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THE LIMIT OF THE PROFESSIONAL PERFORMANCE OF WOMEN LAWYERS: THE ANALYSIS OF VIOLATIONS OF PREROGATIVES IN THE EXERCISE OF THE PROFESSION[1]

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ABSTRACT

The present work aims to analyze the limits faced by women lawyers in their professional practice, focusing on the violations of prerogatives guaranteed by law. The research addresses the historical trajectory of women in Brazilian law, highlighting the structural and cultural challenges still present, despite normative advances such as Law No. 13,363/2016 and Law No. 14,612/2023. The difficulty in effectively applying the guarantees provided for pregnant, breastfeeding and adoptive lawyers, as well as cases of discrimination, harassment and wage inequality, is highlighted. The performance of the Brazilian Bar Association (OAB) and other institutions is critically analyzed, highlighting both the advances and the practical limitations of the measures adopted. Based on a qualitative approach, the study proposes strategies to strengthen gender equality in the legal profession, promoting a fairer and more inclusive legal environment.

Keywords: Female lawyer. Prerogatives. Gender equality. Maternity in the legal profession. Women's rights.

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INTRODUCTION

The female presence in the legal profession reflects a long trajectory of struggles and achievements in a historically patriarchal society. From Myrthes Gomes de Campos, the first woman to practice law in Brazil in 1898, to recent legislative changes, female lawyers have faced structural challenges and discrimination that limited their professional practice. Despite the normative advances, there is still resistance to the realization of specific rights and guarantees for women lawyers, which makes it essential to analyze their prerogatives in the current legal context.

Over the years, women's resistance has become more visible, and new achievements have been achieved. Women, and still in the position of lawyers, began to occupy more significant spaces in the legal and political spheres, but still with many difficulties.

And even with the great normative advances, such as the 1988 Constitution, which guaranteed gender equality and fundamental rights for women, there is still significant resistance to the realization of specific rights and guarantees for female lawyers. Women still continue to face difficulties in relation to unequal salaries, lack of representation in leadership positions within legal institutions, and the persistence of stereotypes that associate women with a legal practice more focused on family law or human rights, while men dominate areas considered more prestigious, such as corporate and business law.

Legislative changes have emerged, such as the creation of gender equality commissions in bar associations, which have begun to focus more directly on challenges that women face within the profession. The struggle is still ongoing, and a critical analysis of the prerogatives of women lawyers in the current legal context is still essential, both in terms of their working conditions and opportunities for professional advancement.

Although the number of female lawyers has surpassed the number of female lawyers in recent years, significant challenges still remain, especially for those who reconcile the profession with motherhood. The equal rights between men and women, guaranteed by the 1988 Constitution, are not yet 100% fully reflected in the legal field, and there are still discriminatory practices limiting women's access and career advancement, even in salary issues.

With the Statute of Advocacy, through article 7-A, specific prerogatives are established for women lawyers who are pregnant, breastfeeding or adoptive, including the possibility of extending deadlines and adaptations in working conditions. The creation of the National Plan for the Valorization of Women Lawyers, regulated by Provision No. 164/15, also aimed to improve the insertion of women in the profession, addressing issues related

to maternity and assistance during pregnancy. However, the implementation of these norms faces resistance, evidencing a sexist culture that still marginalizes women, especially mothers within the legal environment.

The research project on this topic is justified by the need and interest in understanding the obstacles faced by women in the legal profession and the relevance of the norms that protect and guarantee their full professional practice. As mentioned by Simone de Beauvoir (1970), inequality of opportunities is not only due to biological differences, but also to social constructions that marginalize women's performance. In addition to the individual impact, this research has a relevant social and legal impact, as it involves in its content the debate on gender equality, access to justice, and the strengthening of the legal system as a whole. Thus, analysis of this theme contributes to the realization of rights and to the advancement of equity policies within the profession.

