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Women in the Legal Professions: from the Eradication of Direct Discrimination to the Prevalence of “Epistfemicide” and the Glass Ceiling

The article analyses the situation of women in the legal professions in Argentina, with special reference to the Argentine judicial system. It enquires into the context of the main socio-legal transformations that allowed Argentine women, initially, to access higher education, professional practice and political citizenship and, later, to access the rights that provide the framework to have a life free of gender-based discrimination, including the cluster of LGBTI+ rights. It describes the incorporation of gender mainstreaming into the legal and institutional universe of legal professions in recent decades. Lastly, it reflects on two dimensions of gender-based discrimination that still prevail: that of epistfemicide and that of the glass ceiling, and provides some keys to design strategies for its eradication.

Key words: women, gender, legal professions

Жене у правним професијама: од искорењивања директне дискриминације до распрострањености „епистфемцида“ и стакленог плафона

У раду се анализира ситуација у којој се налазе жене у правним професијама у Аргентини, са посебним освртом на правни систем Аргентине. Рад испитује контекст главних друштвено-правних промена које су најпре омогућиле аргентинским женама приступ високом образовању, професионалној пракси и политичком држављанству, а касније и правима која пружају оквир за живот ослобођен од родно засноване дискриминације, укључујући и ЛГБТИ+ права. У тексту се описује увођење родне равноправности у правни и институционални оквир правних професија последњих деценија, које се коначно одражавају на две преовлађујуће димензије родно засноване дискриминације: „епистфемцид“ и стаклени плафон, те пружа решења која могу допринети њиховом искорењивању.

Кључне речи: жене, род, правне професије

1. INTRODUCTION

Since the first Argentine lawyer, María Angélica Barreda, graduated in 1910, the expansion of university education has contributed, in our country, to an increase in the number of male and female lawyers. This phenomenon coincided with an unceasing growth of the judiciary and legal firms, which promoted a trend towards salaried work by legal professionals. In the years of neoliberal expansion (the 1970s and the 1990s, especially the latter), the diversification of the integration into the salaried labour market of the legal professions occurred together with a deepening of social inequalities (Bergoglio 2009).

The period of recovery from the deep and dramatic economic and social crisis that took place at the end of 2001 began in 2003, and brought about a large number of transformations of the State and its actions to revert the serious social inequalities in place. The gender agenda, however, began to expand in more recent times, and came hand in hand with a deep legal transformation, which recognized, expanded and strengthened women and LGBTI+ rights.

In the last two decades, there have been a series of transformations of institutional policies and of legal education in universities happening at the same time as the aforementioned process of recognition and expansion of rights.

What we now call gender mainstreaming gradually became established in several areas of Argentine law and its practice. However, gender inequalities in the legal professions arise as a persistent phenomenon.

2. THE REGULATORY FRAMEWORK OF GENDER EQUALITY IN ARGENTINA

The institutional system outlined in the Constitution approved in 1853, in force – with amendments – to this day, establishes a „representative, republican and federal“ government (Section 1), along some of the lines of the US Constitution of 1787. Thus, the 1853 Constitution enshrined an androcentric constitutionalism, which under the veil of an alleged „neutrality“, excluded women from the category of citizens and full subjects of rights.

The process towards equal rights began in our country at the end of the 19th century, when it was recognized that equality in civil rights for women was limited, and after a period of relative inactivity, it was resumed in the mid-20th century, when equal political rights were recognized. The most substantive legal reforms that paved the way for eradicating the gender discrimination established in the patriarchal legal structure were much more recent, and most of them coincided with the inclusion of a gender agenda in public policies.

As we see it now, women’s access to rights can be presented as a consequence of the natural developments of an era or as the result of a complex plotline where the leading roles of women and other subjects of rights that were initially excluded from the original design of the constellation of our State, can grow. From this second viewpoint, we can perceive the inclusion of women as citizens and the expansion of their civil, political, social, economic and cultural rights, as a series of overlapping canvases that put together the rules that recognize the legal capacity of individuals. This is nothing but a celebrated conquest of equal human rights.

