Globalizing processes for São Paulo attorneys: gender stratification in law firms and law-related businesses.

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Introduction

In the discourse on globalization of professions, scholars frequently refer to globalization in the singular, as if it were a unidirectional phenomenon by which professionals in northern-based countries export expertise to professionals in southern-based nations, which import advances in knowledge that circulate throughout the global network of professional power structures (Dezalay and Garth, 2002). But when we look at how these processes have played out in the Brazilian legal profession we see there are variable impacts and multiple directions, producing new local practices using models generated in other social contexts, often adapted from specific legal cultures. Inversely, we also see how professionals that cross borders take with them methods employed at home in order to meet the specific interests of clients that migrate or have transnational mobility. This paper aims to analyze two aspects of these globalizing processes in the profession, showing how the forms of global homogenization they produce leave enough space for coordinated fragmentation of the world, placing differences and inequalities in a new order without eradicating them. (García Canclini, 2014). In this sense, a country with social disparities such as those in Brazil reproduces this stratification in the legal profession, characterized as it is by both gender stratification and transformation of the meaning that professionals attribute to globalization, in accordance with their relative positions within the social hierarchy, manipulating and negotiating meanings on a local level.

The first aspect of globalization’s fragmenting effect is that it is not restricted solely to law practiced by law firms that deal with business clients outside the country, or in association with large-scale foreign offices and partners, reducing the globalizing effect to the professional elite that travel internationally. Globalization impacts other segments of legal practice including those not usually classified as being of ‘excellence’ or conducted by renowned names in the legal field, but rather are performed by professionals that offer specialized services in the mass-litigation field. Influenced by global ideas of specialization and organization, this mass-litigation segment of the profession has also been integrated into a global market and organized along business lines.

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The globalization experienced by large-scale corporate law firms in São Paulo, whose expertise includes internationalization and cross-border transactions in specialized areas, such as Environmental Law, Digital Law, Imports and Exports, Financial Transactions, Business Contracts, Infrastructure and Regulation differs from the globalization which sets the tone for litigation en masse practiced by legal companies that hire attorneys to take on rote work. The process of outsourcing mass litigation from corporate general counsel offices to specialized mass-litigation firms started in the US in the 1980s following the litigation explosion. In Brazil this occurred in the 1990s as the economy grew, more foreign corporations entered the market, and litigation soared. Possibly influenced by foreign models, corporations outsourced this work to specialized law firms, which created unique models mixing legal practices with business methods.

The second aspect of globalizing processes we wish to stress refers to contrasts permeated by social differences and inequality. It is incorrect to reduce transnational effects to a uniform process with similar results everywhere. Such processes not only reproduce inequalities between men and women in private life, transposing them to their careers, stratifying the profession based on gender (Thornton, 1996; Schultz and Shaw, 2003; Feuvre and Lapeyre, 2005; Bolton and Muzio, 2007; Kay and Gorman, 2008), but also create new opportunities for such professionals that can become part of the internationalized legal elite (Ballakrishnen, 2012), especially when they share a masculine view of professionalism (Bonelli, 2013).

This is shown by the study of the fragmenting aspects of global law practices on gender and diversity in the law firms in São Paulo which shows how these new forms of organizing legal work, which mirror transnational models, have led to broader inclusion of women on technical teams while maintaining gender stratification. Although the ideology of professionalism emphasizes autonomy and neutrality of knowledge, reinforcing the belief that the differences in gender and sexuality do not matter in the face of technical capacity, it is acknowledged the world over that career opportunities are established because of visible aspects like gender, even when trying to remove them.

I. Methodology. This investigation employs a multi-method approach, bringing together quantitative and qualitative data. In the former we analyze law firms that are members of the Center for Studies on Law Firms (CESA), an organization of the large Brazilian corporate law firms, using information taken from websites for CESA law firms in São Paulo. In the latter we rely on semi-structured interviews and observation gender relations in some of these firms, as well as a case study from JBM Advogados, the largest mass-litigation firm in the country.

We consider that both the large scale corporate firms in CESA, and the very different mass-litigation firm, illustrate the stratification and fragmentation of

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2 JBM leads a segment in the market, facing competition from other offices that operate in a similar fashion, including selling its model to other massified legal practices.
globalizing processes. CESA’s members are renowned in the legal field and JBM is establishing itself among the professional elite, based on its success in managing litigation *en masse* on behalf of companies. The organization of both type of practice reflects the hybridism brought on by globalizing processes, whether it is to produce and distinguish expertise by adding value to the clients’ business or to displace the predominating concept of professionalism in favor of a market-based rationale in mass-litigation.

In these very different practices, we can see the differentiation that occurs when women enter a predominantly male legal field. We show the gender breakdown in CESA member firms in terms of the positions held by professionals and we show the role of women in JBM. With this, the choice of methodology and the field work are both in accordance with the debate on the two processes being discussed: the fragmentation caused by globalization with a range of impacts on the professional market, and gender-based stratification.