It is justified by the urgent need to analyze the structural and cultural barriers that still limit the performance of women in the legal profession, a field that, although growing in terms of female participation, remains marked by complicated challenges. The study aims to explore legal norms, such as article 7-A of the Statute of Advocacy, can be implemented in a more effective way to promote a more egalitarian and accessible professional environment for female lawyers, especially for those who are in maternity or adoption contexts.

The relevance of this research lies not only in the immediate impact on the careers of female lawyers, but also in the broader consequences for society and the legal system. In a social environment where gender conceptions that marginalize women in various professional spheres still prevail, the study seeks to contribute to the broadening of the debate on effective equality of opportunities within the legal profession. The analysis of these existing norms and their failures in implementation brings to light the need to transform the structure of the legal profession, so that women not only occupy positions, but also have access to conditions that allow the full exercise of their professional prerogatives.

It contributes to the debate on the fundamental rights of women in the labor market, by proposing the effective application of public policies aimed at equity. The current scenario requires a critical review of institutional norms and practices that, although they have advanced, still lack mechanisms for monitoring and punishment to ensure that equality is not only formal, but also substantial. In this sense, the research is positioned as a tool to promote concrete and lasting changes, focusing not only on the diagnosis of problems, but also on proposing solutions that effectively improve the conditions of women in the legal profession and, by extension, in the legal system as a whole.

The composition of the project's objectives is to investigate the historical trajectory of women in Brazilian law and to examine the advances and challenges related to the realization of the rights and prerogatives of female lawyers, with a focus on the promotion of gender equality in the exercise of the legal profession, namely: a) To historically contextualize the insertion of women in Brazilian law, highlighting the main pioneers and the obstacles faced in accessing the profession; b) Examine the current legislation that deals with the rights and prerogatives of women lawyers, with emphasis on Law No. 13,363/2016 and Law No. 14,612/2023, analyzing their effectiveness in promoting gender equality in the legal profession; c) To identify and discuss the main violations of prerogatives faced by female lawyers, especially in the context of maternity, moral harassment, discrimination and wage inequality; d) To evaluate the performance of legal institutions, especially the Brazilian Bar Association (OAB) and the Judiciary, in the implementation and supervision of policies and measures aimed at promoting gender equality in the legal profession; e) Compare practices of other realities in the promotion of gender equality in the legal sector, pointing out successful experiences that can be adapted to the Brazilian context; f) Propose strategies and public policies for the realization of gender equality in the legal profession, aiming at the elimination of structural barriers and the construction of a more inclusive and equitable legal environment.

The methodology adopted for this study is qualitative, based on a theoretical and documentary approach. The research has as its main sources the current legislation, especially the Federal Constitution of 1988, Law No. 13,363/2016, Law No. 14,612/2023, Law No. 8,906/1994 (Statute of Advocacy), as well as specialized doctrines, relevant jurisprudence and statistical data that evidence the reality of women lawyers in Brazil.

The study is also based on the constitutional foundations of gender equality and the guidelines of the Protocol for Judgment with a Gender Perspective, established by the National Council of Justice (CNJ), in order to build a critical and comprehensive overview on the subject.

The qualitative approach, combined with the critical analysis of the documents, allows interpreting the social reality of women in the legal profession, enabling the identification of normative advances and the challenges that still exist for the promotion of a more inclusive and egalitarian legal environment.

THEORETICAL FRAMEWORK

HISTORY OF WOMEN IN THE LEGAL PROFESSION

The word "woman" carries with it a long and deep history of struggles, achievements and challenges, which reflect a great trajectory, and historically speaking, women have often been silenced in various social, political and professional contexts. And so we reflect on the constant search for recognition that extends to the present day. The insertion of women in the legal field, in professional and academic spaces represents a reflection of the collective effort for a more pragmatic society.

This characterization of inequality of opportunities does not stem from a supposed female disability or from biological differences that compromise their abilities. On the contrary, each individual, regardless of gender, has their own aptitudes and characteristics that make them unique in society. However, structural discrimination rooted in outdated historical conceptions persists (SALES, 2018).

