

Pro Bono Practices and Opportunities in Israel¹

I. Introduction

Traditionally, the public obligation of the legal profession in Israel was seen as corresponding to the project of nation-building and contributing to national institutions. There was no sense that the provision of free legal services was required to fulfill any social obligation that the profession might have, or to uphold the legitimacy or exclusivity of the profession with respect to legal services. Issues such as access to justice, legal representation of the poor and protection of human rights were generally absent from the discourse and practices of the Bar.² Since the 1990s, however, both the traditional concept of lawyering, as well as the Israel Bar Association’s hegemony in this area, have eroded.

Today, the Israel Bar Association Act provides that “the Bar Association is entitled, *inter alia*, to provide legal relief to those of limited means.”³ Pro Bono practice is, in other words, permissible but not mandatory. Though not required, pro bono is increasingly being viewed as essential for the fulfilment of the right of legal representation. This dramatic change in pro bono culture and practice is perhaps best illustrated by the 2002 launch of the Israel Bar Association’s first pro bono program, Schar Mitzvah. This move was preceded by a two-year struggle within the Israel Bar Association’s internal institutions, as critics feared that the initiative would encroach upon the livelihoods of practitioners who currently provided legal services for a fee to many of the same individuals who would become eligible for pro bono legal services.⁴

In Israel, the term “legal aid” is more prevalent in legal discourse than the term “pro bono.” Attorneys usually refer to one of three categories of no-fee or reduced-fee services as falling under the concept of legal aid: (i) state sponsored legal aid; (ii) legal aid provided by non-profit organizations and NGOs; and (iii) legal services provided by private sector attorneys. For purposes of this chapter, the term “pro bono” refers to all three categories, except where otherwise made explicit.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	The Israel Bar Association regulates the provision of legal services in Israel, pursuant to The Bar Association Act, 5721-1961. ⁵
	2. Describe any licensure requirements governing the provision of legal services.	Only members of the Israel Bar Association can practice Israeli law in Israel. Israeli law requires licensure to practice as an attorney, and acquiring

¹ This chapter was drafted with the support of Adrian Daniels of Yigal Arnon & Co.

² N. Ziv, The Legal Profession: Looking Backward: Combining Professionalism, Nation Building and Public Service: The Professional Project of the Israeli Bar 1928 – 2002, 71 *FORDHAM L. REV.* 1621, 1623 (2003).

³ Israel Bar Association Act, Section 3(2) (1961).

⁴ The struggle to reform the Bar Association and the profession can be traced through a series of Supreme Court cases that challenged the legality and even constitutionality of some of the established rules and regulations, most notably the prohibitions on advertising and on holding certain additional occupations. In 2001, the total ban on advertising by attorneys was replaced with a regulatory scheme that allows attorneys to advertise their services under certain conditions. Israel Bar Association Rules (Advertising) 2001; Israel Bar Association Rules (Additional Practices) 2002, respectively.

⁵ See http://www.israelbar.org.il/english_index.asp; http://www.israelbar.org.il/uploadFiles/The_Bar_Association_Act_june_2015.pdf (last visited on May 1, 2019)

		<p>such a license requires (i) an academic legal education, (ii) a period of apprenticeship and (iii) passing an examination. The academic requisite is studied through an undergraduate program, i.e. a bachelor’s level education, at the end of which an LL.B degree is awarded.⁶ For purposes of acceptance to the Israeli Bar, degrees comparable with the Israeli bachelor of law (LL.B), offered by a recognized university outside of Israel, can substitute for an Israeli degree provided the applicant pass a special exam on the laws of Israel.⁷</p> <p>In order to be accepted to the Israeli Bar, a law student must continue his or her legal education beyond the LL.B degree by undertaking a one-year internship (a “stage”) under the training of an experienced attorney (i.e. an attorney who has practiced law for at least five years) or a judge. Public service legal internships are valid.</p> <p>After completing their internship, candidates are eligible to sit for the Bar exam after which they become members of the Israeli bar and licensed to practice law.</p> <p>Attorneys licensed to practice in non-Israeli jurisdictions are permitted to practice in Israel regarding the laws which apply in the jurisdiction in which they are licensed to practice. Foreign law firms may also establish local branches in Israel, in which attorneys licensed to practice in foreign jurisdictions may practice law, provided such legal services relate to the law of the jurisdiction in which they are licensed.</p>
<p>(b) Pro Bono Practice and Culture</p>		
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>State sponsored civil legal aid is governed by the Legal Aid Act and the Legal Aid Regulations.⁸ The law stipulates that any resident of Israel may receive legal assistance in the form of legal services provided by government attorneys, so long as he or she qualifies under the economic criteria. In order to qualify for legal aid, a petitioner must fulfill three conditions:</p> <ul style="list-style-type: none"> • Area of Law: The legal issue must pertain to one of the following areas of law: matters of

