

Transforming Women's Leadership in the Antitrust Field in Brazil

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Foreword

This paper aims to translate my belief in women's leadership in the antitrust field into concrete ideas to accelerate its improvement and transformation in my home country, Brazil. I came to the LLM program in a real conflict of faith in the legal field's perspectives for women and individuals to pursue their goals and reach their potential in a healthy, sustainable, and cooperative environment. Luckily, I became a part of Professor Rangita de Silva de Alwis class on Women Law and Leadership in Penn Law and, for months, I heard stories of inspiring leaders who, as my mentor in Brazil, faced challenges and still stood up for their values, trying to make things better for the future generations.

In the class before thanksgiving, Professor Rangita shared with us the trailer of Hulu's documentary about Hillary Clinton. I was so compelled by the trailer that I made my boyfriend (who is not a fan of documentaries) watch it with me during the break. At some point watching it, I found myself in tears. I cried because Hillary's burden truly resonated in me. Seeing how Hillary fought her entire life, stood every time, and never gave up invited me to revisit the faith crisis that troubled me when I arrived in Penn and brought hope back to my heart. It also made me eager to stand up too and give my contribution to create real transformation for women in my own field.

This paper is first dedicated to Hillary Clinton, to honor her story and her battle to help women get their place in the table. It is also dedicated to Professor Rangita and the leaders, especially Professor Joan Williams who shared their stories in our class and are true allies for transformational leadership to empower women. It is finally dedicated to all the women in the antitrust field that inspired me and gave me opportunities in the past years, specially to my mentor, for the courage of

working with passion and standing for other women for 30 years. I hope I can use all these examples to create a bridge between Brazil and the USA and put the tools I have learned in Penn Law at service of the Brazilian antitrust community. This paper is my humble attempt to give my contribution to transform women leadership in the antitrust field in Brazil.

I. My own transformation process and how it motivated me to make the difference in my field

This paper aims to translate my belief in women leadership in the antitrust field into concrete ideas to accelerate its improvement and transformation in my home country, Brazil. To illustrate why and how much this matters to me, I start with the story about my own transformation.

Since I entered the antitrust field as a young student and intern, I was lucky enough to learn closely from a woman leader. In a law firm with a ~10% woman partner representation, and in an area in which 4 out of 5 partners were men, I was assigned to work with the only woman, who became my mentor and role model.

My mentor is not only one of the most inspiring professionals I have ever met, but also an enthusiastic person who dedicates her career to make things better, including the lives of the young women that cross her path. She was one of the founders of a women committee in the law firm in 2009 and led the creation of important initiatives to make the work environment better for mothers (maternity leave, special room for mothers, among others) – both pioneer initiatives in the legal field in Brazil. In 2015, she was the first and only women president of the Brazilian Institute for the Study of Competition, Consumer Protection, and International Trade (“IBRAC”), the most important association in the antitrust field in Brazil and in Latin America.

She also had a key role in my journey as a lawyer: she kept me close and was always concerned about involving me in the most relevant cases. While managing those cases, she took care of challenging me, incentivizing me to share my ideas and giving me space and credit to make my voice heard before clients and other male partners in the firm. After some years, clients, partners,

colleagues in the law firm and peers from other firms in the field came to know my work, but I will always be thankful to her for standing up and believing in my potential even before I did.

With all these questions in my mind, as her fight was also mine, I came to the LLM in a real conflict of faith in the legal field's perspectives for women and individuals to pursue their goals and reach their potential in a healthy, sustainable, and cooperative environment. Luckily, I became a part of Professor Rangita de Silva de Alwis class on Women Law and Leadership in Penn Law and, for months, I heard stories of inspiring leaders who, as my mentor, faced challenges and still stood up for their values, trying to make things better for the future generations.

II. The “Women in Antitrust” movement and its role in transformative leadership

Quickly, I realized that the antitrust area is filled with brilliant women. In the USA, the Federal Trade Commission (“FTC”)’s chair is held by Lina Khan, a strong woman who was never afraid of making her voice heard, even if it was to contest the Big Tech companies. Among the 3 other commissioners’ positions in the FTC, 2 are held by women¹. On the other side of the ocean, the current president of the European Commission is Ursula von der Leyen and vice-president Margrethe Vestager is responsible for the “A Europe Fit for the Digital Age” department, which is probably the main priority not only in Europe, but for all authorities around the globe. This overview demonstrates that, despite the many challenges still faced by women, in 2021, brilliant women are in leadership positions in the two older and most important jurisdictions for antitrust. These women will lead important decisions that have the potential to reshape antitrust in the coming years and, more importantly than that, their role models give the strong message that the world is changing and there is place in antitrust’s table for talented young women.