Data on the gender breakdown in the São Paulo law firms helped classify professionals as partner or associate. Of the 385 law firms in São Paulo that were CESA members at the time data was collected, there was information on the website for 198 of them; still, many did not specify the positions of the professionals within the firm, referring to them merely as part of the “team”. We found classifications as partners and associates for 3,321 attorneys (864 for the former, 2,457 for the latter). This data was organized and placed on charts, which will be presented in the next section.3

For the JBM Advogados case study, besides documents and information provided by the office, some nine semi-structured interviews were conducted with professionals operating in the Bauru office, where the firm’s headquarters are located. Some seven female attorneys were interviewed, as was one male attorney and one female operational manager. They had all been born in the neighboring region or had some long-standing ties with the city, having studied Law in one of the private colleges there. The age group ranged from 29 to 39 years of age, most were single, and none had children.

II. São Paulo law firms that are CESA members

Empirical studies on legal practice in law firms indicate that globalizing processes which internationalize professions have an impact on the opportunities for women in professional teams. We found that large-scale Brazilian corporate firms copy more closely the homogenizing model of global firms, in which female participation has blossomed. The larger firms proved to be more open to incorporating female professionals both as partners and associates. The chart below presents data on this gender breakdown as per the size of the office.

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3 The subjective meanings for gender relations in CESA member law firms were analyzed in Bonelli 2103, based on qualitative interviews and observation. Due to space restrictions, these aspects will not be addressed in this chapter.
It can be seen that the smaller firms look more like the traditional style of legal practice\(^4\), mostly under the command of male attorneys, incorporating female attorneys in the less prestigious positions within the career, which entails the more rote/mundane services.

Chart I  Breakdown of partners and associates in the law firms that are CESA members, as per office size and gender

![Chart](chart.png)

Source: Bonelli (2013)

In large-scale firms (with more than 50 attorneys) and medium-sized offices (between 10 and 50 attorneys), females make up close to 30\% of the partners, which is the most valued position, with leadership roles, high-level expertise, corporate clients and networks of contacts. In the individual or small offices, male partners surpass the 80\% mark, leaving female with 17\%. The gender-based stratification among associate attorneys varies less, as per the size of the office. Most are female professionals, which confirms that men are more represented in the higher positions, and that progress within the career differs according to gender.

Studies on professional placement of female attorneys in other countries reveal standards that are quite different:

International comparisons reveal significant differences in terms of the kind of law firm women find themselves in. For instance, in Germany they are more likely to be sole practitioners, in Japan it is small Law firms that provide most posts for women lawyers, and in Canada women are just as likely to be practicing on their

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\(^4\) Traditional legal practice refers to liberal work, in family firms or with very few professional peers, litigating to defend their clients’ interests in court.
own as they are to be working in large law firms. (Schultz 2003, xlii)

In this sense, the Brazilian case only strengthens the idea presented above that female participation in law depends on national differences, even though it is a phenomenon resulting from globalizing processes. In Brazil, it is the large-scale and medium-sized law firms that promote female attorneys to partner, in contrast with the traditional Brazilian practice of closing the doors of small law firms to females when it comes to partnership.

As can be seen in the chart below, expert specialization is the model sought by both male and female attorneys at CESA member law firms. Some 61% of the male and female partners and 52% of female and male associates invested in professional development, either in post-graduate continuing education diploma courses (*lato sensu*) and other short-term courses, or in Master’s and Doctoral degrees, although the latter to a lesser extent and mainly taken by males. Such education generates merit-based distinctions which weigh heavily in law firms that work internationally, and which tend to place the academic qualifications of their main team on their websites as proof of their excellence.

This is another characteristic that differentiates professionals within globalized law firms from those in local firms: the individual drive to attain competences in the large firms is equal for both genders, instead of more specialization for males, as seen in other research (Bonelli et al., 2008; Bergoglio, 2007; and Gastiazoro, 2007). Such investment, however, has uneven results, disproportionately guaranteeing more advances for male attorneys who are made partner, than females. Emulating the legal practices of large-scale global firms and the need for capable professionals who can confidently transit across and between the boundaries of Civil and Common Law, Portuguese and English and other foreign languages, it is the large-scale law firms that not only place higher value on expertise, but that also foster the inclusion of women and that promote advances in their careers. In this vein, differences become clearly visible in the professional legal market.

Chart II Breakdown of partners and associates in CESA member law firms, as per the level of schooling and gender
If one of the impacts of globalizing processes was the capacity to bring about the stratified inclusion of women in the professional private legal market, making it possible for a number of them to progress in their career to the point of becoming partners, based on expertise and a corporate client base, we also noticed the opposite standard that massified legal education has helped promote: higher numbers of female students coinciding with Taylorism of the professional practice and the fact that activities are becoming more rote.