⁶ Israel Bar Association Act, Section 24 (1961).

⁷ Israel Bar Association Act, Section 25 (1961).

⁸ Legal Aid Act 1972 and Legal Aid Regulation 1973, respectively.

		<p>personal status; prosecution or defense of suits related to rights to dwelling places; fiscal matters (e.g., bankruptcy); civil torts; matters in the competence of the Labor Courts; suits filed in accordance with amendments concerning pension rights, grants, rehabilitation and other rights of the disabled; all suits involving the rights of demobilized soldiers; suits involving Holocaust survivors with respect to their rights as such; suits involving the Law of Return and Citizenship and Population Registry Laws; representation before forced hospitalization committees under the Treatment of Mental Patients Law (Amend. No. 5); representation of victims of human trafficking; and registration of businesses, trades or professions. The Ministry of Justice also provides legal aid for social security benefits under the National Insurance Act, a category that includes general disability benefits, employment disability benefits, unemployment benefits, benefits for children, compensation for reserve service, old age welfare rights, minimum wage, compensation for victims of terror and hostilities, national medical insurance, and maternity insurance.⁹</p> <ul style="list-style-type: none"> • Economic Threshold: the petitioner must meet two economic criteria: (a) an income threshold - total pre-tax earnings may not exceed 2/3 of the average income for a family of three, with increases of 6% for each additional family member; and (b) a property ownership threshold -available funds from property may not exceed three times the average income mentioned above, with an exclusion for one private residence. In social security, assistance to victims of human trafficking, sex crimes or to families affected by crimes resulting in death, rights of Holocaust survivors, or family matters, economic eligibility criteria are modified or waived. • Legal Merit: The claim must have legal merit, i.e. there is a reasonable prospect in law of succeeding in the claim. <p>In addition to the state-sponsored civil legal aid system, in April of 2002 the Israel Bar Association</p>
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⁹ See <https://www.justice.gov.il/Units/SiuaMishpaty/News/articles/Pages/InformationBrochure.aspx> (last visited on May 1, 2019).

		<p>approved the <i>Schar Mitzvah</i> program, which mission was to “substantially expand accessibility to the justice system and provide legal aid to those who cannot afford to pay for legal services.”¹⁰ Licensed attorneys (private or government attorneys) are allowed to enroll in the program. Two kinds of legal aid are provided under the program:</p> <ul style="list-style-type: none"> (i) one program consists of initial counseling and guidance offered in 70 help centers located throughout the country. The primary aim of the centers is to guide petitioners and empower them to independently pursue their claims and assert their rights <i>pro se</i>. This service is provided at no cost to the petitioner and with no eligibility threshold; (ii) the other form of assistance provides legal representation before judicial tribunals. In order to be eligible for this form of assistance, the petitioner must meet a set of eligibility requirements. The eligibility threshold of the <i>Schar Mitzvah</i> for representation before judicial tribunals is designed to complement the Ministry of Justice legal aid program: as such, the Bar Association will not provide legal aid to a petitioner who is eligible for state-sponsored legal aid, other than in emergency situations. A family of up to three persons whose earnings total 67%-85% of the national average will be eligible for legal aid provided by the Bar Association, whereas families with earnings of less than 67% will be referred to the state-sponsored legal aid program. <p>Finally, in 1995, comprehensive legislation was passed establishing the Office of the Public Defender and expanding the right to counsel in criminal cases. The Public Defender Act expanded the right of public defense to indigent defendants when the likely outcome of the legal proceeding will have grave and fateful consequences for that person (for example, prolonged detention until conclusion of the proceedings, a sentence of actual imprisonment, psychiatric hospitalization and</p>
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¹⁰ “Schar Mitzvah”, http://www.israelbar.org.il/english_inner.asp?pgId=75176&catId=372 (last visited on May 1, 2019).