To a certain extent, the antitrust area in Brazil follows the international pattern of powerful women dedicating to the antitrust field. Some of the most brilliant minds in the Brazilian antitrust

¹ Further details available at: <https://www.ftc.gov/about-ftc/commissioners>.

field are women lawyers, economists, academics, and public agents. Gathering this strength and, at the same time, aware of the challenges still faced by women in the field, a group of female practitioners founded Women in Antitrust Brazil (“WIA”), *a network of women who seek to improve the understanding and application of Competition Law, seeking to strengthen women in the private, public, and academic sectors in Antitrust*².

Since its foundation, WIA developed several ambitious projects to empower women in the field, including the organization of an annual book with articles written by female authors, the creation of a database with academic literature from female authors (WIA scholar), a weekly podcast interviewing women who comment on relevant antitrust topics and remarkable moments of their careers, a database with high skilled women in the field to be recommended (“Call a WIA”) and a mock trial competition between universities from all regions in Brazil. These initiatives have been an example of transformational leadership and demonstrate real potential to create solid changes that are already empowering this and the future generations of women leaders in the antitrust field.

In 2018, WIA assigned a team to work on a research project to gather data about women inclusion and diversity in the Brazilian Antitrust Authority, the Administrative Counsel for Economic Defense (“CADE”), law firms and firms for economic advice, publishing a report with the results of the research survey (“WIA Report”).

Aiming to give a contribution to this important movement for women empowerment in the antitrust field, the following chapters of this paper provide (i) an overview of the data gathered in the WIA Report and a critical approach to its main findings; (ii) real stories that I have witnessed in the past years that demonstrate the challenges still faced by women in the antitrust field in Brazil and (iii) insights and suggestions for further action by WIA, based on the discussions and studies from Professor Rangita de Silva de Alwis’ class on Women Law and Leadership in Penn Law.

² Further details available at: <https://en.womeninantitrust.org/>.

II. The WIA report: Insightful data about women in law firms and CADE³

The WIA Report is itself an advance for women leadership in the antitrust field in Brazil. Moving towards to create objective and measurable criteria and goals is one of the most important steps to guarantee that we overcome the broad speech that inclusion and diversity are important and head to concrete actions that link diversity to development and make institutions accountable for their actions (or inaction) on the subject⁴.

Retransmitting some of the data collected in the WIA Report, the tables below provide the percentage of women representation, admissions, resignations and promotions at CADE and antitrust law firms, when compared to absolute numbers of employees, admissions, resignations and promotions in 2018. I highlighted the numbers in green when they demonstrate a certain level of progress for gender equality and in red when they evidence gender inequalities whose improvement should be considered a priority.

Table 1 – Women in CADE (2018)

	Women representation	Women admissions	Women resignations	Women promotion
Total	45%	52%	50%	33%
Leadership positions (all levels)	44%	80%	50%	33%
• Leadership (higher level)	25%	100%	0%	-
• Leadership (mid-level)	20%	75%	67%	-
Non-leadership positions	53%	64%	57%	33%

Elaboration by the author, based on the data provided in the WIA Report

Table 2 – Women in Law Firms (2018)

	Women representation	Women admissions	Women resignations	Women promotion
Total	52%	57%	66%	64%
Partner	37%	40%	17%	50%
Senior Associate	58%	60%	60%	50%
Mid-level Associate	55%	38%	73%	72%
Junior Associate	59%	48%	79%	68%
Intern	57%	65%	66%	-

Elaboration by the author, based on the data provided in the WIA Report

³ The report includes some data about firms for economic advice. Nevertheless, considering its disclaimer that only 3 firms with 34 economists dedicated to antitrust responded the survey, which could alter some results, this segment will not be analyzed in this paper.