The form of gender equality in Law is a fundamental principle guaranteed by the Federal Constitution of 1988, which is established in article 5, item I, that men and women are equal in rights and obligations. However, despite this provision applied in the Constitution, practice shows that there are still enormous barriers for this equality to be effectively achieved, especially in the legal profession, a field historically dominated by men (BRASIL, 1988).

The insertion of women in the legal profession at the end of the nineteenth century was marked by pioneers who left a legacy of representativeness. These trajectories illustrate the difficulties faced by women to enter and consolidate themselves in the profession, since, as an example, Myrthes was the target of institutional and social resistance that made it difficult to recognize her diploma and her professional performance (SCHUELER; RIZZINI, 2021).

In the legal parameter, these inequalities are manifested in the impossibility of women's access to leadership positions and in the lack of effective measures to represent a level playing field in the exercise of the profession. In response to this reality, Law No. 13,363/2016, known as the Júlia Matos Law, was enacted, which introduced article 7-A in the Statute of the Lawyers.

Although these normative inclusions represent a normative advance, their effectiveness is still quite limited. Many women lawyers are still unaware of their rights or find it difficult to have them respected, since the way in which some rules are applied depends exclusively on the awareness of the courts and law firms. This predominant gap

demonstrates the extreme need for greater oversight and new public policies that ensure gender equality in the legal market (LOBATO, 2018).

One format that is essential for the existence of a gender equality mold in the legal profession is the expansion of maternity leave. Because the absence of an equal division of parental responsibilities is one of the main reasons that contribute to the marginalization of women in the labor market. While maternity leave can arrive in periods of up to 180 days, maternity leave is still limited to five days, and can be extended to up to 20 days in specific cases. This inequality reinforces the idea that child care is an exclusive responsibility of women, hindering their professional advancement (BERTOLIN, 2017).

In other realities, such as in international relations, it should be noted that gender equality in the labor market can be promoted through measures that ensure balance in the distribution of parental responsibilities. In Spain, for example, the legislation provides for parental leave of 16 weeks for both mothers and fathers, ensuring full pay and enabling equal involvement in child rearing (ESPANHA, 2019).

In other words, it is still clear that there are representative challenges when it comes to egalitarian parameters between genders, thus seeking an existence of adoption of measures that guarantee the effective application of protective norms and promote a more equitable division of parental responsibilities. Strengthening policies to support female lawyers, as well as revising legislation on parental leave, are essential initiatives to consolidate the female presence in the legal profession and ensure a fairer and more egalitarian work environment.

Thus, we can assess that the application of the law must occur in an equal manner, guaranteeing the same treatment to all, except in specific situations that justify differentiations to ensure material justice. This principle not only reinforces the precepts of the Federal Constitution, but also recognizes the importance of the historical trajectory of women's struggle for equality.

> Men and women are equally loath to submit to a woman's orders, they have more confidence in the man; Being a woman, if it does not constitute a defect, is at least a singularity. To be fulfilled, the woman needs to ensure male support. They are men who occupy better places, who hold the most important positions. It is essential to underline that men and women constitute two castes economically (Beauvoir, 1970, p. 174-175).

The female figure in the Brazilian legal profession is a reflection of a trajectory with challenges and achievements in the midst of a patriarchal society. The pioneer Myrthes Gomes de Campos became, in 1898, the first woman lawyer in the country, paving the way for women to work in Law. A few years later, in 1902, Maria Augusta Saraiva was the first

woman to graduate in Law from the Faculty of Largo São Francisco and, in the same year, she was already defending a case in the Court of Justice of São Paulo. In 1906, Myrthes Gomes de Campos was also accepted into the Institute of Brazilian Lawyers (IAB), an entity that would give rise to the Brazilian Bar Association (OAB).