The traditional model when organizing legal work links “liberal” work, typical in a small law firm, with the predominance of white, heterosexual males, educated in generalist private schools, with knowledge on the specifics of local case law and little international experience or expertise. The ways that globalization mixes with this local standard result in hybrid structures, in which autonomy and specialized professionalism blend together with corporate and business ideals, as well as the focus on several demands made by corporate clients that stretch beyond legal knowledge; within this market rationale there is the stratification of the career, salary standardization and downgrading work for some lawyers with law graduates taking on work usually performed by paralegals and legal assistants,

The ideal of professionalism in which expertise is used to render services of excellence, without subjecting such diagnostics to political or economic interests, or that of clients, has given way to corporate needs. A system of peer-based relations, which was the usual way to organize this kind of work, has given way to hierarchical structures, producing the professional elite and oceans of hired attorneys, while recent law graduates take on paralegal positions until they pass the Brazilian Bar exam. Each one of these levels faces the effects of globalizing processes in their activities, whether it is in the advent of this new position whose practitioners – mostly women – expect to perform it temporarily until they enter the legal field; whether it is in the creation of massified law firms, specialized in high volume litigation with a flow of operationalized lawsuits as if on a conveyor belt; whether it is in the stratification of law into partners, associates, and contract lawyers.

III. Constructing legal companies through litigation en masse: JBM Advogados and gender stratification

JBM’s website advises that, for the fourth consecutive year, the 2013 Annual Law Awards deemed it the largest law firm in the country, in terms of numbers of attorneys. JBM was founded in 1997 by Mandaliti Advogados, a small law firm that, in 2008, merged with the São Paulo firm Demarest e Almeida Advogados. The merger was made possible by José Edgard Cunha Bueno Filho (J. Bueno) and the brothers-partners Reinaldo and Rodrigo Mandaliti.
JPM specializes in corporate litigation *en masse*. Headquartered in the city of Bauru, it has 26 affiliate offices in Brazil, which handle 15,000 hearings a month, 150,000 due diligence operations and 18,000 lawsuits. JBM is an office focusing specifically on mass-litigation, dealing with a large number of lawsuits on a daily basis within a framework referred to as a ‘conveyor belt’, based on an assembly line and automated production in Fordism – along with a sector that is specialized in quality. JBM is a law firm that sees itself as an extension of the companies it renders services to, placing emphasis on organizational values instead of on a rationale of professionalism and diversified expertise. Most of its attorneys carry out repetitive work, which does not require specialized qualifications, as the predominating law school generalist education is sufficient for this work.

In March 2014, the Bauru headquarters had 535 legal operators, of which some 65% were women. Quite different from the structures of other law firms, which have both partners and associates, JBM employs both female and male attorneys under the regular labor laws (known as the CLT – Consolidated Labor Laws), much like companies do with regular workers, negotiating wages with the trade union. In terms of the ideal, JBM partners distance themselves from the predominating rationale of occupational professionalism, under the standardized value of generating cohesion within the group. They share the corporate viewpoint and that of organizational professionalism, whose discourse is aimed at disciplining bodies and work.

According to Evetts (2012,7) these two structures to organize work based on knowledge can be systematized into: 1) occupational professionalism, which is related not only to the discourse constructed within a professional group, but also to the authorized collegiate, to the ability to be have discretion in work, to occupational control of work, to the trust placed in the practitioner by clients and employers, to the practitioners that operationalize controls, and finally to professional ethics monitored by institutions and associations, falling into the Durkheim model of moral communities; and 2) organizational professionalism, which refers not only to the discourse of control used more often by administrators in work organizations, but also to the structures of rational-legal authority, to standardized procedures, to hierarchical frameworks of authority and decision-making power, to managerialism, and finally to rendering accounts and outside methods of regulation, establishing targets and supervising performance, falling under the Weberian model of organization.

The organizational hierarchy at JBM Advogados and the respective gender breakdown at the headquarters in Bauru can be visualized below:

**Figure 1.** Flowchart and the breakdown of gender in legal positions

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The city of Bauru, where most of JBM’s legal operators are concentrated, is situated in the mid-west region of São Paulo state, some 326 km from the capital city of São Paulo. Bauru has two public universities branches (USP and UNESP), and some other colleges, of which four – from the private sector – offer a BA in Law: the Toledo Educational Institution (ITE), the Integrated Colleges of Bauru (FIB), the Sacred Heart University (USC), and UNIP, from where many attorneys, both male and female, that work for JBM, have graduated.
Legal petitions are only drafted at three of JBM’s branches, known as the “Head Branches”\(^6\). In the other affiliates, employed attorneys receive lawsuits they must defend in hearings, as is described by an interviewee from the Head Branch:

