

Title on added title page: Legal information seeking behavior of Israeli advocates : a mixed-method research / Yosef Solomon

Abstract

This study explores the information seeking behaviour of advocates in Israel and the research questions examine a variety of aspects of this topic. Two research questions dealt with the information needs of Israeli advocates and examined which types of information is necessary for advocates in Israel during their practice of law. These questions also examined the professional roles of Israeli advocates in their legal practice, including the types of information they need for each professional role. Two further research questions dealt with the sources of information used by advocates in Israel for the purpose of seeking legal information, and how these sources of information are broken down based on how often they are used and their level of importance for Israeli advocates. In addition, these questions also addressed whether there are information sources that are not used in the practice of law by advocates in Israel or are being only rarely used. In cases where they are rarely used the question went one step further to find out why they are rarely used. Another research question examined whether and to what extent the Israeli advocates' information seeking behaviour fits the model presented by Al-Daihani and Oppenheim (2008), which serves as a framework model in this study, making specific reference to the five aspects of the model: delegation, active search, passive search, ongoing search, and accidental discovery of information. One more research question dealt with the Israeli advocates' behaviour after finding information and examining aspects of evaluation, use (sharing) and the collection and recording of information during their work. A recent, cross-sectional research question examined whether significant correlations exist between various demographic and professional characteristics and the explored information behaviour aspects of advocates in Israel.

The study implemented an explanatory sequential mixed methodology which combines two research phases, a quantitative study followed by a qualitative study (i.e., QUAN qual). In both phases, data were collected in a reactive way from the participants. In the quantitative study this

was done through a structured survey questionnaire (data from 142 complete survey questionnaires from active advocates in Israel, out of 1,307 questionnaires that were mailed to advocates in Israel based on a single stage systematic sampling with a random starting point and no repeating pattern; this is a response rate of about 11%) and at the qualitative study the data were collected through twenty semi-structured in-depth interviews. This combination of a survey questionnaire and semi-structured in-depth interviews is acceptable in human information behaviour studies.

Advocates were selected as a research population for a number of reasons: the relative size of the Israeli legal sector and its public importance; centrality, affluence and complexity of information in the practice of law; the professional information environment, which seems to be complex and evolving, where Israel's advocates operate; the fundamental lack of empirical knowledge on the information seeking behaviour of advocates in Israel, because there has not been yet a thorough and comprehensive study in this regard and also there is no model that explains the professional information seeking behaviour of advocates in Israel and a material knowledge gap exists about this interesting issue. In addition, research on advocates' information behaviour can add to the existing knowledge in the disciplines of information science and law and enrich them with novel empirical insights into professional information behaviour

in general, and in the practice of law in particular. All of them in sum, indicate the significant need for in-depth research into the information seeking behaviour of Israeli advocates. The realization of this study is also consistent with the professional literature that calls for conducting studies to explore the unique aspects of advocates' information seeking behaviour, including researchers with practical professional experience in the studied occupation, i.e. - advocates, as is indeed the case in this study.

Key findings emerging from the combination of the two research phases indicate, among other things (and without exhaustion) are as follows:

- Advocates in Israel are engaged in professional duality: conservative procedural, ethical and sectorial regulations alongside dynamism and constant development of the law in force.
- A dozen professional constraints and one private constraint have been identified in the practice of law in Israel that affect the advocate's information environment: ethics and professional responsibility, workload, time pressure, financial costs, technological

complexity, lack of an alternative, language constraints, legal lacunas, a secret body of law - alongside information congestion, as well as dependency on third-party and bureaucratic constraints, in addition to balance between one's work and family and personal life.