	<p>extradition). In addition, the Public Defender Act entitles persons suffering from a personal disability that adversely impacts upon their basic ability to defend themselves (for example, a defendant who is mute, blind or deaf, a fear as to mental illness or a defect in his intellectual capacity, and minors with no legal capacity) to public defense. Further, a person is entitled to representation by a public defender when exceptional rules of procedure and evidence are being applied in a trial (for example, a preliminary hearing, evidence given by video, hearsay evidence through a special investigator, and so forth) or when such representation is necessary to ensure due process and prevent a perversion of the law.¹¹</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in Israel are not required to work a minimum number of pro bono hours. The Israel Bar Association Act provides that “the Bar shall provide legal relief to those with limited means who are not entitled to such relief from the State pursuant to the law”.¹² In other words, complementing the state’s legal aid system is one of the responsibilities of the Bar Association in Israel. Such responsibility, however, is not the personal responsibility of lawyers in Israel, but of the Bar as a whole. Though not required, pro bono is increasingly being viewed as essential for the fulfilment of the right of legal representation.</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in Israel are not required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers. <i>See supra</i> for attorney licensure requirements.</p>
<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p>The main areas of law which require or present opportunities for the provision of pro bono legal services are: (i) civil rights; (ii) family law (including divorce) (iii) education rights; and (iv) refugee and immigration matters.</p> <p>In terms of unmet legal needs, approximately 116,600 illegal immigrants currently live in Israel¹³, of which approximately 83,000 entered Israel legally and have over-stayed their work or tourist visa with which they have entered, and approximately 33,600 entered Israel illegally, and,</p>

¹¹ Section 18 of the Public Defense Act, 1995.

¹² Israel Bar Association Act, Section 2(4) (1961).

¹³ According to Population and Immigration Authority data reviewing 2018.

		<p>in each case, are commonly referred to as “infiltrators.” The state policy towards infiltrators is one of temporary non-deportation, officially referred to as “group protection”, or of voluntary departure for those who qualify. Infiltrators in Israel are denied basic rights provided to residents, including free non-emergency healthcare, and have limited or no access to basic state-sponsored services, including pro bono legal services, other than representation by the Office of the Public Defender (for criminal matters only).</p> <p>NGOs providing legal aid to illegal immigrants are: Kav LaOved (Worker’s Hotline); The Hotline for Refugees and Migrants and HIAS (Hebrew Immigrant Aid Society).</p>
	<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>Pro bono legal services are provided through NGOs, state-sponsored programs, Law faculties of universities and colleges and private sector attorneys. It is unclear which actors provide the largest proportions of pro bono legal services in Israel.</p> <ul style="list-style-type: none"> • Legal aid provided by non-profit organizations and NGOs.¹⁴ Examples of leading NGOs that provide legal aid include ACRI (the Association for Civil Rights in Israel); <i>Adalah</i> (the Legal Center for Arab Minority Rights in Israel); Kav LaOved (Worker’s Hotline); Yedid (the Association for Community Empowerment) and Naamat (Israel’s Working Women’s Organization). • State-sponsored legal aid, which exists in two forms: (i) the Legal Aid Bureau of the Ministry of Justice, which is charged with the administration of legal aid in civil matters, such as family and labor law and social benefit litigation;¹⁵ (ii) the Office of the Public Defender, which is charged with providing legal aid in criminal cases. • Legal services provided by private sector attorneys: More than 2,000 attorneys

¹⁴ This includes cause-lawyering. In this chapter the term “cause-lawyering” refers to legal aid provided by attorneys who are paid, albeit not by a client, such as staff attorneys at NGOs.

