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BOOK REVIEWS

International Perspectives on the Regulation of Lawyers and Legal Services BY ANDREW **BOON**, ed [Oxford and Portland, Oregon: Hart Publishing, 2017, xiv + 283 pp. Hardcover: US$150.00]

In this collection of essays, Andrew Boon has brought together a team of experts on the legal profession from nine jurisdictions (the United States ("US"), Canada, Singapore, Eire, New Zealand, Israel, Australia, Germany, and England and Wales). Boon begins the introductory chapter by signposting the different regulatory models and spheres affecting legal professions. This is followed by substantive chapters on the regulation of the legal profession in each jurisdiction. Boon aptly concludes the volume with the final chapter on the common drivers and themes underlying the developments of the legal profession in those jurisdictions. This book will appeal to law academics, legal practitioners and policy-makers interested in the legal profession and comparative law.

Chapter 1 discusses a spectrum of models of regulation (self-regulation, court regulation, mixed regulation, state agency regulation and governmental regulation). Boon nicely prefaces the discussion to follow in the subsequent chapters with an examination of the different forms of regulatory reforms such as the shift from self-regulation to regulation by government agencies or the co-regulation model shared between government agencies and the profession, non-lawyer investment in law practices, and the setting up of in-house programmes to manage ethical issues at the workplace. Regulation may be assessed by reference to the three regulatory phases with specific regulatory tools for the legal profession: (a) *admission* (degree, vocational course, entrance examination, apprenticeship); (b) *practice* (code of conduct, continuing legal education requirements, public liability insurance); and finally, (c) *discipline* (sanctions and disciplinary tribunals).

Barton and Rhode provide in Chapter 2 useful insights into the US' situation where the self-regulatory model prevails. State supreme courts delegate oversight authority to the bar associations, and the ethics committees of state and local bar associations give interpretive opinions of the ethical rules for lawyers. They note however that this may have resulted in the diminished accountability of the legal profession to the public and insufficient protection for the consumers. At the same time, technological advances have generated exciting developments in the US by offering alternative modes of delivery of legal services and dispute resolution mechanisms.

Chapter 3 looks at the globalising pressures faced by the Singapore city-state as the legal profession seeks to expand its reach and, at the same time, protect itself

from competition from foreign law firms. Chen and Whalen-Bridge make perceptive observations of the balance to be struck. Foreign lawyers are prohibited from representing clients in certain domestic law areas (such as criminal, constitutional and family law) as well as litigation before the Singapore courts but are allowed to do so in arbitration hearings and before the new Singapore International Commercial Court. Local and foreign law firms can set up joint ventures or form loose alliances. More recently, certain licensed foreign law firms are entitled to practice Singapore law by hiring Singapore lawyers directly, and individual foreign lawyers who have passed the requisite foreign practitioner examinations may practise Singapore law in permitted legal areas. Further, as noted by Chen and Whalen-Bridge, all local and foreign lawyers alike have to adhere to a standardised set of ethical principles and rules save for certain sections (on conflicts of interests and the charging of fees) which only apply to local lawyers.

In a similar vein, Hosier analyses in Chapter 4 the pressures on the Eire government to obtain financial relief from the Troika of international institutions (namely the International Monetary Fund, European Central Bank and the European Commission) which have in part led to the enactment of the *Legal Services Regulation Act 2015* (No 65 of 2015) (Ireland) after numerous amendments to the original bill tabled in Parliament. The statute signalled a departure from the former self-regulatory model. In addition to promoting public interests and supporting the administration of justice, the statute also aims, as Hosier notes, to protect and promote consumer interests and competition in the provision of legal services. At the time of writing, however, the provisions have yet to take effect. Significantly, the *Legal Services Regulation Act* allows for limited partnerships between barristers and also between barristers and solicitors, limited liability partnerships ("LLPs") which restrict a partner's liability in respect of the debts, obligations or liabilities of the LLP, and even multidisciplinary practices.

In Chapter 5, Semple argues that Canada follows the professionalist-independent (the US model) in contrast to the competitive-consumerist model in Northern Europe and Australasia with the exception of Quebec. For example, lawyers may own minority share capital in law firms in Quebec whilst shares in law firms are owned entirely by lawyers and the sharing of fees with non-lawyers are generally prohibited in the rest of Canada. Moreover, the Canadian courts protect the independence of the bar, shielding them from reporting requirements under federal anti-money laundering legislation.

In the next chapter, Mize observes that New Zealand adopts a co-regulatory model with the Minister of Justice having control over practice rules, the Disciplinary Tribunal and Legal Review Complaints Officer acting as independent entities administered by the government, and disciplinary bodies comprising largely laypersons. The *Lawyers and Conveyancers Act 2006* (NZ), 2006/1 which took effect in 2008 continues to regulate both lawyers and licensed conveyancers for real estate transactions.

Zer-Gutman in Chapter 7 notes that lawyer self-regulation in Israel is based on the lawyers' ties with Knesset and support from the executive and judiciary and the corresponding commitment of the bar association to support democracy and the rule of law. Monopolisation of the legal market through establishing strict parameters against the unauthorised practice of law is also evident in the Israel Bar Association ("IBA") Act (*Bar Association Act, 5721-1961*, 15 LSI 196 [*IBA Act*]). The IBA—which

supervises the standards and ethics of the legal profession, the licensing of advocates and disciplinary processes—enjoys a great deal of independence and autonomy. One downside, however, has been the tension between the members of the IBA and the newly elected president in 2011 that led to the paralysis of IBA institutions which in turn required judicial intervention. The recent Amendment 38 to the *IBA Act* (IBA Act – Amendment No 38, 2016) proposed by the Ministry of Justice gave certain powers of supervision and control to the Minister of Justice such as to order new elections to the IBA.