This tapestry, gazed through a lens that exposes the discrimination to which women have been subjected – and underpins focused legal practice and legislation to eradicate it – is woven with the threads of the search to vindicate the freedom of women, which showed the traditional spaces of subordination to which they have been subjected and the limitations imposed to their autonomy, dignity, and personal integrity in several spheres

of their lives, such as those that arise, among others, from the systematic subjugation to various forms of inferiorisation or even annihilation through gender violence, one of the most extreme and persistent channels of structural subjugation of women and LGTBI+ people – for the mere fact of being – that exist in our society.

Over the last thirty years, transformations were faster and deeper, and were marked, among others, by the following milestones:

(a) The constitutionalisation of women's human rights. In 1994, our country underwent a constitutional reform that incorporated international human rights treaties into the Constitution. By way of this reform, CE-DAW,¹ among other important conventions that recognize women's human rights, became part of the constitutional text (section 75, subsection 22);

(b) The acknowledgement of specific rights for women, in particular, based on the international commitments undertaken at the government level since the adoption of the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women, known as the Belém do Pará Convention (1994), which is the first international treaty at regional level that recognizes the right to a life free of gender-based violence.

(c) The recognition of LGTBI+ people as subjects of rights, with the approval of same-sex marriage and self-perceived gender identity laws, among others.

Reviewing the historical plotline of this journey, it is important to rebuild the active role that many women and LGTBI+ people have played in claiming their own rights, those of their sons and daughters and of society as a whole.

Despite the many obstacles that stood in the way, the prominence of women was notable in our history, which has witnessed their extensive activism and the achievements made thanks to the huge potential of feminist social movements and of the women of our country. Some of them are recognized worldwide, as is the case of „Madres y Abuelas de Plaza de Mayo“ and the „Ni Una Menos“ movement (Piccone 2021).

3. LEGAL PROFESSIONS IN ARGENTINA

The concept of legal profession is complex and problematic; it does not only refer to lawyers, but also it includes other professionals working in the judiciary, carrying out judicial duties, teaching in law schools, as well as private practise lawyers working in law firms, companies or other in-

¹ Convention on the Elimination of all Forms of Discrimination Against Women, United Nations General Assembly 1979.

stitutions and as a public servant in various areas of the government, among others.

Out of the wide variety of legal professions, in this article we take into account only those that involve activities that are only to be carried out by lawyers,² or by teachers or researchers at law schools. The last two occupations are not exclusively performed by lawyers, but most of them are law school graduates.³ In addition, law schools are the space where not only law is taught, but also where preliminary consensus is established on the duties of the legal profession.

A recently published study found that in Latin America, in general, and in Argentina, in particular, the evident presence of legal professions in daily life and in the various dimensions of the State (both in the political sphere and in the provision of public services) contrasts with a great shortage of empirical research on the situation of the legal profession (Binder, Fandiño & Fibla 2020, 11).

Regarding the few research studies conducted on the existing legal professions in our field, most of them belong to legal sociology and, more recently, to gender studies, with a strong prevalence of works focused on the judiciary and on analysis of the situation of women in the administration of justice (Zaikoski Biscay 2022). Generally speaking, the lack of data on the situation of women in other areas of law is clear.

In Argentina, the output of reliable data is deficient in various areas. This phenomenon is complex not only due to the lack of statistics, but also due to the absence of common standards to elaborate them, and this is true within the framework of a complex political organisation, which makes it even more difficult to compare the scarce information available.