¹⁵ Legal Aid Act 1972 and Legal Aid Regulation 1973. In 2011, the Legal Aid Department at the Ministry of Justice provided legal representation in approximately 200,000 legal proceedings. MINISTRY OF JUSTICE, ISRAEL, Functions of the Legal Aid Department, available at <https://www.justice.gov.il/En/Guides/TheLegalAidDepartment/Pages/LegalAidDepartment.aspx> (last visited on May 1, 2019).

		participate in the Israeli Bar Association’s pro bono project ¹⁶ and over 1,100 outside attorneys provide services in the courts and other legal forums where fees are paid by the state. These opportunities are available to all private sector attorneys, including in-house counsel, seeking to provide pro bono legal services.
(c)	Obstacles to Provision of Pro Bono Services	
	1. Do lawyers require a license to provide pro bono legal services?	Lawyers in Israel do not require a license to provide pro bono legal services.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	Foreign lawyers are required to be licensed in Israel—i.e., be members of the Israel Bar Association—to provide legal services, including pro bono legal services. In addition to a degree comparable with the Israeli bachelor of law (LL.B), offered by a recognized university outside of Israel, foreign lawyers must pass a special exam on the laws of Israel in order to be licensed in Israel and provide pro bono legal services. ¹⁷ Attorneys licensed to practice in non-Israeli jurisdictions are permitted to practice in Israel regarding the laws which apply in the jurisdiction in which they are licensed to practice, whether as individuals or in branches of foreign law firms established and registered in Israel.
	3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?	Lawyers in Israel do not require professional indemnity legal insurance cover for any pro bono legal services that they provide. However, attorneys licensed in foreign jurisdictions providing services in Israel regarding the laws which apply in the jurisdiction in which they are licensed to practice, regardless such services are pro-bono or not, must provide the Bar Association with collateral in order to ensure compensation for anyone who might be injured by any of his / her actions. ¹⁸

¹⁶ The Israel Bar Association, “Schar Mitzvah”, The Israel Bar Association Pro Bono Program, (May 20, 2010), http://www.israelbar.org.il/english_inner.asp?pgId=75176&catId=372 (last visited on May 1, 2019).

¹⁷ Israel Bar Association Law Amendment (5709-2009), which stipulates that the Bar Association may register foreign attorneys and law firms operating in Israel on the basis of their law license at a foreign bar association.

¹⁸ See [http://www.israelbar.org.il/UploadFiles/Bar_Association_Order_\(Securities_for_a_Foreign_Lawyer\)_july_2012.pdf](http://www.israelbar.org.il/UploadFiles/Bar_Association_Order_(Securities_for_a_Foreign_Lawyer)_july_2012.pdf) (last visited on May 1, 2019).

	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>The struggle to reform the Israel Bar Association and the profession can be traced through a series of Supreme Court cases that challenged the legality and even constitutionality of some of the established rules and regulations, most notably the prohibitions on advertising and on holding certain additional occupations. In 2001, the total ban on advertising by attorneys was replaced with a regulatory scheme that allows attorneys to advertise their services in a limited fashion (e.g., name, title, qualifications, languages spoken). Israel Bar Association Rules (Advertising) 2001; Israel Bar Association Rules (Additional Practices) 2002, respectively. As such, the rules prohibit advertising successes or soliciting clients—whether pro bono or not.¹⁹</p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>No.</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Israel.</p>	<p>State-sponsored legal aid exists in two forms in Israel:</p> <ul style="list-style-type: none"> • The Legal Aid Department of the Ministry of Justice is charged with the administration of legal aid in civil matters, such as family and labor law and social benefit litigation.²⁰ The Legal Aid staff consists of around 220 employees, including attorneys, management, and national service members. In addition, the Department collaborates with approximately 1,100 external, non-governmental attorneys, whose fees are paid for by the State Treasury.²¹

¹⁹ See [http://www.israelbar.org.il/uploadFiles/Bar_Association_Rules_\(advertising\)_english_nov_2011.pdf](http://www.israelbar.org.il/uploadFiles/Bar_Association_Rules_(advertising)_english_nov_2011.pdf) (last visited on May 1, 2019).

²⁰ Legal Aid Act 1972 and Legal Aid Regulation 1973. In 2011, the Legal Aid Department at the Ministry of Justice provided legal representation in approximately 200,000 legal proceedings. MINISTRY OF JUSTICE, ISRAEL, Functions of the Legal Aid Department, available at <https://www.justice.gov.il/En/Guides/TheLegalAidDepartment/Pages/LegalAidDepartment-.aspx> (last visited on May 1, 2019).

