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GENDER EQUALITY IN LAW FIRMS

Closing the gap

Rosie Cresswell

Women in law

The discussion about gender equality in Latin American law firms has never been louder, but how much progress is actually being made in practice? Rosie Cresswell finds out

As anyone in, or close to, the global legal profession will attest, there is some way to go before the gender gap is closed in partner-level and leadership positions at law firms: while women have made up roughly half of law school students and associates for some years in many legal markets, that proportion still drops off sharply at partnership level and becomes even smaller in positions of senior decision-making.

This is the reality in Latin America. According to our survey of Latin American member firms of the Latin Lawyer 250, 49 per cent of associates in Latin America are female, a figure that falls to 20 per cent at the partnership level. Some markets do better than others (see graphs 1 and 2 below): out of the countries where we received the most respondents, Venezuela and Brazil surpass the partnership average, while Argentina, Colombia and Peru hover around it. Meanwhile, female representation in the partnership is the lowest in Chile and Mexico. The findings largely correlate with market perceptions.

The proportions are not wildly different to those in the UK and the US. Lucy Scott-Moncrieff, until recently the president of the Law Society of England and Wales, noted in a recent article for Latin Lawyer that men hold 73 per cent of partner-level positions in UK law firms, despite women entering the legal profession in greater numbers than men and making up nearly half of all solicitors. In the US, the National Association of Women Lawyers looked at the numbers for AmLaw

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200 firms in 2012 and found 15 per cent of equity partners were women, 26 per cent of non-equity partners were women, while 46 per cent of associates were female. Just 4 per cent of firms there have a female managing partner. It's well-documented that the reality is similarly skewed in men's favour in the corporate world, with only 4 per cent of Fortune 500 CEOs being women and just three FTSE 100 companies with women in chief executive roles.

These numbers are far from surprising to anyone with even the slightest awareness of the topic of gender equality in the global legal profession. Despite a supposed culture of equal opportunity and meritocracy there is still something preventing female talent from making it to the top in great numbers – be it implicit discrimination, culture and tradition, practicalities or a delay between awareness of the issue turning into action and results.

The discussion – in the legal industry and in broader society worldwide – has been taking place for years, but the momentum for change is now greater than ever, so how does that translate into progress in the Latin American legal industry, and is change taking place fast enough?

Slow but steady

Latin Lawyer has conducted research into this issue before – in 2002 and 2006. Our findings show there have been advancements in Latin America during the past 10 years: in 2002 we found 12 per cent of partners in the region were female, a figure that rose to 16 per cent by 2006 and now stands at 20 per cent. There's no doubt that there is an awareness of this issue among the region's firms. "Firms in Latin America that have a good gender record want to talk about it – they understand that international clients who have made gender a factor in their outside counsel hiring criteria in their European and US markets will begin to take the same approach in Latin America, says Claudette Christian of Hogan Lovells LLP.

But Latin American legal markets vary in their success and willingness to tackle gender diversity, with some scoring well on a global scale, and others falling behind. Elisabeth Eljuri, who has risen to one of the top spots at Norton Rose Fulbright, a global firm with 3,800 lawyers, thinks the discussion can be divided into two in terms of attitudes in Latin American countries, and indeed the world. First, "those where there are no limitations and successful women will make it, but they still have to be extremely successful,"and second,

"where you need more push and if you have all the right conditions you will increase their presence, but a very large percentage feel that if they don't have full and undivided support they have to forget about their career path as [it's perceived that] it's not reasonable to consider someone that has two kids, a family."

Just under one-third of Latin American Latin Lawyer 250 firms took part in the survey, generating sufficient responses in the aforementioned seven countries to warrant a closer look. Looking at the positive end of the scale, it's commonly accepted that Brazil's legal market fares well for gender diversity globally and has done for many years, with the country's firms scoring well against counterparts in London and New York. "You see more women in the legal profession in Brazil than in other jurisdictions." says Claudia Prado of Trench, Rossi e Watanabe Advogados. There are examples of other firms with very prominent female partnerships: around half of Koury Lopes Advogados' partners are female, while Machado, Meyer, Sendacz e Opice Advogados and TozziniFreire Advogados also score highly. A notable number have very successful female managing partners and numerous firms provided evidence of serious, sophisticated policies that promote gender diversity.

Because Brazilian labour laws are such that many firms have very large partnerships that don't necessarily indicate seniority, power or partner income, we used Brazilian firms' equity partner information for regional comparisons.

Venezuela also scores well, although it's relevant to note that our sample for the country was much lower than for Brazil. Nevertheless, Eljuri says "Venezuela has traditionally given women the opportunity to develop fully in the professional arena. Lawyers have been no exception. Law firms hire many women and eventually they make it to partnership (although not necessarily equity partnership in the same proportions)."

When the Central American countries are pooled together (see graph 4), we can see that on average roughly one-quarter of partners are female in those five countries, including a number of heads of offices.

In Argentina, firms demonstrate commitment to the issue through related policies, which is notable in a country where law firms face a difficult business environment and retaining talent is hard across the board. The number of female partners has risen from 12 per cent to 19 per cent in seven years (see graph 4) and there is a momentum

among female lawyers calling for more progress to be made; the legal market is home to some strong female role models and there is a very popular women's networking initiative. Colombian partnerships vary quite substantially; from two firms with no female partners to one with 40 per cent. Again there are strong role models and firms are largely receptive to the subject, but Claudia Barrero of prietocarrizosa thinks they need to do more to retain and promote female talent. Indeed, our 2006 and 2013 surveys suggest not much advancement has been made in the last seven years. By contrast, Liliana Espinosa of Estudio Echecopar, a member firm of Baker & McKenzie International, has observed good headway among Peruvian firms in the past decade. Certainly our surveys support that – showing a rise from 7 per cent to 20 per cent female partners in Lima since 2006.