² Under Resolution No. 3401/17 by the Ministry of Education governing the certifications granted to law school graduates, they are entitled to „(1) Provide legal assistance to any individual or legal entity that so requires, when decisions regarding a direct risk on people or goods are involved, both in court and out of court. (2) Sponsor and represent parties (including the State at its various levels and forms of organisation) in administrative, misdemeanour, judicial, or arbitration proceedings, whether contentious or non-contentious. (3) Exercise duties according to their jurisdiction before Courts of Justice as well as administrative offices. (4) Issue legal decisions and reports. (5) Act as receiver or auditor in companies“. Appendix I of the Resolution No. 3401/17 by the Ministry of Education <http://servicios.infoleg.gob.ar/infolegInternet/anexos/275000-279999/279435/res3401.pdf> (Accessed February 10, 2022).

³ Both because, in law schools, the programmes of study include non-legal subjects, such as foreign languages and writing courses; and because specific non-lawyer experts are admitted as teachers in certain fields. It should be clarified that in Argentina, the ones entitled to teach in law schools are usually lawyers, who may pair their degree with complementary training courses.

Argentina is organised as a federal state, with 24 political districts (23 provinces plus the City of Buenos Aires). These districts must organise the system whereby justice is to be administered and issue the rules that govern the admission to bar associations, as a requirement to practise law. There are a total of 25 judicial powers in the country: 23 provincial judiciaries and the one of the City of Buenos Aires; in addition to the Federal Justice System. The latter has jurisdiction throughout the country for all „federal“ matters.⁴

The coexistence of several mechanisms for the administration of justice and of admission to bar associations makes it difficult to build data that can be compared among several districts, which poses greater challenges to the task of assessing the situation of the legal professions encompassing all the subsumed realities found in the complexity of our territory. Taking into account the constraints of this work and the fragmentation of the information available,⁵ we are going to focus on the data delivered by the judiciary at the national level.

3. 1. The situation of women: pioneering studies.

The first approaches to assessing the right to equality and non-discrimination for reasons of gender in Argentina took place, in the field of legal professions, in the period of democratic transition that began in 1983, thanks to the feminist lawyers who promoted debates on the persistent discrimination against women within the law, such as Haydeé Birgin (ELA 2012). However, pioneering studies on the situation of women in the legal professions appeared a little later, in the mid-1990s, and gained more relevancy in the last two decades (Gastrón 1993; Kohen 2005; Rodríguez 2007; Bergallo 2007; Zaikoski Biscay 2022), with the expansion of legal feminisms in law schools.

As anticipated, research focused on the presence of women in the Judiciary and the teaching of Law prevail, and the information on women

⁴ Law No. 48 of 1863, as amended, provides for the venue and jurisdiction of the courts, under Law 27063, as amended (Argentine Code of Criminal Procedure) <http://servicios.infoleg.gob.ar/infolegInternet/anexos/115000-119999/116296/texact.htm>, <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm> (Accessed February 15, 2022).

⁵ There are no comparative studies on the situation in all Argentine provinces. The information available is biased, not only because it is limited to a certain area (judiciaries or bar associations, without comparing them with each other), but also because we lack access to the information on some provinces and other areas of the government that are part of the complex professional scheme of legal practice in Argentina.

working in law firms or for the government, especially the first case, is extremely insufficient.

As a common feature, the studies published show the growing feminisation of the legal professions. The concept of „feminisation“ here is to be understood in the sense spread in the 1970s in the United States of America.⁶ Consequently, the feminisation of the legal professions brought about a sustained increase in the presence of women, which collides with the fact that their income and their access to positions of higher hierarchy are not equal to those of men.

Income inequalities and the subordinate positions that women occupy with respect to men in the organisational pyramids of the profession,⁷ are part of the structural dynamics of gender-based discrimination. Two of the most common features of these dynamics are:

1. The stereotyped assignment of the role of caregivers and other stereotyped tasks and duties due to gender.⁸ The excessive burden and exigencies of care tasks, traditionally attributed to women, are one of the reasons why they work fewer hours in the private sector, which diminishes their income for the services provided, and causes women to increase their hours of free reproductive labour on a pro rata basis, or to decide to work in the judicial system. The practise of law in companies and law firms is governed by time organisation and work productivity guidelines that generally require working extremely long hours, which poses greater challenges to find a balance between family/personal life and work life. In contrast, the administration of justice offers the possibility of working shorter hours with a fixed and reliable income. However, even in the field of justice, care responsibilities and other gender stereotypes can appear