...they do not draft petitions, they go to hearings, they work out in the field, on the streets, in the courtrooms. Here we are more, let’s say we are the intellectual side and there they (...) get down to the nitty gritty, go to hearings, these sorts of things... Everything comes from here, goes to the affiliates (...). Here we have hearings as well, but the lawsuits are drafted here (...). Because here we have an entire infrastructure. We have a section to correct petitions, we have someone who writes them, we have someone who corrects them, we have an entire infrastructure here (...). Everything comes from here, goes to the affiliates (...). Here we have hearings as well, but the lawsuits are drafted here (...). Because here we have an entire infrastructure. We have a section to correct petitions, we have someone who writes them, we have someone who corrects them, we have an entire infrastructure here (...). It is impossible to do this in all the affiliates. (attorney, at the company for more than five years)

The infrastructure at the office in Bauru is significant. In the building where the legal division is located, on Avenida Getúlio Vargas – one of the city’s main avenues – approximately 540 employees are spread across four floors (ground, first, second and third floors), where there are long tables with computers where the attorneys and legal assistants work.

Each table is responsible for one client and that is where legal assistants, level 1 attorneys, level 2 attorneys, two controllers and one coordinator work. The coordinator maintains direct contact with the client and receives feedback on services rendered, while the controllers provide assistance to the coordinators, helping them tutor the attorneys and legal assistants that draft the petitions. Besides the tables – which are divisions that represent and work for specific clients – there is also the Quality Division, which is responsible for correcting the lawsuits. Hierarchically above the coordinators are the managers, establishing a bridge between the services rendered at the long tables and the board of directors.

The hierarchical structure and the standardized production of lawsuits, controlled by managers and not in a collegiate framework in which peers take on legal cases as per their expertise, distinguishes organizational professionalism from occupational professionalism. Law firms specialized in litigation \textit{en masse} for their clients build their public reputation in contrast to the law firms that exhibit indicators showing the professional excellence of their teams. On JBM’s website, only five male attorneys are presented by name and accompanied by their respective professional qualifications. Work done by women is not seen as specialized and is reserved for activities in operationalization and supervision areas. The company’s management sees these positions in the light of conventional wisdom, in which feminine culture is more practical and disciplined to carry out more rote tasks, showing less insubordination and working for lower salaries. On the other hand, the expertise related to higher abstract

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\(^6\) These “Head Branches” are located in the cities of Bauru, São Paulo and Ribeirão Preto.
knowledge and discretionary autonomy, in this office, is concentrated on five professionals.

Fragmented homogenization caused by globalizing processes in Brazil’s legal practice has been made easier through gender discrimination. In the mass-litigation model, which incorporates massified work in law firms by taking on professionals that took a Law course at educational institutions that themselves provided massified education, we can see a strong presence of females (65%) if compared to the percentage of attorneys enrolled at the Brazilian Bar Association in São Paulo (OAB – SP), which is 45%. In the elite corporate model of internationalization of expertise, professionals are empowered when they circulate in transnational networks in countries from both the north and the south (Dezalay and Garth, 2002), producing the new legal elite comprising mainly male partners of large-scale law firms, but including female partners on a smaller scale. Even though the masculine viewpoint on professionalism and on exclusive dedication to the law firm predominates in such progress, global processes also provoke deviations in gender-based barriers and in the values that guide professional action.

On the one hand, there is the JBM model, whose legal operators are rooted in a local context, receiving the basic salary as agreed upon by the lawyers’ trade union; on the other hand, in the international circulation scenario, there is an agenda promoting diversity and gender identification in elite law firms. An example of this other model is the event organized by the partners at Pinheiro Neto Advogados, in 2009, which was proposed by the Committee on Women in the Profession, of the New York City Bar Association, to discuss the report entitled “Best practices for the hiring, training, retention and advancement for women attorneys”.

The event brought together close to 120 women from law firms and corporate legal departments in São Paulo, constituting an audience made up of the female legal elite. The aim, based on the report, was to help improve legal practices in Brazil, seeking to reduce gender inequality among male and female attorneys, while building new visions on professionalism and gender difference.

Five years after the event, some impact has been made by internationalization, notably in the increasing number of female partners in medium-sized and large-scale firms. The law firm Machado, Meyer, Sendacz e Opice Advogados, for the second year running, was presented with the Euromoney Award for being the best office in terms of gender diversity and policy in Latin America7.

Homogenization of the imagined globalization (García Canclini, 2014) established a new order for inequalities in the legal field, but did not eradicate them, producing a hierarchy of opportunities for female professionals coming from remote social origins: while most of them undergo massified professionalization processes, others become part of the professional elite seeking equal treatment for both genders.