- Information (in total and in its various types) is significant in the practice of law, and its professional processing is the main means for Israeli advocates to examine the real-life cases in front of them, their practical contexts, and to devise a variety of solutions and options for dealing with the issues that arise.
- Israeli advocates need information from three types on a wide range of topics and issues: legal information, information related to the case, and non-legal peripheral information. Information related to the case is significantly more critical in the practice of law in Israel than legal information, and both are significantly required more than non-legal information. Moreover, as the degree of necessity of one type of information increases - so does the necessity of the other types of information.
- Legislation, complete judgments and summary of judgments are the most necessary legal information for Israeli advocates. In this regard, it has been made clear that legal information is a common denominator for practitioners in various fields of law and a cornerstone of the practice of all Israeli advocates. Both information about the client and the parties involved and background facts and information about the client's needs were found to be the most needed information related to the case for advocates in Israel. Oral and written information in a non-legal field that relates to a legal issue handled by the advocate (as opposed to an administrative issue) is the non-legal peripheral information most needed while the most essential areas of non-legal peripheral information in the practice of law in Israel are news in printed and broadcasted media, financial information at the micro level and also economic information from a macro perspective. The in-depth interviews went on to point out that for some Israeli advocates, this need for non-legal peripheral information may diminish with the accumulation of professional seniority and the deepening of professional experience in the field in question.
- In the past year, more than fifty percent of Israeli advocates required administrative information in their practice of law. In-depth interviews identified a phenomenon of employing an expert

administrative personnel to perform administrative tasks, which moderates the part of the Israeli advocate handling these type of tasks and therefore reduces the scope of information they needed in this regard.

- Legal information is significantly required more by male advocates than by female advocates. Legal information is significantly needed more for non-Jewish advocates than it is for Jewish advocates. Information related to the case is significantly needed more by external legal counsel than it is by internal legal counsel. Moreover, the larger the workplace the higher the degree of legal information needed for advocates who work there.
- Information needs of Israeli advocates can be classified in nine different dimensions: information areas (branches of law); dynamics (the frequency of changes in the professional information needs); types of information (legal, related to the case, and non-legal peripheral information; the classification used in the survey questionnaire); information format (electronic, printed, human); territorial coverage of the information (local law, foreign law); the extent to which the information is processed (raw information, skeletal information); concreteness of information (factual information, 'soft' information); information contemporariness (up-to-date information, historical information , and even void information); and finally, different degrees of importance of the necessary information.
- The study indicates the relevance (in different levels of necessity) of the three above-mentioned information types, to fill Israeli advocates' both legal and administrative roles. It is also found that their professional tasks differ from each other in the mixture of information types needed to carry out each task.
- Advocates in Israel use various sources of information in their practice of law, while noting that the importance is not of a single source of information but of the combination of selected sources of information used by the advocate in his profession.
- Situational relevance and actual use (in various frequencies) by advocates in Israel have been found in twenty-nine sources of information, for the purpose of seeking legal information in their practice of law. Eight information sources stand-out over other sources of information in terms of professional importance attributed to them as well as frequency of use to seek legal information: free information on the Internet (electronic format); commercial legal databases

(electronic format); the judicial decision itself as a source of information (electronic format); information from internal colleagues advocates (human format); the client himself (human format); information and reports of state authorities, local government and public institutions (electronic format); the official gazette - rulebook, bills, formal notices etc. (electronic format); and personal memory and accumulated experience of the advocate. Namely, five information sources are in an electronic format, two in human format and one in a memory based format, which means that there is no information source in a printed format.

- Information sources in the practice of law in Israel can be classified into eight different dimensions:
types of information sources (open, commercial, institutional, collegial, expert); information source connection to the advocate's practice (exogenous, semi-exogenous, endogenous); information source format (electronic, printed, human, other); information source dynamics (updating, static); foci and content extent (guiding, in-depth); locus of the information source (local, foreign); progressiveness of the information source (conservative, innovative); and an importance scale of information sources.
- Personal memory is the most important format and the most frequently used resource for seeking legal information in the practice of law in Israel. It is significantly higher in its perceived importance and frequency of professional use than the three additional formats (electronic, printed and human). The use of information sources in electronic format is significantly more frequent than the use of information sources in human and in printed formats, and the use of information sources in human format is more frequent than the use of information sources in printed format.
- The importance that non-Jewish advocates in Israel attribute to printed information sources is significantly higher than that attributed by Jewish advocates; External legal advisers' use of information sources in electronic format, is significantly more frequent than the degree of use of electronic information resources by internal legal counsel.
- There is an array of objective and subjective concerns being considered by Israeli advocates in selecting sources of information for their use. Nineteen reasons were found to explain non-use or rare-use of different information sources in the practice of law in Israel, when for more

than half the advocates in Israel there are four main reasons for this: lack of relevance of the information source to the advocate's legal field(s) of practice; a professional habit of using a different source of information; limited access to the information source or a complete lack of access to the information source; and the availability of another information source whose relative contribution to meeting professional information needs is higher.