⁶ For some researchers, the work published by Diana Pearce, in 1978, entitled: „The Feminization of Poverty: Women, Work, and Welfare“ is one of the works that triggered the widespread use of the term. In said document, Pearce drew attention to the large increase in the number of households headed by single women and the correlation of this fact with the increased deterioration of their living conditions in terms of income (Aguilar 2011).

⁷ According to Gastiazoro (2015), in law firms, female partners and women in management positions represent less than 10 percent of the workforce.

⁸ The CEDAW, in its section 5.a) establishes that States Parties shall take all appropriate measures „to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women“. Rebecca Cook and Simone Cusack, in their work called *Gender Stereotyping: Transnational Legal Perspectives*, University of Pennsylvania Press, 2009, elaborated on the concept of gender stereotypes and provide guidelines for identifying them.

as an obstacle for women's judicial careers, when it comes to aspiring to positions of higher responsibility (Gastiazoro 2008; Gastiazoro 2013; Bergallo 2007; among others).

2. The segregation by fields of work. There is a greater presence of women in those areas where lower fees are registered, such as civil and family law, while they remain underrepresented in the highest-paying specialities, such as business and commercial law (Gastiazoro 2013, 137–138). Apart from private practice and the work in the judicial sphere, this segregation is also found in other professional areas, such as law education (Kohen 2005; González & Salanueva 2005; Heim & Piccone 2020).

We only mention here some of the most common constraints that subordinate female legal professionals, although we are aware of the many others that have not yet been addressed in depth, such as those that arise from the various forms of violence to which women are subjected to in their professional work spaces and that affect their dignity, integrity and personal autonomy and, therefore, limit their life paths (Lobato 2021).

Finally, in the academic field, it should be noted that the sustained and increased feminisation of student enrolment in law schools has not been consistent with a proportional increase in women representation in the governing bodies of universities or in higher-ranking positions in teaching and research. According to 2020 data, 59.3 percent of law students⁹ in all higher education institutions are women, but 87 percent of the highest authorities at universities in Argentina are men (Ministry of Science, Technology and Innovation 2020).

3.2. Short notes on the institutionalisation of gender in the field of justice and other areas related to the legal professions

As we have stated in previous works, (Heim 2021a), since its adoption in the Platform for Action of the Fourth World Conference of Women held in Beijing (1995), gender mainstreaming spread as a strategy to satisfy a common desire of feminist movements at the global level: to eradicate discrimination and inequalities based on gender and to create a fairer society.

The concept of gender mainstreaming was transferred to public policies in Argentina in more recent times, but its implementation has not been linear, and has been presented as unmethodical, biased, and discontinuous (Reyes 2019). In the field of legal professions, it only began to be applied in the first decade of this century, with the adoption of institu-

⁹ University Policy Secretariat, <https://estadisticasuniversitarias.me.gov.ar/#/home/2> (Accessed February 10, 2022).

tional policies that originated a gender institutionalisation process in the judiciary, some bar associations, and universities where law courses are taught. (Heim 2021b).

Ground-breaking measures were the creation of the Domestic Violence Office, in 2006,¹⁰ and the Women's Office, in 2009,¹¹ both within the framework of the Supreme Court of Justice of the Argentine Nation, the highest judicial body in the country; the Commission on Gender Issues of the Public Defender's Office in 2007,¹² under the General Ombudsman; and the General Directorate of Gender Policies of the Public Prosecutor's Office, in 2015,¹³ as well as the creation of different organizations in provincial districts, as is the case of the Human Rights and Gender Office of the Río Negro Judiciary.¹⁴ These institutions have driven several actions aimed at incorporating gender perspective into the justice system. Since 2010, the Women's Office of the Supreme Court of Justice of the Argentine Nation prepares the Gender Map of the Justice System,¹⁵ to which we will return later.