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IV. JBM and discourse references in the industrial model

The word “company” appears quite often in the attorneys’ and partners’ discourse, which reveals they have identified with JBM. The industrial universe gave us mass production, mechanization, conveyer belts, Fordism, which are now present in the ideology of professional services.

JBM adapted to the Business Process Outsourcing (BPO) model, segmenting its activities into three different groups: a company focused on recovering credit and billing carried out by Concilig; a company in charge of technology, information services, HR, accounting, carried out by Finch Soluções; and the legal attributions left to JBM proper. According to J. Bueno in an interview to Conjur, in 2013, Finch provides services to several companies and law firms. The market rationale is summed up by the journalist holding the interview:

Systems and methods are so important to JBM’s operations in the market that, in the middle of this year, the office was split, placing attorneys on one side and the technology team on the other. Finch Soluções was born. The new business began with 550 collaborators in 27 affiliates, taking with it the data expertise that JBM had collected over the five years of existence and through the 18,000 lawsuits that it receives every month — all up, today it deals with close to 320,000.

Finch renders services to JBM itself, to the law firm’s clients and to other law firms. Its annual turnover is R$ 45 million, which seems to please the attorney José Edgard Bueno. A master at conducting these two orchestras, accompanied by his partner Reinaldo Mandaliti — at Finch, there are two other partners —, Bueno is not a fan of ties, prefers jeans to suits and constantly uses the term the “industry of Law”. On purpose. He wants to break the taboo concerning the so-called “mercantilization of law”, an expression that sends shivers down the spines of attorneys due to the OAB restrictions. (Marcos de Vasconcellos, http://www.conjur.com.br/2013-out-06/entrevista-jose-edgard-bueno-socio-fundador-jbm-advogados - accessed March 20, 2014)

This corporate structure and JBM’s mass production was also presented in the magazine Exame, in 2011, and was described as follows:

The entranceway to JBM, downtown Bauru, in the interior of São Paulo state, opens up to a 2,000m² room with high ceilings, like a shed. There, gondolas are lined up like those in a supermarket, each one with dozens of work stations, where more than 400 employees, side-by-side, are glued to the screens of their computers.
These professionals have targets to meet: they need to attend a specific number of customers before their shift ends. Among the most common terms used throughout the day are workflow, checklist, team management, quality control, result indicators. It is only when visitors take a few steps back that they can see, on the silver plaque in the hallway to the elevators, that this is not a telemarketing center or something like that.

“J. Bueno and Mandaliti — Law Firm”, it reads. It is the largest law firm in the country in terms of numbers of attorneys. It is also — most certainly — the most non-conventional law firm working in Brazil today.

(...) The main reason for this is its field of operations. JBM is the first office in the country specialized in what lawyers refer to as “litigation en masse”. This means that their attorneys take care of tens of thousands of small cases that target large companies — mainly labor cases and consumer law.

To organize the slew of lawsuits their legal departments have to deal with, companies hire law firms — which, to handle the work, are organized like veritable sausage factories of law. JBM alone manages more than 230,000 lawsuits. And, according to its partners, will turnover close to 110 million reais in 2011. (Alexandre Moschella, http://exame.abril.com.br/revista-exame/edicoes/0990/noticias/a-salsicharia-do-direito - accessed March 20, 2014)

However, the internal interpretation of JBM’s work is quite different from that shown above. Mass production, mechanization and Fordism gain meanings that oppose those used in the article, as they are understood as positive qualifications of the services the group provides. When the interviewees where asked about the article, they were quite disappointed with the derogatory image used to describe the company’s work:

The use of this term? I found it... I don’t know where this came from, because it matches nothing ... “sausage factory”... because if you wanted to talk about something mechanized, I think he used a very misleading term because there is no connection between the term and the type of work we do. No connection. If he wanted to say Fordism, perhaps, it would be a more intelligent word to use, Fordism which is the mechanization of work. And our work is quite mechanized, but “sausage factory”, I don’t

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8 It is important to clarify that this research had some difficulty in obtaining authorization from the JBM human resources department to conduct the field work, which, after several attempt at contact, provided names and a schedule to hold the interviews.
know where he got that... (Interview with an attorney, at JBM for more than five years)

There really is a mass flow of work, others might say conveyor belt, even mechanization, but when you work like this there is study, there is an effort, but when the magazine said “sausage factory” it gives the impression that it is anybody, drafting any old thing... (Interview with a female attorney, at JBM for more than five years)

And there is a viewpoint that puts the depreciative aspect of mass production into perspective:

JBM is a mass production office because we work with banks, most of our clients are banks, that is, they are boring matters, that is, the bank is always accused of being wrong, it is always the bank that incorrectly sent someone’s name to the blacklist, or it is a mechanized office in the sense that there are always mechanized arguments for specific types of lawsuits, but it does not mean the whole office runs like this, JBM is not solely en masse, JBM has consultation, special cases, there are sectors that the client requests, to which the client forwards the lawsuit he wants to file, he himself is accusing someone... so, most of the office is a mass production office that runs this production line, let’s say: someone registers the lawsuit, another one requests a copy, the other drafts the answer, the other accompanies the lawsuit, the other drafts the appeal, another one does this, another does that and so forth, until the case is closed and we return the case to the client. (Interview with a female attorney, at JBM for more than five years)

One of the managers at the headquarters in Bauru, who believed the article could have a negative effect on the office’s reputation, became quite positive after receiving new clients who were interested in the specific way the office was run:

I truly believe that it benefitted the company. It caused quite a ruckus, people were upset with the situation, but in terms of market, and here I mean the professional side, this episode opened up some doors for us, because some companies were interested in our business, in our products, seeing how they were conducted and offered, so, amazing as it sounds, something that was quite negative became positive, and we gained 3 or 4 more new clients at the office (...). I think the term was useless and unnecessary [the use of the term sausage factory] they had “X” number of ways to talk about an office of this size, and the structure it has, but I think the press... you can sell yourself well when you sell a term that gives an impression, a bad impression, a good impression, I don’t know, but one that generates some... media, the magazine wants to sell! So they use the term for this, to draw
the public’s attention, that’s the only reason. (Interview with a female coordinator, at JBM for more than five years)

Taking the unidirectional viewpoint on the global law model, partner J. Bueno, in the aforementioned interview, affirms that perceptions on high volume litigation are expected to change, because JBM represents a new way to conduct law in Brazil, which fits in well with the changes the market and globalization are imposing on legal practice. For him, the numbers of partners and associates should be revised, justifying his hiring new attorneys as salary-based workers with labor rights⁹:

...there are very few offices that have attorneys registered under CLT. The Brazilian Bar Association established the associate or partner structure according to amount of work done. The structure of partners working under this quota system has been accepted by case law and there are not many legal problems. Meanwhile, the associate quotas, which is what most offices use, case law has not accepted. When an attorney files a labor suit against his office, registered employment is legally recognized. Most of the market works with associates, many have no employment regime whatsoever. This needs to be looked into, because, on the one hand, attorneys are not protected and, on the other, this establishes unfair competition (...). In a procured estimate, one law firm may not have everyone working under registered employment and, thus, has a natural advantage over the firms that have to cover CLT surcharges. The practical consequence of this is that the price of the former will be much better for that potential client. In our profession, a large part of our overhead is labor, this is a huge disadvantage. We have to change this. It is so ridiculous that we have a rule established by the OAB — the associate attorney concept —, but which is not accepted by the Judiciary system. (http://www.conjur.com.br/2013-out-06/entrevista-jose-edgard-bueno-socio-fundador-jbm-advogados – accessed March 20, 2014)

JBM’s attorneys work 40 hours a week and receive benefits, such as their annual OAB membership is paid for, they have a private health plan, travel and meal allowances. The floor salary at the Bauru headquarters is less than R$ 2,000 (US 835) per month, while the floor salary established by the Attorneys Trade Union in São Paulo was R$ 2,130 and the general minimum wage for the state of São Paulo was R$ 810 a month.

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⁹ Hiring workers with set salaries establishes boss-employee type relationships for rendering professional services. Under this structure, workers have rights guaranteed by the Consolidated Labor Law (CLT), and a floor salary due to trade union agreements. These rights are more costly for employers, as there are 12 monthly salaries, 30 days of paid vacation time and Brazil’s bonus, but mandatory 13th salary, as well as a severance fund payment for time in service and social security. Several professionals work in law firms on a regular basis in conditions quite different to those with set salaries. They work as associate attorneys and do not have these rights; law firms do not cover these costs.
Most of those working at the headquarters also live in Bauru or in surrounding cities, travelling every day to get to work. The turnover of attorneys is high because many, as part of their career plans, move to places where salaries are higher, as happens in the city of São Paulo, where more specialized services are offered than just the conveyor belt system. Some male and female attorneys from neighboring cities choose to work from home, thus justifying the option to remain in their cities of origin due to the difficulty in paying rent and bills in the city of Bauru, on a limited salary.

One of the interviewees mentioned that many colleagues, when considering the work at the firm, feel like factory workers and not attorneys:

So much so that there are people here that do not even feel like an attorney, they feel like factory workers, I’ve heard people say this here: “here, I am not an attorney, I am a factory worker, because I sit here, I have to fulfill my quota¹⁰, I am not treated like an attorney here”. You see? So people end up subjecting themselves to this because they have no other option. It is difficult (...). Here, they call you a service provider (...). You are not an attorney. So you do five years of college (law school), and you do not have a floor salary that is correct... (Interview with a female attorney, at JBM for up to five years)

The interviewee expressed her interest in finding a better job where she would be recognized as an attorney. Another aspect she lamented was the level of stress from living in one city and working in another, a routine she opted for because she believes her salary is not enough to cover the cost of living in Bauru itself. According to her, JBM is able to treat their employees better, and this could boost their reputation as a mass litigation firm when compared to other offices in the legal field.