- Two unique information phenomena were identified in this study: 'revival' of information sources, characterized by unused or discontinued sources of information were entered or returned for use of Israeli advocates in light of a new benefit derived from them; and, sources of information that may disrupt the legal services advocates in Israel provide to their clients, some of which are mandatory for the advocates to use in their professional practice and cannot be practically waived. Such a disruptive information source might be even the client with respect to information provided (or needed to provide) to the advocate.
- The combined research findings indicate that the professional information seeking behaviour of Israeli advocates encompasses the five information seeking practices enumerated in the framework model (Al-Daihani & Oppenheim, 2008): delegation, active search, passive search, ongoing search, and accidental discovery of information. The findings of the qualitative research phase further add five novel information practices: prior knowledge retrieval (memory and professional experience aid), utilitarian detection, professional reliance (unilateral or mutual), analogy inference, and also information transfer - all are outside the coverage of the model devised by Al-Daihani and Oppenheim (2008), but are also part of the professional information seeking behaviour of Israeli advocates. Consequently, information seeking behaviour by advocates in Israel encompasses ten different practices, some of which are self-seeking information and some are seeking information by assistance of another entity.
- The professional information seeking behaviour of advocates in Israel is not simplistic and has at least three complexities: heterogeneity of the different information seeking practices and the likelihood of necessity to combine several of them in the practice of law; dynamism and evolving one's professional information skills; as well as the reality that seeking information involves a unique combination of human traits and skills with the various dimensions of the information sources and information properties concerned.

- Four types of delegates (intermediaries) were identified: the endogenous delegatee, the exogenous delegatee, the semi-exogenous delegatee, and the delegatee who is also a delegator. Specifically, the study identified the use of nine specific delegates for seeking information, by advocates in Israel, the four most common are: legal intern, which is found to be the first ranked delegatee by frequency of information seeking tasks, legal auxiliary services providers (excludes information- specialists), administrative staff, and junior advocates.
- Active search, i.e., a conscious effort to deliberately locate defined information through the use of one or more sources of information, serves a significant professional practice in seeking information in the practice of law by Israeli advocates. The study identified several active search strategies as follows, which can be applied concurrently or by using different search strings simultaneously: active search by specific or general search words, thematic search, search using focus and filter fields, criticizing search, citing search, chasing search, and chronicling search.
- The frequency of active search (by search words) of legal information and chasing search, by external legal counsels is significantly higher than the frequency of active search and chasing search of legal information by internal legal counsel. Additionally, the frequency of chasing search by male advocates is significantly higher than the frequency of chasing search by women advocates.
- Browsing information sources to obtain an initial and rough idea on an unfamiliar legal issue and browsing information sources while the advocate holds only general lines of the information requested were found to be the most common, most frequent forms of passive search. On the other hand, browsing some information sources out of curiosity and without informed intent to find particular definite information and browsing sources of information despite the difficulty of characterizing the necessary information and expecting to identify it when it meets were found to be less disseminate and less often used in Israeli law practice.
- Browsing some information sources out of curiosity and without informed intent to find particular definite information by male advocates is significantly higher in frequency than by female advocates; browsing sources of information despite the difficulty of characterizing the necessary information and expecting to identify it when it meets, is significantly higher among

advocates

registered in the Tel Aviv and Central district than it is for advocates registered in another district. More so the frequency of browsing information sources to obtain an initial and rough idea on an unfamiliar legal issue, by external legal counsels is significantly higher than by internal legal counsels.