The results confirm wider market perceptions that Chilean and Mexican firms have the most progress to make, being in conservative countries where there is a greater societal pressure on women to focus on family life. Just under half of Chilean and Mexican respondents said they have no female partners, while no respondents in either had more than three female partners and firms also showed the lowest number of females in their associate ranks. For anyone with an interest in this topic, the numbers are disheartening. "The results of the survey, as they relate to Mexico, are disappointing but, unfortunately, not surprising," says Lorenza Langarica O'Hea of Mijares, Angoitia, Cortés y Fuentes SC. "Mexico is probably one of the most conservative countries in Latin America and breaking the glass ceiling has not been easy for women in many areas, especially law." In Chile, Jessica Power of Carey (notable for having three female partners) believes that cultural issues are at play in her country, while there is a need for more support from firms. "We still have important challenges for the future, such as a broader implementation of flexitime and working-from-home policies, plus the organisation of more training programmes tailored for women," she says.

The situation in Chile – where firms have earned the reputation for being boys' clubs – looks to be improving, with the number of female partners rising from 2 per cent to 11 per cent over the last seven years. Unfortunately no such progress has been made at partnership level in Mexico in that time according to our survey. That said, Langarica O'Hea is optimistic about the future. "Things right now are very different from 10 years ago, and in my view it will continue to evolve in a positive manner," she says. "Due to increased competition,

Mexican law firms have taken extra steps to retain female talent, including flexible schedules for professional working mums." She notes that around half of Mijares' associates are women and one area is exclusively staffed by women.

The real measure of equality

While some of these numbers are encouraging, they don't address the ultimate measures of equality: equity partnership and positions of senior responsibility. Several women at the top of their game in Latin America's legal community have told Latin Lawyer that real progress will only be made when women occupy more senior roles and have comparable portions of equity – regardless of the numbers at any other level – because equality at the top is the only true sign of reaching actual equality. As one lawyer remarks, "Equity ownership is the ultimate question", but at this level the number of women is far lower. We asked firms to tell us how many of their female partners are equity partners, but the different treatment of the question across jurisdictions makes it difficult to compare the results in a useful manner. A quick reminder of the results in the US: 15 per cent of equity partners were women in 2012 compared to 26 per cent non-equity partners. Equity partners are those who are considered integral to the law firm's strategy and who have responsibilities of leadership and building the firm's book of business. In Latin America it's a struggle for anyone to make equity partner in some firms whose founders find it hard to relinquish their stake, meaning women lawyers have an even smaller chance of obtaining equity.

Trench, Rossi e Watanabe Advogados (associated with Baker & McKenzie)'s Prado thinks having billable hours as the main criteria for promotion is the greatest challenge for women who take time out for family commitments. As a result, the firm's promotion criteria is less heavily based on billable hours. Prado argues that while women may be less profitable during a certain period of time in their personal lives, later they get more profitable than many men because of all the other qualities they develop to cope with the challenges of their family and professional lives. "Those firms which understand that are more flexible with billable-hours requirements as criteria for partner promotion and tend to have more women as equity partners and in the leadership," she says. "This has been our own experience and I guarantee that we have been very successful and happy with the results."

The other real litmus test is how many women lawyers have senior responsibility at the firm (ie, have access to important financial information and make top-level decisions). Our survey shows just one-quarter of firms have female lawyers occupying positions such as managing partner, head of office or sitting on the executive committee. Looking more closely, some 16 per cent of firms have no women on their executive committees, while 27 per cent said between one-tenth and one-quarter of the executive committee are female and another 25 per cent said between one-quarter and half are women. Just 17 per cent said there was parity. Again, the lack of female representation at the top level is not just an issue in Latin America.

The third component to true gender equality is remuneration. Again, we did not ask firms for details about how their lawyers are compensated (because firms in the region do not commonly share such information with us), but it's a known fact that women can face economic discrimination throughout their career – not just in Latin America. This is for several reasons, including the fact that women might bill fewer hours than men because of commitments outside of the firm, and because they have taken more non-billable duties in the firm – such as pro bono – or simply focus on practice areas that are not conducive to racking up many hours. But, at the same time, many women are known to be less demanding in their salary reviews.

The next stage

There is still a huge disparity in the numbers of men and women in Latin America's legal communities, but progress is being made."Things have moved forward, definitely," says Patricia López-Aufranc of Marval, O'Farrell & Mairal, who was the first female partner in a big Buenos Aires firm. "When I started, I was at business meetings or cocktails with one or two women – now we are all over place, although it's not that the glass ceiling doesn't exist."

But while there is momentum, female lawyers express their frustration about progress stalling. "Things have changed in Latin America but they could have changed more," says Marcela Hughes, managing partner of Hughes & Hughes Abogados in Uruguay. "A few years ago I thought things would go faster."

While that may be the case, there are many reasons to suggest that the future could be bright for female lawyers. Hogan Lovells' Christian cites the increasing numbers of leading women political leaders and

business executives in Latin America as an encouraging sign. “Meaningful change for law firms, especially the larger ones, will come from a combination of outside client pressure, increasing economic power of women clients (who can serve both as role models and drivers for change in the make-up of their outside counsel legal teams) and buy-in from male law firm partners that training, developing and promoting women will only enhance their stature with international clients,” she says. And as Skadden, Arps, Slate, Meagher & Flom LLP’s Julie Bédard says, “There is a tremendous body of young women who will be in leadership positions in years to come.”