There are also some administrative regulations that provide for affirmative actions to guarantee equal conditions for female judges in the selection processes of justice institutions.¹⁶ More recently, there have been initiatives to promote gender-responsive policies in the governing bodies of the country's bar associations and associations of judges and justice officials, among others.

¹⁰ <http://www.ovd.gov.ar/ovd/> (Accessed February 2, 2022).

¹¹ Mapa de Género de la Justicia Argentina 2021 - Corte Suprema de Justicia de la Nación (csjn.gov.ar) (Accessed January 21, 2022).

¹² <https://www.mpd.gov.ar/index.php/programas-y-comisiones-n/55-comision-sobre-tematicas-de-genero> (Accessed February 15, 2022).

¹³ <https://www.mpf.gov.ar/direccion-general-de-politicas-de-genero/> (Accessed December 4, 2021).

¹⁴ <https://www.jusrionegro.gov.ar/web/acceso-a-justicia/oficina-genero.php#:~:text=La%20Oficina%20de%20Derechos%20Humanos,poderes%20del%20Estado%20y%20con> (Accessed December 4, 2021).

¹⁵ <https://om.csjn.gov.ar/mapagenero/login/mostrarLogin.html> (Accessed February 20, 2022).

¹⁶ More detailed information on the subject can be found in Núcleo de Estudios Interdisciplinarios en torno a la Desigualdad y Derechos Humanos de la Universidad Austral de Chile y Derechos Humanos de la Universidad Austral de Chile, 2021.

3.3. Mapping the representation of women in legal professions: an approach

As we have noted, Argentina has a privileged standing in terms of access to women and LGBTI+ rights: there are regulations that establish affirmative actions in the legislative powers of all districts with a high degree of efficacy and, in some cases, they reach sectors of the public administration and even professional associations. There is sound legislation on the fight against the various forms of violence, and there are public training policies focused on the entire spectrum of gender issues. However, feminisation has not yet reached the spheres of power nor has the receptivity of feminist epistemologies been widespread in the academic and jurisdictional culture.

One of the dimensions where this is evident is the so-called glass ceiling, that is, the challenges that women face when they try to access positions of higher hierarchy, remuneration and political influence. A look at the Gender Map of the Justice System¹⁷ yields powerful data.

All four of the justices of Supreme Court of Justice are men.¹⁸

In the National and Federal Judiciary, the way work positions were distributed among women and men in the year 2021,¹⁹ evidences the feminisation we have mentioned: there are 19,487 people in these jurisdictions; 10,439 (53.56 percent) of them are women and 9,048 (46.43 percent) are men. The glass ceiling becomes obvious when the highest level (appellate judges)²⁰ has 338 members, but only 84 (24.85 percent) of them are women and 254 (75.14 percent) are men. Nevertheless, this proportion is more balanced regarding judges in general: there are 244 female judges (30.69 percent) and 551 male judges (69.30 percent) out of a total of 795.²¹ This shows that justice is feminised because women hold most

¹⁷ Mapa de Género de la Justicia Argentina 2021 - Corte Suprema de Justicia de la Nación (csjn.gov.ar) (Accessed January 21, 2022).

¹⁸ There is a vacancy which feminist movements demand it to be held by woman, but this is not an item on the agenda, given the difficulty of building political consensus for the appointment. For their part, the first two female Supreme Court justices appointed by a democratic government were named at the proposal of President Néstor Kirchner in 2004: Elena Inés Highton de Nolasco, who resigned as of November 1, 2021, and Carmen Argibay, who passed away in 2014 when she was still a justice.

¹⁹ Mapa de género de la Justicia Argentina, 2021. It fixes October 31, 2021 as a cut-off date.

²⁰ Members of appellate courts with different jurisdictions. For further information, see citation 14 of the aforementioned report, p. 25.