These achievements occurred in a context of exclusion of women from public life, evidenced by the fact that it was only in 1932 that they were granted the right to vote, through Decree No. 21,076. The pronouncement of the Committee on Justice, Legislation and Jurisprudence, which was cited in its opinion and later published in the IOAB Magazine, on July 6, 1899, stands out as an important legal record of the time:

> [...] it cannot be maintained, however, that marriage and motherhood constitute the only aspiration of the woman or that domestic care alone should absorb all her activity; [...] it is not the law, it is nature, that makes her the mother of a family; [...] freedom of profession is like the civil equality from which it springs, a constitutional principle; [...] under the terms of the text of article 72, § 22 of the Constitution, the free exercise of any profession must be understood as not constituting any of them as a monopoly or privilege, but a free career, accessible to all, and only dependent on necessary conditions dictated in the interest of society and for the dignity of the profession itself; [...] there is no law that prohibits women from practicing law and that, if this prohibition is imported into a cause of disability, it must be declared by law [...].

Legislative development for the protection and guarantee of women's rights in the legal profession has advanced significantly in recent years. Law 13,363/16 amended Law 8,906/94 and the Code of Civil Procedure, establishing specific rights for pregnant, breastfeeding, adoptive or childbirth lawyers, such as exemption from the use of metal detectors in courts, reserved parking spaces in courts, access to daycare centers, priority in oral arguments and hearings, in addition to the suspension of procedural deadlines when they are the sole patrons of the case (art. 313, item IX, of the CPC).

Law 14,612/23, proposed by the National Commission of Women Lawyers and headed by the OAB, included moral harassment, sexual harassment, and discrimination among the ethical-disciplinary infractions of the legal profession, prohibiting discriminatory practices based on sex, pregnancy, or maternity. Within the OAB, Resolution 5/20 of the Federal Council determined gender parity (50%) in the elections of the Order, increasing female representation, and Precedent 9/2019/COP consolidated the understanding that violence against women compromises the moral suitability for enrollment in the OAB. However, despite the advances, there is still resistance to the realization of these rights, as evidenced in cases of disrespect for pregnant lawyers in courts.

To ensure the practical application of these rules, the CNJ issued Resolution 492/23, making the guidelines of the Protocol for Judgment with a Gender Perspective mandatory, in addition to requiring training of magistrates in human rights, gender, race, and ethnicity.

Likewise, the National Council of the Public Prosecutor's Office is working on the creation of a specific protocol for acting with a gender perspective.

Given this scenario, it is essential that the measures already provided for in the Brazilian legal system are effectively implemented by the government, such as the guidelines of article 8 of Law 11.340/06 (Maria da Penha Law), which provides for educational campaigns against domestic violence and educational programs that promote values of equality and respect for the dignity of women.

The prerogatives of the legal profession are not an icon of representation of personal privileges, but indispensable guarantees for the realization of justice and the protection of citizens' rights. Provided for in the OAB Statute (Law No. 8,906/94), these prerogatives focus on ensuring the independence of the lawyer in the exercise of the profession, allowing him to act without undue interference or intimidation, ensuring that the lawyer can exercise his function with autonomy. Often, the importance of this professional is only perceived by the citizen when he needs his performance. Criticism of the legal profession reflects on the fundamental relevance of the lawyer and his prerogatives, as highlighted by Saul Tourinho Leal (2009).

The jurist Ulpian (170-228) said that Law was the science of the just and the unjust. In fact, it is through reflection on injustice that we arrive at what is just: only when we are stripped of our rights do we realize how those who have their rights violated feel. (LEAL, 2009).

Advocacy is an indispensable activity for the administration of justice, and with its duties come fundamental responsibilities for the guarantee of the Democratic Rule of Law. Article 2 of the Statute of the Advocacy reinforces this premise by establishing that the exercise of the profession is not limited to the defense of individual interests, but also performs an essential social function. In this way, the lawyer acts as a key player in the realization of fundamental rights and guarantees, ensuring the effectiveness of the legal system and the protection of citizenship.

PREROGATIVES OF THE LAWYER AND THE WOMAN LAWYER

The legal profession plays a fundamental role in the administration of justice, with prerogatives defined by Law No. 8,906/94, known as the OAB Statute. However, despite regulatory advances, female lawyers still face obstacles arising from a professional structure permeated by sexism and gender inequality.