⁴ De Silva De Alwis, Rangita. A NEW OPPORTUNITY FOR WOMEN IN THE GLOBAL ECONOMY THE GENDER AND BUSINESS INDEX MEASURING PROGRESS ON DIVERSITY AND INCLUSION UNDER THE SAUDI 2030 VISION

The data above demonstrates that women representation is still low in the Brazilian Antitrust Authority when it comes to leadership positions. The percentage of women admissions in all levels, especially leadership positions, demonstrates an attempt and a real potential for improvement. Nevertheless, the data collected by WIA gives an important insight that improving women promotion should be CADE's top 1 priority to guarantee that leadership develops organically and that young talented women working as public agents see a perspective for their career development within the antitrust authority.

In law firms, although women representation is above 50% in all intern and associate levels, there is still a gap when it comes to partnership. This number is evidence that the area counts with important leaders (almost every big law firm has at least one women partner) but indicates that there is still a glass ceiling to be broken. The most impressive insight from data on law firms is the high representativeness of women resignation in all levels, which indicates that there is still much to be done to create policies that guarantee the women retention necessary to break the glass ceiling in a sustainable and long-term manner.

The WIA Report also took care of including qualitative questions about gender policies for women retention and family support in its survey. The tables below provide a summary of the responses:

Table 3 – Policies in CADE (2018)

Policies for women retention	No specific policies for women. Retention policies apply equally for all employees. Flexible policies available for parents with children up to 2 years old: reduce work hours, home office, possibility of adding holidays to maternity leave.
Policies for parental leave	CADE must follow specific legislation for public entities, which grants 180 days to mothers and 20 days to fathers.

Elaboration by the author, based on the data provided in the WIA Report

Table 4 – Policies in Law Firms (2018)

Policies for women retention	64% of law firms have at least one policy for women retention 40% have flexible work for pregnant women and mothers 29% have a women committee 23% have daycare, breast feeding room and other family support
Policies for	57% of law firms have at least one policy for pregnant women and mothers

pregnant women and mothers	34% have institutional home office policies 23% have flexible working hours 23% have other policies (ex. extending maternity leave for 6 months) 11% have different goals for mothers
Policies for fathers	46% of law firms have institutional policies for fathers 26% have home office 26% have other policies (ex. extending paternal leave for 1month) 14% have flexible working hours 6% have different goals for fathers

Elaboration by the author, based on the data provided in the WIA Report

The responses above provide two important insights. The first one is that policies for women retention and family support are still adopted by a limited percentage of law firms in Brazil. The second one is that, although there seems to be a good intention by both CADE and law firms for gender diversity and inclusion, evidenced by the existence of some initiatives for parent support by CADE and for women retention and parent (mostly motherhood) support by law firms, the responses to WIA's survey also indicate how we still lack complete, integrated, objective and measurable policies, which are the key to reach the transformation that will lead to real gender inclusion and women leadership.

III. Real stories that evidence the challenges for women leaders in the antitrust field in Brazil

The data in WIA Report demonstrates that although the Brazilian antitrust area counts with a significant and increasing number of competent women, we still have important challenges ahead, especially when it comes to leadership. This chapter contains three real short stories that demonstrate how these challenges can get in the way of female practitioners, making it harder for them to reach the places they deserve to be and, ultimately, preventing the antitrust area to benefit from the utmost potential of highly skilled and dedicated women.

IV. Insights and tools to transform women leadership in the antitrust field in Brazil

I am convinced that there are no reasonable explanations for the stories I have witnessed and the many others that different women might have witnessed or experienced. At the same time, these

stories demonstrate why systemic and cultural transformation is so urgent - for this generation and the ones to follow us. With this spirit, in this chapter I tried to translate four valuable lessons from Professor Rangita de Silva de Alwis's class on Women Law and Leadership in Penn Law into concrete insights and actions to transform women leadership in the antitrust field in Brazil.

(i) Recognizing and interrupting Bias

The first step towards transformation in women leadership is understanding the Bias that “collectively over time create the obstacles and barriers to advancement for women at work”, causing gender inequalities such as the ones evidenced by the data in the WIA Report and stories such as the ones described in the last chapter.

In five years working as an antitrust lawyer in Brazil I have seen some discussion about Bias, but never in an objective and practical approach to the way they appear and may be interrupted such as the one provided by Professor Joan C. Williams. According to Professor Williams, to guarantee successful corporate diversity programs, organizations, teams and individuals should focus on (i) first, understanding the four main ways this bias may appear in our daily work: prove it again, tightrope, maternal wall, and tug-of-war⁵; (ii) second, trying to actively recognize where this bias appear in their daily interactions and (iii) finally, working to guarantee that this bias are identified, addressed and interrupted⁶.