²¹ This number includes appellate judges, holding higher hierarchy.

of the administrative and civil servant positions. We could say that, if the system were an ant's nest, women would be the worker ants and the queen would not be queen, but a king.²² Despite the developments made regarding a gender-responsive legal framework, when we analyse the distribution of judiciary positions among women and men over a ten-year period (2011–2021) both in the Federal and the National Judiciary, we find that women held 30 percent of the positions in 2011, and 31 percent of them in 2021 (or, more precisely, 30.69%): the improvement only amounted to one percentage point.²³

In provincial Judicial Powers, feminisation is higher than at the national level: of the 67,503 people working there, 58 percent are women. In provincial superior courts, only 33% of their members are female: 1 woman for every 3 people. The proportion of female members rises to 45% when other judiciary positions are considered. Again, most civil servants and administrative staff are women (64% and 62%, respectively). The data on provincial districts, however, show a visible variation in the last ten years, where the proportion of female justices went from 21 percent to 33 percent, although there are still 4 districts that do not have any female members (Mapa de Género de la Justicia Argentina 2021).

We consider that, if it were possible to build a similar map of private practice²⁴ in various districts, the data delivered would be similar or even more imbalanced. Along these lines, a study conducted on the enrolment composition of the Public Bar Association of Buenos Aires,²⁵ which has been in charge of registering lawyers in that district since 1986, revealed that of 125,959 registered lawyers, 61,500 are men and 64,459 women. Furthermore, out of the 61,500 male practitioners, only 41,987 (68.27 percent) are active; and „out of 64,459 female practitioners, 41,564 (64.48%) are in activity“ (Bandirali 2022, 38). In other words, there are more women

²² The high men's representation among the service personnel is to be noted, but since a law degree is not required like in many civil servant or administrative positions, we won't go any further with this topic.

²³ The data issued by the Argentine Public Prosecutor's Office, the General Ombudsman, the provincial Public Prosecutor's offices and Public Defender's offices are not presented here. As a whole, it can be said that such data is similar to the numbers provided by the Federal and National Judiciary, with a higher degree of masculinisation in top positions.

²⁴ That is, a cluster of activities mainly aimed at legally assisting individuals in judicial and extrajudicial cases and at assisting and representing the interests of the parties in judicial and administrative proceedings.

²⁵ City of Buenos Aires, created under Law No. 23187.

enrolled, and even though in both sexes there is a gap between the professionals enrolled and those who actually practise law, the gap is broader in the case of women. Bandirali points out that this must be due to the abandonment of the professional practice by women due to the burden of family care tasks or due to the exclusive dedication to teaching or working in the judiciary, which are activities that provide salaries and social security benefits that are more stable than those provided by professional practice.

Some legal professional associations have made developments regarding the composition of their governing bodies, although litigation²⁶ and the formulation of proposals by women was required for that purpose. The Argentine Federation of Bar Associations,²⁷ based on a project presented by the Buenos Aires Bar Association, amended its by-laws to establish that „in order to have representation in the Governing Board, the proposals for appointing delegates submitted by each Association must comply with the mechanism of alternating and sequencing between the genders by binomials (woman – man or man – woman) and observing a fifty percent (50%) of women and fifty percent (50%) of men ratio“.²⁸ These are policies aligned with those adopted in the public sphere that were already mentioned.

Finally, we will briefly elaborate on the situation in law schools. Between the 1960s and 1980s, a process of feminisation of university studies began (Bustos 2021), including law studies. Today, women make up 59.3 percent of the law students in the higher education system, and 60,6 percent of public university students. This feminisation of law schools reaches faculty members acting as teachers and researchers, but once again, the glass ceiling appears. In recent research on legal degrees in Argentina, it was found that, in an increasingly feminised faculty, women are at the base of the pyramid, and men have higher representation in the middle sections and almost exclusively at the top, where less than 20 percent of the top teaching positions are held by women (Heim & Piccone 2019a).