Bartlett and Haller in Chapter 8 describe the shift from self-regulation to independent government agencies to regulate the legal profession in Australia. In many states, the disciplinary process and dispute resolution are under the charge of the Legal Services Commissioner though generally, uniform ethical rules are within the purview of the Australian Bar Association and Law Council of Australia. One important feature of the regulatory model is the requirement to implement internal ethical management systems within the law firms.

Kilian offers a unique perspective of the role of the German constitutional court in the deregulation of the legal profession in Chapter 9 based on its interpretation of Article 12 of the *Basic Law for the Federal Republic of Germany* (*Grundgesetz für die Bundesrepublik* (Deutschland)) [*Basic Law*] on an individual's fundamental right of occupational freedom. This signalled the need for legislative reforms (*eg,* to the *Federal Lawyers' Act* (*Bundesrechtsanwaltsordnung – BRAO*) (Deutschland) and the *Federal Tax Advisers Act* (*Steuerberatungsgesetz – StBerG*) (Deutschland)) to be in line with the constitutional court pronouncements. These included amongst others, as noted by Kilian, the acceptance of contingency fee agreements and multi-disciplinary practices. The intervention of the constitutional court based on interpretations of the *Basic Law* meant that reforms in the legal profession adhere closely to the rule of law even as inevitable tensions and questions arise as to the proper demarcation between judicial and legislative powers.

In the final jurisdictional chapter, Boon examines the United Kingdom ("UK") *Legal Services Act 2007* (UK), c 29 in England and Wales and its attempt to balance the objectives of maintaining professional principles (of legalism and independence) and enhancing competition (through protecting public interest and consumerism). The *Legal Services Act 2007* created the Legal Services Board and the independent Office for Legal Complaints (ombudsman), the Solicitors Regulatory Authority for solicitors and the Bar Standards Board for barristers respectively. The statute, in recognising alternative business structures owned by non-lawyers, sought to nudge law firms towards embracing the corporate bureaucratic model with an increased focus on ethical and financial management.

The book discusses two other current issues. First, technology and its impact on the legal profession is felt especially in the US. Online Dispute Resolution focuses on areas of agreement and disagreement between the parties drawn from the information obtained about them and propose solutions, and algorithm-based "negotiation" and "mediation" modules seek to narrow the differences. Computers have also been harnessed to help with due diligence and the discovery of voluminous documents overseen by a lawyer. Online providers such as LegalZoom and Rocketlawyer guide laypersons through legal documentation and offer legal advice at a fraction of what a lawyer would typically charge.

Secondly, the protection of the rule of law—comprising both procedural and substantive rights in relation to the protection of property, contracts and human dignity and separation of powers—remains strong in the jurisdictions which recognise the need for independent legal professions. The recent World Justice Rule of Law Index ranked the countries covered in this volume (excluding Israel and Eire, and rates the UK as a whole instead of England and Wales as a separate jurisdiction) based on criteria such as access to justice, the absence of corruption, regulatory enforcement and fundamental rights (though there is no specific criterion on independent legal profession as noted by Boon). On access to justice, the trend has been a general decrease in legal aid budgets. In Australia, this has prompted greater self-representation in court cases albeit without mandatory *pro bono* responsibilities on the part of lawyers. Nonetheless, law firms there are increasingly involved in providing free legal assistance, and online sites provide low-costs and accessible legal services to laypersons. "No win no fee" agreements are allowed in Australia but not percentage-based contingency fee arrangements. As Singapore lawyers are still prohibited from entering into arrangements based on the US contingency fee model or the UK conditional fees model, it is noted that foreign lawyers and law practices in Singapore without the same prohibitions continue to enjoy an advantage over Singapore lawyers.

One point of interest which could have been discussed in the volume is the issue relating to whether regulation or supervision exists in respect of in-house counsel in local and multi-national corporations or paralegals. However, its absence does not detract at all from the wide range of regulatory issues already covered.

The index of key terms at the end of the volume guides the reader to the specific issues on the rule of law, technology, access to justice and the regulatory models. A table of the statutes and cases originating from the various jurisdictions would have rendered the book even more accessible.

Overall, the volume of essays has contributed immensely to our understanding of how the selected jurisdictions have dealt with the main regulatory issues affecting the legal profession whilst keeping a close watch on the pending and future developments. It reminds us that the legal profession in many jurisdictions is "work-in-progress" as statutes in certain jurisdictions are continually being amended or have recently come into force, alternative business structures are being set up or planned, and their effects remain to be fully observed or assessed.

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The Law of Agency (Second Edition) BY **TAN** CHENG HAN SC [Singapore: Academy Publishing, May 2017. xlvi + 388 pp. Softcover: SG$96.30]

Professor Tan's monograph *The Law of Agency*, first published in 2010, forms part of Academy Publishing's 'Law Practice Series' which aims to publish seminal works on key subject areas in legal practice. It is encouraging, to this end, to see the law of