- The importance of passive search in a single document that focuses on various content (such as a professional book or court decision) is attributed to the contribution of this item to legal guidance in its content, in part because some legal information items at this level may directly and primarily demonstrate the applicable law and constitute the actual practical tool in the hands of Israeli advocates. Passive search in intermediate-level information items that cluster various documents (such as periodic e-booklets on current legal information updates) has been explained to help Israeli advocates properly keep informed on changes occurring in the law in their legal fields of practice. Similarly, passive search at a general level of information item that concentrates various information sources within itself (e.g., legal information repository or Google search engine) may help locate some 'anchors' - i.e., different rationales, relevant keywords and search phrases, for supplementary active search on the issue.
- Ongoing search is perceived as an important professional duty in the practice of law in Israel, which is essential for maintaining the professional legal level of the pertinent advocate, and its benefits are both present (open case) and future (future case) prospective. Various professional constraints, and in particular a great deal of workload, shortness of time and personal trouble involved, as well as a possible perception of its inefficiency and being a non-billable information practice were among the reasons for Israeli advocates to neglect an ongoing search .
- Non-litigation advocates take a more planned and orderly approach to keep abreast of the developments and innovations that apply in the law, while those who litigate are characterized by more casual and sporadic updating style with new legal information. As the number of advocates within the workplace increases so too does the extent of ongoing search through

delegation.

- Six sources of information help most Israeli lawyers to keep up to date with developments in their fields of professional interests: commercial legal databases (electronic format); the judicial decision, i.e., references in the content of the judgment (electronic format); free information on the Internet (electronic format); internal colleague advocates as well as external colleague advocates who are not representing the opposite party (human format); and periodic e-booklets on current legal information updates (electronic format).
- Israeli advocates may also chance upon information through accidental discovery. Such accidental discovery may be 'passive', namely, without any conscious effort to seek information; 'active', i.e., incidental and unexpected discovery of relevant information during an attempt to find other information; or 'para-passive' by way of delegation or professional reliance.
- Information discovered by chance will not necessarily be examined, *a fortiori* will not be examined in depth, as this can take valuable work time (which also has financial implications) and therefore only a quick glance of this information may take place in order to get a general idea of its contents.
- Information accidentally discovered may potentially relate up to three time-frames in the practice of law in Israel: present time-frame, relating to a current professional issue being handled by an advocate (an 'open case'); future time-frame, relating to a professional issue an advocate considers to undertake to handle (a near future perspective) or predicts the discovered information may be required in some future point; as well as past time-frame, relating an issue that has recently been completed (a 'closed case'), but it is quite possible that the discovered information will become pertinent again.

- Episodes of accidental discovery of information by advocates in Israel are of two types as follows: Serendipity, which involves valuable information being discovered by chance, whereas the two most common professional contributions of the unexpected encounters are prior knowledge restoration or update on the matters dealt by discovered information and professional assistance of the discovered information for the suitable legal representation of the client before authorities and other institutions and in legal proceedings. A disruptive discovery of information may involve worthlessness or negative (harmful) professional contributions, e.g., surprising and embarrassing information which was accidentally discovered and weakens the line of argument on behalf of the client.
- Accidental discovery of information may occur in the practice of law by Israeli advocates, both in the fulfilment of their professional legal role and in the fulfilment of their administrative role.
- One in eight advocates in Israel believes that an accidental discovery of professional information is only a matter of luck, four out of ten advocates in Israel see it as a combination of external circumstances that are independent of the discoverer person (advocate), and about half of Israeli advocates believe that accidental discovery of professional information is a method of obtaining information that can be relied on when practicing law.
- A 'null contribution' (information which is subjectively valueless) and negative contribution (detrimental information) arising from accidental discovery of information are less common in the practice of law by advocates registered in Tel Aviv and Central district, than in the practice of law by advocates registered in another district.
- Israeli advocates are experiencing accidental discovery of information in their practice of law, more significantly in electronic information sources than in human information sources; and in both of these formats there is significantly more incidence and usage than in printed sources of information.
- This research reveals that there are positive significant correlations between various information seeking practices of Israeli advocates.
- The search for information may be carried out in one or more of four information paths: a multistage, evolving and gradual path; a preferred path, at least at the commencing point; changing and dynamic path depending on the professional context involved; and an

information path when a search session does not satisfy the professional information need.

- Four reasons were found for ending an information path: satisfying the professional need for information and closing the knowledge gap, whether the information obtained was beneficial for the advocate or not ; the result of a decision by the advocate's supervisor in the workplace regarding discontinuation of the information seeking session; a conscious professional acceptance of the continuation of the concerned information gap ; and due to cost-benefit considerations, since the costs in continuing the information seeking session outweigh the expected benefit thereof, hence the information path ends.
- Most Israeli advocates first evaluate the information found and only then use it. This order is based on professional liability, the potential impact of information on third parties in addition to the client (and even as a possible tool for battering the client by the counterparty), as well as part of an advocate's professional strategy for detecting defects and weaknesses in the counterparty's claims.