> Article 54. It is incumbent upon the Federal Council: [...] III - to ensure the dignity, independence, prerogatives and appreciation of the legal profession; XIV – to file a writ of unconstitutionality of legal norms and normative acts, to the public civil law, a

collective writ of mandamus, a writ of injunction and other actions whose legitimacy is granted by law.

Article 7-A of the OAB Statute, inserted by Law No. 13,363/2016 (Júlia Matos Law), guarantees specific rights to pregnant, breastfeeding, adoptive or childbirth lawyers. Among these guarantees, the possibility of suspension or extension of procedural deadlines, priority in hearings and oral arguments, exemption from the use of metal detectors and the availability of appropriate spaces for breastfeeding in the courts stand out (BRASIL, 2016).

LIMITS OF THE ROLE OF WOMEN LAWYERS: VIOLATIONS OF PREROGATIVES

Although both the OAB Statute and the Code of Ethics for Advocacy provide for gender equality, the effectiveness of these rules is still a challenge. The case of lawyer Daniela Teixeira illustrates this deficiency: in 2013, even though she was 29 weeks pregnant, she was denied her request for priority in an oral argument at the National Council of Justice (CNJ), which culminated in the premature birth of her daughter. This episode reinforces the need to ensure that the prerogatives of female lawyers are in fact respected (RIBEIRO, 2023).

Another example of violation of the prerogatives of women lawyers occurred with lawyer Alessandra Pereira dos Santos, from the Federal District Section, who, eight months pregnant, requested the rescheduling of a hearing at the 2nd Civil Court of Ceilândia, since the date coincided with her delivery. However, the request was rejected on the grounds that maternity leave would not be a surprise, as the lawyer could provide for her leave from the beginning of the pregnancy, being advised to arrange for her replacement or resign from the case. Such a decision not only infringes the rights of the lawyer but also disrespects her dignity, both professionally and as a mother. In addition, it demonstrates a lack of concern for gender equality, by forcing a pregnant woman to interrupt her professional activity, instead of guaranteeing alternatives so that she can continue to provide a good service, considering her needs at that moment.

Before the changes brought about by Law No. 13,363/2016, the OAB issued a note of repudiation and proposed a public redress in favor of lawyer Alessandra, based on articles 15 to 19 of the Regulation of the Statute of Advocacy. Public redress is a measure that aims to protect the rights of lawyers, requesting information from the authority that infringed the prerogatives, and serves as a form of social pressure by exposing the difficulties faced by professionals. Despite the relevance of this action, it was clear that there is an urgent need for more effective rules that ensure the rights of female lawyers, especially with regard to maternity. In addition, it is essential that there is a more constant

inspection of the competent bodies and the class itself to ensure that the rules translate into practical changes in the daily lives of women lawyers.

In the context of maternity and advocacy, there is a need for constant action on the part of the OAB, since, to this day, embarrassing situations still occur, violating the rights and prerogatives of lawyers, as established in article 7-A of the Statute of Advocacy. An example of this is the case of lawyer Giovanna Lyra, who was forced to pass through a metal detector at the Mangabeira Forum, in João Pessoa/PB, in addition to having her bag searched. Even informing her condition as a pregnant woman, local security demanded proof of pregnancy and insisted on barring her entry into the forum. Vulnerable due to the situation and unable to be subjected to the detector due to the radiation emitted, the lawyer called the Prerogatives Commission of the OAB of Paraíba, which issued a note of repudiation, highlighting the lack of preparation of security and reaffirming the rights provided for in article 7-A of the OAB Statute.

A similar situation occurred in 2022, when lawyer Malu Borges Nunes, who was waiting for her turn to speak in the Second Civil Chamber of the TJ/AM with her son on her lap, requested preference for the argument. Her request was denied, and, in addition, Judge Elci Simões stated that the child's crying was causing her discomfort.

