same authority as the IBA.[61] The Attorney General's office stated in a directive that the authority of the Attorney General and the State Attorney to file disciplinary charges would arise only in the exceptional situation (in the words of the Attorney General) where a substantive defect was detected in the actions of two other charging bodies, meaning the District Ethics Committees and the National Ethics Committee.[62] A review I conducted in a previous article revealed less than 10 instances during a period of 49 years in which such a situation had arisen.[63]

Two important changes did come out of the reform. The first related to publicity for the disciplinary hearings which, since 2008, were conducted openly except for in limited circumstance specified in the Act.[64] The second change concerned the transparency of the second stage, since the Bar now has an obligation to publicise every disciplinary decision, together with the lawyers' name, in a way accessible to the public.[65]

[58] IBA Act, 1961 s 64.
[59] HCJ 1302/96 *Independence & Change Party v Tel Aviv District Committee*, PD 50 749, 757–58.
[60] IBA Act, 1961 s 70b.
[61] IBA Act, 1961 s 63.
[62] Attorney General, Directive No 10.1000, 'The Attorney General and the State Attorney as Disciplinary Charges according with the IBA Act, 1961' (Hebrew).
[63] Zer-Gutman, 'The Reform' (n 56) 34. See also, Kling (n 29) 13.
[64] IBA Act, 1961 s 65a.
[65] IBA Act, 1961 s 69b.

VII. Monopolisation of the Legal Services Market

Lawyers' exclusive control over the legal services market was institutionalised in Section 20 of the 1961 IBA Act, the inclusive phrasing of which established very broad boundaries with respect to the unauthorised practice of law (UPL). The same section listed four activities to be performed only by lawyers:

1. Representation of another person before any judicial or quasi-judicial board.
2. Representation of another person before designated administrative agencies.
3. Preparing documents of a legal nature on behalf of another person or negotiating towards preparation of such document.
4. Legal consultation and provision of a legal opinion.

During the first three decades after its founding, the IBA made little use of the section's directives because almost no UPL existed. In the late 1980s, a number of profit-making companies arose providing debt collection, reclamation of goods, exercise of rights before the National Insurance Institute (social security), assistance in deciding matters of personal and family status, and so forth. The success of these services ate into areas formerly considered the exclusive prerogative of lawyers. The IBA employed and still applies assertive methods of enforcement against these companies, primarily by seeking temporary injunctions while claiming infringement of Section 20. Most companies prefer to avoid lengthy litigation and thus tend to reach comprises that redefine their sphere of activity.[66]

In its battle with UPL, the IBA claims the support of the altruism principle; the need to protect clients by ensuring high-quality legal services. They also contend that only lawyers can guarantee achievement of this goal because only they have access to the unique knowledge and expertise acquired during long period spent on their studies, internship and licensing examinations. In addition, only lawyers abide by the ethics and disciplinary system meeting quality standards. In recent years, the IBA has also begun to openly use self-interested arguments: UPL causes injury to the income of lawyers who, having devoted themselves to lengthy studies and invested time and money, now face difficulties finding employment. To support this case the IBA created a 'Committee for the Profession's Protection', responsible for waging legal battles against the UPL; its generous budget enables it to hire lawyers to initiate cases against UPL.[67]

Despite the efforts of the profession the number of commercial companies and individuals providing UPL services has risen. The judicialisation of Israeli society, which has sparked the need for legal counsel in almost every sphere, has attracted an increasing number of UPL providers to the legal services market.

[66] N Ziv, 'Unauthorized Practice of Law and the Production of Lawyers' (2012) 19 *IJLP* 175, 179.

[67] For a review and analysis of those cases see, N Ziv, *Who Will Guard the Guardians of the Law? Lawyers in Israel between the State, Market and Civil Society* (Bar Ilan University Press and Hakibbutz Hameuechad, 2015) 124–44 (Hebrew).

Among them, a number of non-profits have expressed no trepidation regarding legal confrontations with the IBA.[68] From about 2004, the for-profit Center for Realization of Medical Rights (CMR) enjoyed growth in the amount and scope of its activities, to become Israel's leading company in the realisation of the medical entitlements provided by the National Insurance Institute.[69] During the last 10 years it has invested heavily in civil litigation against the IBA. The IBA's claims were accepted in the first instance; the Jerusalem District Court interpreted Section 20 broadly and issued an injunction against the CMR. The CMR subsequently appealed to the Supreme Court, with a number of non-profits joining the appeal as *amicus curiae*. In arguing their case, they detailed how the law undermines the efforts of non-profits to assist clients in realising their rights.

