



The International Network of Women in Dispute Resolution

Women in Arbitration in Brazil

Excerpts from a paper to be soon published on Kluwer Arbitration Blog

ArbitralWomen group in Brazil participated in a seminar organized on **17 March 2014** in Sao Paulo by 'Legal in Skirts' (an organization of in-house counsel promoting women at work), Chambers and Partners, and CCBC. A report on women practitioners in dispute resolution in Brazil was presented by **Eleonora Coelho**.



Ana Carolina Weber



Eleonora Coelho

Although arbitration has developed very quickly in Brazil in recent years – the Brazilian Arbitration Act was enacted in 1996 – scholars and practitioners have not discussed much about gender diversity in the arbitration field in our country. A research initiative to analyze the present situation regarding women in arbitration in Brazil has been conducted and here are the preliminary findings.

In order to understand the role of women in arbitration, it is important to first analyze the current situation of women in the legal field. Law schools in Brazil were created in 1827. However, women were only allowed to study law after the enactment of Decree n. 3.903, in 1901 – almost 80 years later.

Regarding the presence of women in law school, in 2012, from the 2442 students who were enrolled at the University of São Paulo, women represented only 37% (968 students). Women graduates represented 45% of all active lawyers in Brazil, according to the Brazilian Bar Association.

Although the proportion of men and women in law schools and in the market could not be considered a concern, it is worth emphasizing that just a few women reach the top of their career. This phenomenon is called the “pipeline leak” (Lucy Greenwood & Mark

Baker “*Getting a Better Balance on International Arbitration Tribunals*” *Journal of the London Court of International Arbitration*, 2012, volume 28 number 4, pp 653-667), where identified causes are (i) a sexist working environment; (ii) difficulties in administering more than one career such as working both as a lawyer and as a mother or manager of the household; (iii) absence of women as role models or mentors; and (iv) absence of flexibility at work or, even where there is some, women are not encouraged by the companies or by other employees to achieve leading positions.

Looking at the field of arbitration it is important to first consider the international scenario. In 1995, the International Chamber of Commerce (ICC) appointed or confirmed 766 arbitrators: 22 women (3%) and 744 men (97%) (*footnote 9 of Lucy Greenwood & Mark Baker article*). Three years later, this proportion had not significantly changed: the London Court of International Arbitration (LCIA), for example, nominated 66 arbitrators, but only one arbitrator was a woman (1.5%). Although things are changing, it remains slow. In 2011, from the 318 arbitrators appointed by the Court, 36 were women, i.e. 11,32% (this number was provided by Mirèze Philippe, Special Counsel, ICC International Court of Arbitration).

The lack of women acting as arbitrators is not just a problem in international commercial arbitrations. Investment arbitrations also tend to have fewer women than men as members of arbitral tribunals. From the 254 proceedings concluded by the Centre for Settlement of Investment Disputes (ICSID) between 1972 and 2012, of the 746 arbitrators who served, only 42 were women (6%), while 704 were men (94 %).

Brazil, unfortunately, follows the same scenario. When analyzing the list of arbitrators of the most prominent Brazilian chambers, the percentage of women who are part of these lists is very low and it has not changed very much in recent years. From 2013 to 2014, for instance, not only was the average of women present in these lists was between 8% and 26 %, but in some chambers the number of women *decreased* between these years.

Nevertheless, even if there are women who are part of arbitration chambers’ lists, only few women are effectively nominated to act as arbitrators. In March 2014, for example, the Center for Arbitration and Mediation from the Chamber of Commerce Brazil-Canada (CCBC) had, from 129 arbitral proceedings, 48 women served as arbitrators, which represented 37%

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of the total nominated arbitrators. On the other hand, from a total of 23 arbitrations administered by the Arbitration Chamber of the Stock Exchange (CAM), only 3 women participated as arbitrator or 17%.

As the full article regarding the research's results (to be soon published) will show, a lot of work needs to be done in order to encourage the young women to pursue the arbitration path and also to encourage parties and co-arbitrators to designate women as arbitrators or head of the arbitral tribunals in order to avoid the "pipeline leak" of talented women in the field.

Ana Carolina Weber, Carvalhosae Eizirik, and Eleonora Coelho, Castro Barros Sobral Gomes Advogados

BELGRAD

On **4 April 2014** an arbitration conference was organized in Belgrade before the Willem C. Vis International Commercial Arbitration Moot by the Belgrade Faculty of Law, the Deutsche Institute for Schiedsgerichtsbarkeit (DIS) and GIZ. ArbitralWomen Board Member **Beata Gessel-Kalinowska vel Kalisz** represented the organization and spoke about 'ArbitralWomen, ArbitralMen ... ArbitralPeople' in her opening speech for the conference. The closing remarks were made by **Maxi Scherer**. Women from Albania and Serbia participated to this conference.

MELBOURNE

An informal breakfast was held at the offices of Herbert Smith Freehills on the morning of **27 March 2014**, on the occasion of the Asia Pacific Regional Arbitration Group (APRAG) conference held in Melbourne, Australia on 26-28 March 2014. Since this was an international conference, it presented an opportunity to meet more ArbitralWomen who might be travelling to such a conference. It was hosted by **Bronwyn Lincoln**, director of ArbitralWomen and **Rashda Rana**, then Treasurer and now President. There were 12 other women in attendance, including a few who were new to ArbitralWomen.

A general discussion took place over the breakfast about what ArbitralWomen aims to do and how we can help those new members. There was a lively discussion of the different, but sometimes awkward, work experiences of some of those present and

comments about issues affecting women generally. It was a pleasure to see the more senior women share their experiences of how they had or would have handled certain awkward moments.

It was a lovely opportunity to meet more ArbitralWomen in a more relaxed atmosphere than a conference allows.

PARIS

ArbitralWomen and White & Case organized a special gathering for members of the ICC Counsel Alumni, members of the Secretariat of the ICC Court of Arbitration and members of ArbitralWomen on **14 May 2014** in Paris.

Traditionally, on the eve of the ICC Arbitration & ADR Commission, **Mirèze Philippe** organizes drinks or dinner for ArbitralWomen members who are present in Paris. This year was the first anniversary of the ICC Counsel Alumni she launched in 2013. To take advantage of this gathering it was an opportune time to organize drinks and to invite former and current members of the Secretariat of the Court, together with ArbitralWomen members who are in Paris. White & Case Paris kindly offered to host and to offer the drinks. The informal gathering allowed the one hundred participants to mingle and get to know each other.



Left to right: Ileana Smeureanu, Marily Paralika, Asoid Garcia Marquez, Mirèze Philippe, Gillian Carmichael Lemaire, Alina Leoveanu