Motherhood continues to be a significant obstacle to the professional advancement of female lawyers. The National Plan for the Valorization of Women Lawyers, established by Provision No. 164/2015 of the Federal Council of the OAB, aims to foster greater inclusion and equity, contemplating, for example, the exemption of annuity for mother lawyers. However, many professionals are unaware of their own rights, which makes it difficult to effectively claim and apply them (OAB, 2015).

THE ROLE OF INSTITUTIONS IN THE PROTECTION OF WOMEN LAWYERS

Even with the inclusion of article 7-A, the reality of female lawyers is still marked by obstacles that limit their professional performance. Cases of violation of prerogatives continue to occur, and it is common for lawyers to have difficulty in obtaining priority in hearings and the suspension of procedural deadlines. The inefficiency in the inspection of these guarantees aggravates the problem, making the application of the rules uncertain and flawed (RIBEIRO, 2023).

The professional environment of the legal profession still presents significant challenges for women, who often face questions about their competence and are marginalized in the practice of the profession. Research indicates that moral and sexual harassment is a persistent reality in law firms and courts, highlighting the urgent need for

more effective institutional measures to curb such practices and protect the dignity of legal professionals (RIBEIRO, 2023).

Moral damage, in this context, is configured as the violation of personality rights, affecting fundamental values such as the honor, dignity and image of the individual. According to Gonçalves (2020), this is an offense to intangible assets, dispensing with the need to prove patrimonial damage for its characterization. Thus, situations involving humiliation, vexatious exposure, and verbal or psychological aggression in the workplace may give rise to due civil reparation.

Brazilian jurisprudence has consolidated the understanding that violations of fundamental rights in labor and professional contexts must be repaired. The São Paulo Court of Appeals, for example, recognized the occurrence of moral damage in a case in which a lawyer uttered repeated offenses against a police chief in the workplace, exposing him publicly and causing him embarrassment:

> APPEAL – Action for Compensation for Moral Damages – Allegation of moral offenses subject to compensation perpetrated by the defendant, a lawyer, against the plaintiff, Police Chief, in the workplace, exposing him to the other colleagues which culminated in the initiation of an administrative proceeding – Judgment of partial merit – Nonconformity of the defendant – Allegation of retaliation, since it was the plaintiff who verbally assaulted her first – Inappropriateness – The offenses uttered by the defendant against the person are incontrovertible of the plaintiff for the purpose of moral aggression, accusing him of appearing drunk, in fury and calling him "energetic", among other serious terms inappropriate for the activity of the lawyer – Duty to indemnify configured. COUNTERCLAIM – Allegation of cursing and moral offenses with profanity uttered by the plaintiff against the defendant, offending her as a woman and lawyer, at the Police Station – Judgment of dismissal – Insistence on the duty to indemnify – Inappropriateness – Defendant who did not discharge the evidential burden of the alleged right – Appeal dismissed. (TJ-SP 00070890220138260590 SP 0007089-02.2013 .8.26.0590, Rapporteur: José Aparício Coelho Prado Neto, Judgment Date: 08/29/2017, 9th Chamber of Private Law, Publication Date: 10/10/2017)

This understanding reinforces the need for civil liability in cases of humiliating exposure in the professional environment. Compensation for moral damage, in addition to compensating the victim, plays an essential role in preventing abusive conduct, discouraging behaviors that compromise dignity and respect in labor relations. In view of this, it is essential that the legal environment adopts stricter policies to ensure a safe, respectful, and equitable environment for all professionals, especially for women, who still face additional obstacles in the practice of law.

Another worrying aspect is wage inequality, which persists in the legal sector. Even though the number of female lawyers is higher than the number of female lawyers in Brazil, leadership positions and the highest salaries are still mostly held by men, evidencing a significant imbalance within the profession (OAB, 2022).

The Brazilian Bar Association (OAB) plays a fundamental role in defending the rights of female lawyers, ensuring the prerogatives provided for in Brazilian legislation and promoting support for essential causes, in addition to debating improvements and guarantees for the profession. At the state level, each Section has a specific commission dedicated to safeguarding local issues, addressing the needs and challenges faced by women lawyers.