In 2014, the Supreme Court recognised the monopolistic character of Section 20 for the first time. It stated that the section was to be interpreted narrowly in order to prevent damage to the freedom of occupation of those working in commercial firms and to secure public access to law. The decision presented several criteria for delineating the boundary between legal services that can be performed only by a lawyer, and other non-legal services that can be performed by other professionals. With respect to the CMR, the Court accepted only part of the appeal and allowed the company to continue providing some services. Some of its other activity, entailing the application of legal discretion and expertise, were prohibited.[70] Both parties claimed victory in wake of the decision. I would argue that the CMR enjoyed the greater victory because it managed to continue operating, unlike some of its predecessors which had confronted the IBA. The decision did not, however, halt IBA attempts to employ the new ruling against the CMR, by arguing that it deviated from permitted activity. IBA has also pursued other for-profits. In 2016, there are few online semi-legal providers in Israel. Technology-based companies such as LegalZoom, which offers online legal services, have yet to enter the Israeli market, apparently due to the IBA's extensive monopoly and enforcement activities, which deter investors.[71]

Another aspect of the IBA's monopolisation of the legal services market is the prohibition on lawyers being employed by commercial firms providing UPL, whether as salaried employers or under contract.[72] In 2003, the Supreme Court rejected a petition claiming the rule was illegal because it harmed lawyers' freedom of occupation and the freedom of contract of commercial companies and their clients. The reasoning behind the decision succinctly expresses the functionalist approach, that is, the rule was designed to protect the public rather than benefit lawyers. Protection of the public was needed because the commercial companies

[68] L Zer-Gutman, 'The Israeli Bar and the Legal Clinics: Anatomy of a Struggle' (2013) 17 *Hamishpat Law Review* 59 (Hebrew).

[69] Ziv, 'Unauthorized Practice' (n 66) 181–83.

[70] Civil Appeal 4223/12 *Center for Realization of Medical Rights (CMR) v The IBA* (25 June 2014).

[71] N Ziv, 'Who Moved My Mouse? Technology, Online Legal Services and Professional Ethics' (2016) 39 *TAU L Rev* 189 (Hebrew).

[72] IBA Rules (Professional Ethics), 1986 r 11b.

for which the lawyers might work were not subject to ethical rules, a situation potentially leading to violation of the lawyer's ethics, such as the obligation to maintain confidentiality, the prohibition against conflicts of interest and so forth.[73] The prohibition on lawyers performing UPL, set down in the Disciplinary Rules, continues to be assiduously enforced by the IBA.

The UPL issue demonstrates the power of the five reasons in sustaining professional self-regulation for more than half a century, discussed in section II. Since its inception in 1961, Section 20 has set the stage for very broad monopolisation. As an ally of the IBA, the legislator has never amended the section. Another ally of IBA, the Ministers of Justice, has never intervened nor proposed any revised legislation. Professional self-regulation has also been supported by the judiciary. The HCJ decision from 2003 rejected any claims against the disciplinary section prohibiting lawyers from working with UPL providers. Only in 2014 did the Supreme Court declared that Section 20 was to be narrowly interpreted because of its monopolistic character. However, from the perspective of practice, the decision also narrowed the sphere in which commercial companies could operate. Finally, IBA presidents have determinedly protected the arrangements, especially regarding the IBA's autonomy and monopoly. The IBA has invested considerable effort in its legal battles with UPL, forcing the majority of UPL companies to close and, perhaps more importantly, deterring others from entering the legal services market. As evidence of this, no company has yet offered online legal services, despite the fact that Israel is considered very sophisticated and innovative in computer technology.

VIII. Conclusion

Israel remains attached to a traditional system of regulation based on education and professional training, behavioural norms and disciplinary measures. The professional regulation of Israel's lawyers is rooted in their extensive autonomy as well as their effective freedom from any State oversight. In recent years, the discourse over this situation has acquired a critical tone that has challenged the existing conditions. The profession's strong position has enabled it to repeatedly repulse any attempt to introduce meaningful change in the professional regulation. The IBA was and still is being portrayed through a dual lens, with a constant tension in its role. On the one hand, it has always considered itself a representative body attending the professional interests of its members. At the same time, it has striven to present itself as an entity that holds a special role and responsibility in the public debate surrounding the rule of law, human rights and democracy.

[73] HCJ 9596/02 *Pitzuyi Nimratz v Minister of Justice, Decision*, PD 58(5) 792.

Several combined reasons explain why the State continues to respect the profession's power. The first reason is the strong alliance that the Bar has established and maintained with all three government branches. This has enabled it to withstand petitions to courts, public pressure and proposed legislation. The second reason is rooted in the fact that, during its 55 years of existence, the IBA has managed to portray itself as stable civil institution which safeguards the rule of law and democracy. The rule of law is a fundamental principle in Israel but there is a constant need to safeguard it because of the unstable security situation and ongoing terror threats. It is broadly accepted that an exclusive and autonomous lawyers' association is necessary to confront effectively currents undermining the rule of law. The third reason why the State continues to respect the profession's power is the fact that, in the Israeli multi-cultural society, the legal profession sets an example of co-existence where representatives of all segments of society share common professional values and operate together in harmony.

It is difficult to envisage in the near future any real threats to the bar's hegemony. The IBA, under the current leadership, seems stronger than ever. Its alliances with the three governmental branches are thriving, enabling it to resist public pressure aimed at changing its status. If a change happens, it is likely to come from within the ranks of the profession; a new leadership of the IBA initiating legislative changes reducing self-regulation. Yet, what are the chances that a privileged organisation will give up the hegemony it has fought for more than a half a century to preserve?