²¹ Ministry of Justice, Israel, Functions of the Legal Aid Department, available at <https://www.justice.gov.il/En/Guides/TheLegalAidDepartment/Pages/LegalAidDepartment-.aspx> (last visited on May 1, 2019).

	<ul style="list-style-type: none"> • The Office of the Public Defender is charged with providing legal aid in criminal cases.²²
<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Israel.</p>	<p>The Israel Bar Association Pro Bono Project (<i>Schar Mitzvah</i>): as described above, two kinds of legal aid are provided under the program. One consists of initial counseling and guidance offered in 70 help centers located throughout the country. The primary aim of the centers is to guide petitioners and empower them to independently pursue their claims and assert their rights pro se. This service is provided at no cost to the petitioner and with no eligibility threshold. The other form of assistance provides legal representation before judicial tribunals. In order to be eligible for this form of assistance, the petitioner must meet a set of eligibility requirements (see above).</p> <ul style="list-style-type: none"> • As part of the <i>Schar Mitzvah</i> program, the Israel Bar Association appealed to all members of the Bar to join the program. It launched a media campaign aimed at fostering public awareness of the new initiative. It also created a database of volunteer attorneys, classified by geographical area, type of voluntary work and area of specialization. During 2018, the program received 19,692 requests for assistance, half of which received general legal advice and/or representation by the program's volunteers.²³ • More than 2,000 private sector attorneys, including in-house counsel, participate in the <i>Schar Mitzvah</i> program, seeking to provide pro bono legal services²⁴ • Non-profit organizations and NGOs.²⁵ Examples of leading NGOs that provide legal aid include ACRI (the Association for Civil Rights in Israel);²⁶ <i>Adalah</i> (the Legal Center for Arab Minority Rights in Israel);²⁷ Kav LaOved

²² See <https://www.justice.gov.il/En/Units/PublicDefense/About/Pages/default.aspx> (last visited on May 1, 2019).

²³ Information provided to Yigal Arnon and Co. upon request from Yael Chaskalovitz, National coordinator for Schar Mitzva, on February 26, 2019.

²⁴ The Israel Bar Association, “Schar Mitzvah”, The Israel Bar Association Pro Bono Program, (May 20, 2010), http://www.israelbar.org.il/english_inner.asp?pgId=75176&catId=372 (last visited on May 1, 2019).

²⁵ This includes cause-lawyering. In this chapter the term “cause-lawyering” refers to legal aid provided by attorneys who are paid, albeit not by a client, such as staff attorneys at NGOs.

²⁶ See <https://www.english.acri.org.il/> (last visited on May 1, 2019).

²⁷ See <https://www.adalah.org/en> (last visited on May 1, 2019).

		<p>(Worker’s Hotline);²⁸ Yedid (the Association for Community Empowerment);²⁹ and Naamat (Israel’s Working Women’s Organization).³⁰</p> <ul style="list-style-type: none"> • Legal services provided by private sector attorneys: as described above, more than 2,000 attorneys participate in the <i>Schar Mitzvah</i> program³¹ and over 1,100 outside attorneys provide services in the courts and other legal forums where fees are paid by the state.³² These opportunities are available to all private sector attorneys, including in-house counsel, seeking to provide pro bono legal services.
	<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Local and foreign lawyers can register with the Israel Bar Association <i>Schar Mitzvah</i> program in order to be made aware of pro bono opportunities.</p>

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²⁸ See <https://www.kavlaoved.org.il/en/> (last visited on May 1, 2019).

²⁹ See <http://www.iataskforce.org/entities/view/183> (last visited on May 1, 2019).

³⁰ See <https://naamat.org/> (last visited on May 1, 2019).

³¹ The Israel Bar Association, “Schar Mitzvah”, The Israel Bar Association Pro Bono Program, (May 20, 2010), http://www.israelbar.org.il/english_inner.asp?pgId=75176&catId=372 (last visited on May 1, 2019).

³² Functions of the Legal Aid Department, available at <https://www.justice.gov.il/En/Guides/TheLegalAidDepartment/Pages/LegalAidDepartment.aspx> (last visited on May 1, 2019).