²⁶ In 2001, a group of female lawyers demanded the establishment of a 30% quota for women in the elections of Board of Directors of the Public Bar Association of Buenos Aires, invoking the application of Law No. 24012, and they claimed success. Página 12 newspaper. Article by Mariana Carbajal. „Los abogados tendrán que dar lugar a las mujeres en las listas“. <https://www.pagina12.com.ar/2001/01-10/01-10-05/PAG22.HTM> (Accessed February 24, 2022).

²⁷ It is a group of Bar Associations and other Law Associations.

²⁸ The amended By-laws of the Argentine Federation of Bar Associations, section 11: <https://www.faca.org.ar/estatuto.html> (Accessed February 20, 2022).

An encouraging piece of information is the increase of female representation in senior university management positions. As of March 2022, out of the 26 represented universities offering law degrees, 16 are led by men and 10 by women.²⁹ Women representation has been increasing over the last ten years. For example, in 2004, the Council was made up of 19 representatives, and only two of them were female.³⁰ The presence of women in presiding positions also increased. This is an outstanding fact if we take into account that since its creation in 1992, 39 pro tempore presidencies of the Council have been decided: 30 of the presidents were men and 9 were women, including the term that will begin at the end of 2022.

To expand openness to gender issues, a meeting held at the Lomas de Zamora Law School on November 26, 2019, was renamed as the Permanent Council of Chairpersons [instead of Chairmen] of Law Schools of National Universities.

4. PROGRESS AND SETBACKS: THE PREVAILING ANDROCENTRISM OF THE LEGAL CULTURE

Despite the advanced regulations on gender available in Argentina and all the government initiatives implemented in pursuit of gender equality, the androcentrism of legal professions persists in some dimensions. Here, for reasons of space, we will elaborate on two of them.

The first dimension is that of the so-called glass ceiling, that is, the prevalence of an invisible barrier that prevents women from accessing higher-ranking and higher-paying jobs and which, as has been stated, has remained almost unchanged for the last 10 ten years.

The second dimension is related to the persistent absence of women's voices, of their knowledge, experiences, and ways of being in the world, of being a legal scholar, and of being involved in the jurisdictional culture. In other works we have called this phenomenon epistfemicide (Heim & Piccone 2019a), meaning the absence of women (which is evident in the organisational pyramids of the legal professions) and of their knowledge, experiences and own ways of being, of feeling and seeing the world. This dimension is less visible and more difficult to quantify, and it is also, al-

²⁹ It is not about representatives per se, but about a council made up of the chairpersons – whether they are called deans or directors of Faculties, Departments, Schools or Careers according to the structure of each University – in charge of the courses.

³⁰ In recent decades, both universities and legal courses have been created, so the number of members of the Council has grown.

though not only, an epistemic absence, because it excludes the diverse and non-hegemonic forms of knowledge produced by women. Epistemicicide can also be thought of as an epistemic injustice (Fricker 2009).

Epistemicicide can be found in the teaching of law, not only when we analyse the topics that are included in the courses taught and the curricular contents of the programmes of study for obtaining law degrees, but also in the bibliographic sources. An investigation conducted at the National University of Río Negro establishes that gender issues are included in less than 30% of the curriculum and are focused on areas such as family law and criminal law, or are only limited to mentioning the approved legislation on gender, without delving into the feminist and gender methodologies and epistemologies that are at the base of legal reforms. That same study also found that 90 percent of the mandatory reading bibliography of legal courses is written by men (Heim & Piccone 2019a).