During the 2019-2022 management of the National OAB, the National Commission of Women Lawyers (CNMA), in collaboration with the National Commission for the Defense of Prerogatives and Valorization of Advocacy (CNDPVA) and the National Prosecutor's Office for the Defense of Prerogatives (PNDP), relaunched the "National Caravan of Prerogatives" project. This project focused on the defense of the prerogatives of women lawyers and was widely disseminated in all Sections, with the distribution of the Booklet of Prerogatives of Women Lawyers. The caravan included hearings with courts of justice, meetings with local commissions and presentations by the coordination for the defense of women lawyers. According to the then president of the CNMA, lawyer Daniela Borges, the main objective of the caravan was to clarify the lawyers about their rights and strengthen awareness about the prerogatives that are guaranteed to them.

Career progression is also a challenge for female lawyers, being historically hampered by the phenomenon of professional closure (*closure*). The exclusion of women from prestigious positions reflects the lack of female representation both in the OAB and in the courts, perpetuating structural barriers that limit their advancement and recognition in the profession (JUNQUEIRA, 2001).

Institutions play a key role in protecting women lawyers, seeking to ensure effective gender equality within the profession. The Brazilian Bar Association (OAB) has a central role in this context, promoting initiatives such as the Commission of Women Lawyers. However, the OAB's performance still faces limitations, since the effective application of protective standards encounters significant challenges in their implementation (OAB, 2022).

Recent legislative proposals have sought to expand the protection of female lawyers, such as Bill No. 1,085/23, which aims to ensure equal pay between genders. However, the implementation of these measures depends on the creation of stricter inspection mechanisms, ensuring that the legislation is not only theoretical, but has practical and effective application (BRASIL, 2023).

Jurisprudence has also proven to be a battleground for the realization of the rights of female lawyers. Some court decisions have recognized the violation of the prerogatives of

mother lawyers, but the lack of effective punishments still perpetuates inequality within the profession (RIBEIRO, 2023).

Given this scenario, it is evident that, despite normative advances, the fight for gender equality in the legal profession continues to face structural challenges. The effective application of prerogatives and the strengthening of inspection mechanisms are essential measures to ensure a fairer and more inclusive work environment for women lawyers.

The search for gender equality in the legal system has been a historical process marked by important advances and persistent challenges. The implementation of concrete measures to reduce inequalities between men and women in the public advocacy sector and in the justice system has become an essential topic. Legal institutions play a key role in this context, as they are responsible for ensuring that constitutional principles of equality are applied in practice.

The origin of the history of women's rights in Brazil is directly linked to the process of evolution of laws that promote gender equality. The conquest of the right to vote in 1932 was an initial milestone for women's participation in the political and legal sphere. Subsequently, the revocation of the relative civil incapacity of married women, determined by the Civil Code of 1916, brought significant advances for the insertion of women in the legal labor market.

Pioneering women, such as Maria da Penha Machado Ribeiro and Leonor Nunes Paiva, are examples of affronting the structural barriers to entering and standing out in the legal sector. Ribeiro was the first woman approved in a public exam for the Attorney General's Office of the State of Rio de Janeiro, while Paiva helped found the first feminist office in Brazil and had an active participation in the formulation of women's rights in the 1988 Constitution.

We have the 1988 Constitution that consolidated fundamental principles of gender equality, providing mechanisms to combat discrimination. International treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), have reinforced the commitment to promoting equity within the legal system.

Despite the advances, there are still barriers that hinder equality between men and women in legal institutions. In the Public Prosecutor's Office, female participation in leadership positions is less than 20%.

To mitigate gender inequalities in the legal system, some measures must be implemented in the Attorney General's Offices and other institutions:

a) **Creation of specialized commissions:** Like the Special Commission for the Promotion of Gender Equality of the PGE-RJ, such bodies can act in the formulation

of institutional policies and in the prevention of discriminatory practices.

b) **Improving female representation in leadership positions:** Gender parity must be ensured in the appointment of leadership positions and career promotions.
c) **Parenting support policies:** Expand maternity and paternity leaves, create spaces for breastfeeding in public agencies and ensure stability for pregnant women in commission positions.
d) **Training and sensitization on gender inequality:** The implementation of courses and lectures on gender equality in legal institutions can contribute to the necessary cultural change.
e) **Continuous monitoring and diagnosis of inequalities:** Conducting periodic surveys to track the evolution of gender equity in the legal system and adjust policies as needed.