Another professional mentioned her plans to leave JBM; however, she attributed her problems with leadership at work to herself, which stymies any chance for promotion within the company. Because of this, she is studying to pass a recruitment exam at some banks. Male and female attorneys that have been at the office for some time, or who have managed to get some kind of internal promotion had more positive opinions about their work relations at the JBM headquarters in Bauru.

V. Women in mass litigation: Perceptions from female attorneys at JBM

At JBM Advogados, there is a strong presence of female legal staff, in an environment whose discourses are closer to organizational professionalism. Does the company prefer to recruit females? Data seems to suggest it does, for litigation en masse. As we saw in the introduction, our argument is that globalizing processes in the professional world are fragmenting, producing homogenization without eradicating

¹⁰ This refers to the conveyor belt structure, in which the process is not attributed to an attorney, but rather treated as a fragmented flow so as to increase productivity. There is a system in which services are distributed on a daily basis. Thus, attorneys do not continue with the work they did the day before, nor do they know what is to come.
differences and inequalities. This type of professionalism blends the profession and bureaucracy, standardizing hierarchical practices based on gender.

According to one female manager, the profile the firm tends to hire is the recently-graduated youth, which is justified by the belief that they do not have any “attorney habits”, seen as a complicated professional and quite often “not so teachable”. This is how she sees the work of women who adjust the best they can to the work. Today, they are changing things slightly and trying to attract more experienced and educated people.

Meanwhile, in the opinion of the interviewees, the reasons that women are more strongly present is due to their own world rather than to corporate initiatives: a) they attribute this to the number of female university students available in the city, coming from the four undergraduate Law courses offered in Bauru, b) to the fact that JBM is a newer firm, which increased its staff numbers when there was already a large number of women for legal services, and c) to the merit they have for taking on staff and internal promotion.

I think in the past there were more men working here, and today I think this is no longer an issue. I think the legal careers are usually public positions, so there is no way of eliminating a man or a woman, but they are... We are actually dominating the field, we are getting there. If the numbers are not the same, they are very close (...). As there is no discrimination [JBM] does not hire a person because she is a woman or because he is a man, but rather because of their competence, based on what happens in the job interview, there is a four-stage selection process, you see. There is no discrimination against men or women, it is how you perform, your experience... (Interview with a female attorney, up to five years at JBM)

...I am not sure if in the past it was more difficult for women because the mentality was that they had to stay at home, taking care of the children and today that’s not the case, that doesn’t exist anymore. Perhaps, in the future this number may level out, maybe. Today, it is easy to get into an office similar to ours here, and for you to get into a legal career like this... So maybe in the future this will level out, I don’t know. Maybe... (Interview with a male attorney, more than five years at JBM)

The expectation that gender-based opportunities will level out over time appears not only in interviewees’ opinions, but also in the conventional wisdom and sociological approach to gender within the legal profession. Several studies show that time is not a decisive factor in helping level out numbers, with disparities and gender differences consistently abounding in the professional area, even in countries that implemented affirmative action aimed at women several years ago. With this, combining theoretical perspectives seems to be more appropriate when trying to understand the distances between men and women in the legal field, bringing together theories on gender-based
discrimination, on unequal structural conditions, and on human capital (Kay and Gorman, 2008).

In the interviews, mention was made of the fact that working in an office with such strong female presence works as an energy boost, with female attorneys feeling at ease in a space with female colleagues and leaders, including with a board of directors as a reference, as described in the interview below:

It is a great office to work in, there are some people that say otherwise, but they don’t leave and I think it’s an office that seeks to speak with you every day (...). [Name of the female attorney], who is a friend of the owners (...) became a director, she has been here since the beginning, so I think that is it, that women, when they want, when attributed with a task, they manage to achieve more than men. I think, on this issue, I was being a feminist, but I think it is true, we delve deeper, we go further, we are more intense with what we do, I think this is why sometimes I prefer to work with women. (Interview with a female attorney, up to five years at JBM)

The female interviewees also highlighted other positive aspects about having female attorneys at the office, such as: a) they believe women in leadership positions are more receptive to problems involving family and sickness, b) they felt more respected and excited about work, and c) they carried out their work with more dedication and enthusiasm:

I think as there are plenty of women, we feel great because we understand that women have their own dynamics, timing, things they want to do, there are many pregnant women, that have children, that are on maternity leave, so they are used to thinking about this. (Interview with a female attorney, more than five years at JBM)