In addition, if we review jurisdictional culture, we can find the violence of epistemicicide again. Gender perspective has been defined by the Inter-American Court of Human Rights case-law as a human rights standard that derives from the duty of due diligence in judicial procedures and decision-making. By mandate of international regulations on the matter, it covers all judicial procedures and decisions. Although it is a category in constant tension and revision (Di Corleto 2020), there are basic consensuses for its application, among which is the knowledge of the development of feminist epistemologies and methodologies, at least, in the legal field. This includes, on the one hand, the obligation to be acquainted with the debates that take place in feminist legal theory and on the other hand, the concepts and methodologies that arise from them and to apply them to specific situations. In short, according to these human rights standards, not only gender-responsive regulations, but also feminist legal theory must be taken into consideration when making judicial decisions, both at a methodological and epistemological level; that is, they must be at the heart of the decisions and procedures developed to adopt them. There is a large amount of case-law from various jurisdictional bodies (both at the national and the international level) that apply gender-responsive regulations on their decisions and make use of some developments of feminist legal theory to establish their grounds. However, the prevailing case-law remains reluctant to apply feminist methodologies and epistemologies in conflict resolution and, what is more, the voices of authority quoted in the sentences are almost always male (Custet Llambí 2021).

5. CONCLUDING REMARKS

The significant developments made on expanding women and LGBTI+ rights and the gradual implementation of gender policies in several areas of the legal professions, especially those of the legal system and the academic world, are encouraging. There is, however, a hard core of resistance to the transformations of patriarchal structures on which we must make energetic efforts.

The glass ceiling and epistfemicide, which we use here as metaphors for the most patent gender-based injustices of today, are the sequel of those that prevented women from accessing higher education and professional practice a century ago.

The direct discrimination that had deprived women from the access to rights on an equal footing with men no longer exist. However, due to a tangle of ancestral restrictions, we women continue to be excluded from the spheres of power and our genuine contributions, from an epistemological point of view, continue to be neglected and remain outside the plotline of the history of law and of the legal professions as a whole, which stays androcentric.

In some sectors of the feminist movement, a feminist agenda for the justice sphere is currently under discussion in our country. In our opinion, such debate should be expanded to all legal professions.

This agenda, permanently under revision, raises a series of questions. We will share here the most common ones: (a) The demand for gender parity in the governing bodies of the judicial powers. (b) The demand for the incorporation of the gender perspective as grounds for judicial decisions and in the procedures implemented to reach their adoption. These demands include the import of gender perspective in the teaching of law and in legal education as a whole, not only in undergraduate and post-graduate law courses, but also in professional and continuous training. In the case of justice, it includes incorporating the gender perspective in all the curricular contents of mandatory and optional training, as well as in the syllabus of the exams for Public Service to access judicial positions and in background assessment, among others. (d) The incorporation of care policies in all areas of the legal professions. (e) Last but not least, an in-depth approach to gender-based violence in the professional field that, based on a diagnosis of the situation, makes it possible to eradicate one of the most persistent forms of discrimination. In some professional fields, including the legal professions, as we have warned in previous works, they tend to be more symbolic, subtle and, therefore, less percep-

tible and quantifiable, but they have a great impact on the access to equal conditions for women and LGBTI+ people, and tend to last longer (Heim & Piccone 2019b).

In short, stubborn gender-based discrimination in the field of legal professions is a manifestation of the patriarchal nature of society. They are part of a wide-ranging and long-standing social problem, which derives from the social situation of subordination of women and the LGBTI+ community.

Fighting against gender-based discrimination does not only involve equalling the number of men and women within the system, it requires deeper changes. It demands the use of the existing legal structure that specifically recognizes women and LGBTI+ rights as a platform of minimum consensus to be broadened and deepened through feminist epistemologies and methodologies for equality.

One of the most important tools in the fight against gender-based discrimination and violence is the development of women and LGBTI+ rights. The priority is to approach the issue as a matter of rights; rights that have not been recognized and/or properly developed. To solve this problem, it is not enough to just recognize these rights. The entirety of the patriarchal structures of the legal culture must be redesigned. These structures act as barriers to equality and are the reason there are still so many obstacles for the rights to be effective, despite the fact that we have been claiming and conquering them for more than a century.

Translated by María Florencia Lambruschini

Sources

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