Gender equality in the legal system is not only a matter of social justice, but also an essential factor in building more democratic and efficient institutions. As much as some significant progress has been made, there is still a long way to go to ensure equal opportunities for women in public advocacy and the justice system. The adoption of concrete measures and the continuous monitoring of institutional practices are essential for gender equality to be fully achieved and implemented fairly.

CONCLUSION

With the historical trajectory of women in the Brazilian legal profession, there is a continuous struggle for recognition, respect and equal opportunities. From the pioneering insertion of Myrthes Gomes de Campos at the end of the nineteenth century, through the important legislative achievements, to the contemporary challenges faced by female lawyers in the exercise of the profession, it is noted that, although there have been normative advances, structural and cultural barriers are still very evident.

The analysis carried out shows that gender inequality in the legal environment does not result from women's natural or biological limitations, but rather from a patriarchal historical structure that resists transformation. The Federal Constitution of 1988 established formal equality between men and women, and subsequent legislation, such as Law No. 13,363/2016 and Law No. 14,612/2023, sought to guarantee specific prerogatives for women lawyers, especially in situations of pregnancy, maternity, and lactation. However, the practical implementation of these rights still faces significant obstacles.

There are the prerogatives of advocacy, fundamental to ensure the free exercise of the profession and the protection of citizenship, which are often not respected when it comes to women lawyers. Cases of disrespect for the guarantees of the pregnant woman, denial of postponements of hearings and the requirement of vexatious proof of personal conditions illustrate a scenario in which positive law distances itself from practical reality. Such violations not only attack the dignity of women lawyers, but also undermine the effectiveness of the Democratic Rule of Law.

In addition to violations of prerogatives, female lawyers still face challenges such as moral and sexual harassment in professional spaces, wage inequality, and underrepresentation in leadership positions. Even with the superior numerical presence of women in the field of law, the rise to prestigious positions is still mostly male, reflecting a deep disparity in access to opportunities.

The role of institutions, especially the Brazilian Bar Association (OAB), is crucial in this context. Initiatives such as the National Plan for the Valorization of Women Lawyers, the creation of the National Commission of Women Lawyers and the implementation of gender parity in OAB elections represent important steps towards building a more egalitarian legal environment. However, it is essential that these initiatives are not limited to the symbolic level and are accompanied by rigorous inspection, institutional education and effective accountability for discriminatory practices.

International experience, such as the Spanish legislation that ensures equal parental leave, serves as a positive reference and demonstrates that the promotion of gender equality requires profound structural and cultural changes. Measures that expand parenting support policies, ensure equal pay and promote female participation in leadership positions are essential to reverse the inequality scenario.

In addition, the effective implementation of the guidelines of the Protocol for Judgment with a Gender Perspective, established by Resolution No. 492/2023 of the CNJ, as well as the creation of continuous mechanisms for monitoring and diagnosing inequalities, are indispensable instruments for the promotion of equity.

Therefore, it is concluded that gender equality in the legal profession is not only a constitutional requirement, but an ethical and social imperative for the construction of fairer, more democratic, and representative institutions. The struggle of women lawyers reflects the search for a society that fully respects human rights, ensures the dignity of the human person and puts into practice, the principle of equality. Overcoming the challenges identified requires the strengthening of institutional mechanisms, the implementation of effective

public policies, and cultural transformation that recognizes and values women's protagonism in the Brazilian legal scenario.

Only through the combination of efforts between public authorities, class institutions and civil society will it be possible to consolidate a truly inclusive legal environment, where lawyers can practice their profession under equitable conditions, contributing to the strengthening of justice and democracy in Brazil.

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