However, there are also cases where advocates in Israel immediately use the information found, without prior efforts in its evaluation; thus, among other things, with regard to information stored in the advocate's memory and professional experience, therefore it is unnecessary to re-evaluate, information which is immediately understandable and its direct professional contribution is clear, as well as in cases when the client desires an urgent and instantaneous response based on the information, in conjunction with the concise and reliable nature of the information.

- In-depth interviews indicate two contradictory practices regarding information sharing: one is voluntary or compulsory information sharing; the other is intentional avoidance to share information due to personal preferences or competitiveness, maximizing self-benefits and professional advantage retention motives.
- Four modes of keeping information, freely or according to a logic method, are being carried out by advocates in Israel: cognitive retention in memory, which is recognized as the most basic form to keep professional information in the practice of law in Israel; keeping tangible files, which for various reasons its use is being progressively reduced in the practice of law in Israel; maintaining an electronic system, either on a personal computer or in a documents and

client-file management system and even using cloud technologies, which is reported as the preferred way by Israeli advocates for long-term professional documentation, rapid information retrieval and as assistance for increase of work-productivity and better legal risk management; and a joint information keeping format. Yet, not every item of information found or used is positively retained by Israeli advocates.

As a result of the combined findings of the two research phases, a distinct model was developed to describe the information seeking behaviour of Israeli advocates. This model is based, *mutatis mutandis*, on the information behaviour model proposed by Al-Daihani and Oppenheim (2008) that served as a theoretical framework, while making mandatory adjustments and additions as required by the integrative findings of this study. As illustrated, the revised model presented in this research is broader and deeper than the framework model and manages to capture the complexity of the information seeking behaviour of Israeli advocates. The revised model offers a number of major innovations: the model details the information environment in which advocates operate in Israel, relates to the professional roles and responsibilities of Israeli advocates, as well as to the constraints and adjustments and preferences in their legal practice. In addition, the revised model addresses the professional awareness of Israeli advocates for various sources of information and information seeking practices, the complexities that exist in the information seeking process, as well as recurring information paths and feedback loops. Furthermore, the new model also expands and specifies several information activities taking place after finding information; namely, evaluation and using (sharing and keeping) of information. These are fundamental aspects that the framework model was lacking concrete reference to them, and were only laconic and generally speaking mentioned under 'legal professionals in context'. Another novelty of the revised model is the identification and elaboration of ten information practices performed by advocates in Israel. Explicitly, five additional information practices that were absent from the framework model, were spotted to be carried out in Israeli advocates' practice of law. The revised model draws on existing knowledge and adds new dimensions that allow for a complete, broader and more in-depth construction of Israeli advocates' information seeking behaviour. This may also serve as a ratio model for examining the information behaviour of additional legal professionals (such as judges, law-clerks, legal information specialists).

It is evident that this study has thoroughly examined the professional information seeking behaviour of advocates in Israel, on its various aspects, and provided extensive and in-depth empirical insights of them as information patrons, seekers and users. These insights are expected to benefit advocates examining, on a personal and organizational level, the information practices actually applied by them in their occupation and whether there is a need for implementation of adjustments, refinement, and/or additional information seeking practices to better meet their professional duty of proper, dedicated and trustworthy legal representation, as well as improve their legal literacy skills. The research findings and conclusions may also be of importance to legal information providers and to various entrepreneurs in the legal domain. Both can apply them to commercial realization and thus improve existing information services and products while making necessary adaptations to fit the actual information seeking practices of Israeli advocates, hence increasing the usability, professional benefits and satisfaction of users, as well as developing new information products and additional information services from a deep and empirically grounded understanding of the Israeli advocate's professional information seeking behaviour. In addition, the insights gained from this research can also be implemented in the study programs of courses dealing with legal information and practicums in information science departments and law faculties, as well as in continuing education programs, in order to provide current and future lawyers and information specialists with comprehensive empirical knowledge, theoretical understanding and practical training in various aspects of information seeking behaviour in the practice of law.

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