Ah, so women... I think that when we are given a task, we do more than just the task (...) here, at least, I am like this (...). So I think that most are women, women do not like to be the center of gossip and I think the office here is run by large names (...). as I am a coordinator, I prefer to work more with women because I think women go further, they are more into detail. Men do not, men are broader: “Ah, but I did that”, “You did not include that, dear...”, “No, but it’ll do”. Women are different, women go into the smallest detail. That’s it. (Interview with a female coordinator, up to five years at JBM)

But women themselves, they have a more persistent profile, you know? So, I think it’s this, in my experience I see men and women, and I think women have more relationship problems, but in terms of work they are more persistent, they stick with it, they are warriors, men are less so, you know? Women insist more,
they are more committed. (Interview with a manager, more than five years at JBM)

So, some values are changing, because before I thought that certain companies did not hire women because of maternity leave, because they prefer to hire men, to avoid paying surcharges and in the future having to pay leave. But today, women are conquering their own space, because women are more sensible, especially in the legal field, 60% of the prep courses comprise women. Male or female justices, a female judge is more sensible that a male justice, for example, a female judge in family law, for example, who is to rule on a case, is much better than a male judge. They are more sensible, more human. So, a bus company, for example, is hiring more women than men, women are taking the jobs. Here at JBM, I see this, in my sector, to have an idea, has a female manager and coordinator, there are no male leaders. (Interview with a female attorney, up to five years at JBM).

We can see that the viewpoints based on the essentialism of gender differences\(^\text{11}\), understood as the nature of men and women, and often used to establish gender stratification in the workplace, are constructed as a positive attribute within the discourse of female attorneys. At JBM, the reference to gender appears as a resource to obstruct the professional space in which women work (Bolton and Muzio, 2007). While they are able to make headway in the mass litigation area, these practices feed the essentialism of gender and make the deconstruction of such inequities more and more distant.

Final considerations

This text sought to emphasize that the homogenization caused by global processes within the legal field has a fragmenting effect instead of a uni-dimensional outcome. This allows for the local reestablishment of meaning, forming a hybrid mix between organizational structures and the rationale of work, as well as fostering unfair opportunities when including women in the profession. The cases analyzed focused on law firms that were CESA members that were stratified in terms of gender, especially in the posts as partners and associate attorneys, highlighting work that is separated into mass or elite structures, and the inclusion of gender differences. Internationalization has had a more significant impact on the entry of women both into elite positions and into less valued posts in law firms than on traditional liberal work.

\(^{11}\) Feminist theory rejects essentialism and maintains that gender difference is socially constructed. Essentialism assumes that there is a fixed masculine and feminine essence thereby transforming what are really small body differences and culturally produced distinctions into permanent and unchangeable characteristics. This biological approach creates an obligatory and linear relationship between sex, gender, desire and sexual practices prescribed in the dominant heterosexual culture. Such a hegemonic and binary vision contrasts the respective roles of men and women in society and justifies existing gender hierarchies. (Scott, 1986 and Butler, 1990).
Concerning the JBM Advogados case specifically, which does not correspond to the traditional model for the Brazilian law firm market, but in some way is inspired on law firms using organizational standards, our analysis addressed how it came to be, separating itself from the professional world of Law moving into the corporate universe, taking on standards aimed at cutting costs to become more competitive in the mass litigation market. For such, the reference used is that of a production line, with turnover and cheap labor, blending the industrial model with the rationale of bureaucratic organizations and a discourse of professionalism, merging the frontiers together between free competition and market reserves, between autonomy and hierarchy, between rote tasks and specialization. This office is not alone in the process of melding serial production with legal services, and the massification of legal services in other smaller firms has become apparent, accompanied by the increasing participation of women in high volume, rote litigation suits.

The globalization of Law provides the foundation on which JBM sustains its disputes in the legal field, for broader approaches to practices that surpass the frontiers between the legal profession and corporate business. A similar battle, however from the opposing side, has been brought to the fore by CESA in relation to the national barriers against using foreign expertise in law firms. Both influence the meaning of globalizing processes in the legal world.

Even though JBM holds a high-flying position at the top of the professional hierarchy, it has arrived there through en masse law services, which makes its legitimacy vulnerable in terms of the prestige attributed by the elite known and established in the world of excellence, as required by CESA. In contrast with the specialized international language that has taken the spotlight in law (Common Law, Civil Law, home office, jobs, controllers, sole practitioner, partner, associate, BPO, workflow, checklist, feedback etc.) are the images produced by expressions such as sausage factories, industry, assembly lines, mechanization, revealing the competition within the segment to establish how Law is carried out at law firm in Brazil, the symbolic disputes to monopolize prestigious positions, and the discourse employing imagined models of singular globalization to tip the scale (in their favor) in such clashes.

Bibliography