There are several bias interrupters that may be implemented with “*small adjustments to our existing systems*” in all parts of an organization, such as performance evaluations, hiring and recruiting, assignment, meetings, compensation, flexibility, family work and hybrid leave. In this

⁵ “(1) Prove it again: Some groups have to prove themselves more than others do. (2) Tightrope: A narrower range of behaviors is accepted from some groups than from others. (3) Maternal wall: Women with children see their commitment and competence questioned or face disapproval for being too career focused. (4) Tug-of-war: Disadvantaged groups find themselves pitted against one another because of differing strategies for assimilating—or refusing to do so.” Available at: <https://hbr.org/2019/11/how-the-best-bosses-interrupt-bias-on-their-teams>.

⁶ Available at: <https://hbr.org/2019/11/how-the-best-bosses-interrupt-bias-on-their-teams>.

sense, the platform “biasinterruptors.org” provide organizations, teams, and individuals with the tools to identify and interrupt bias in each of these contexts.

My suggestion for action in this topic is that we develop initiatives to provide information about Professor William’s approach to Bias interrupters as part of the transformation of women leadership in antitrust in Brazil. To create this acknowledgement, I could work with WIA in the creation of a white paper with a chapter about Bias and its interrupters and further in the organization of conferences with CADE and IBRAC to discuss the subject. After this first acknowledgement and learning phase, my suggestion is that a possible next survey by WIA creates an item about how CADE and firms use Bias interrupters. With these actions, we will probably start to enlighten the discussion on Bias to improve women’s daily work and, as consequence, help them dedicate their energy to what is really important.

(ii) Creating measurable indicators and complete policies

As anticipated, the responses to the WIA Report also indicate how we still lack complete, integrated, objective and measurable policies. CADE and Brazilian law firms seem to have some essential policies such as maternal leave and flexibility, but we still do not have complete policies that cover the several aspects related to diversity and inclusion based on measurable indicators.

In this sense, in “Measuring Progress on Diversity and Inclusion Under the Saudi 2030 Plan”, Professor Rangita de Silva de Alwis suggest the creation of “*a women's leadership index to measure progress in the area of diversity*”, which “*would be designed to provoke thought and raise interesting questions*”, helping companies “*set clear targets*” and “*providing measurable goals that allow us to track progress over time and hold management accountable for progress*”⁷. The index was developed based on a deep analysis of “*diversity goals highlighted by the Olayan Group, Saudi Aramco, The Harvard Kennedy School’s Women and Public Policy Program, Orrick, Herrington &*

⁷ De Silva De Alwis, Rangita. A NEW OPPORTUNITY FOR WOMEN IN THE GLOBAL ECONOMY THE GENDER AND BUSINESS INDEX MEASURING PROGRESS ON DIVERSITY AND INCLUSION UNDER THE SAUDI 2030 VISION

Sutcliffe, Accenture and the recommendations of McKinsey Global”, resulting in the following indicators, divided in four pillars:

1. **Public Leadership and Reputation:** *Thought leadership, Private Partnerships, Public Partnerships, Academic Partnerships, Partnership Spending and Media Engagement;*
2. **Diversity:** *Clear and transparent policies, D&I Policy, D&I Leadership, Diversity Targeting, New Women Employment, Women Managers, Women on Boards, Women Executives and Mission Statement;*
3. **Inclusion:** *Reporting, Parental Leave, Retention after Family Leave (short and long term), Flexible Hours, Day Care Services, Employees with Disabilities, Transportation Options, Sexual Harassment Policy, Telework Options;*
4. **Gender Development:** *Skills Training, Career Development, Average Training Hours, Management Training, Training Costs, Employee Satisfaction, Mentoring Program, External Engagement, Pipeline Training.*

My suggestion for action in this topic is that we develop initiatives to provide information about the importance of creating complete and measurable policies as part of the transformation of women leadership in antitrust in Brazil. To create this acknowledgement, I could work with WIA in the creation of a white paper with a chapter about complete and measurable diversity policies and further in the organization of conferences with CADE and IBRAC to discuss the subject. After this first acknowledgement and learning phase, my suggestion is that a possible next survey by WIA considers these pillars and indicators, measuring how CADE and firms have evolved on this regard. This action has the potential to provoke CADE and law firms to develop and implement (or improve) their own index, targets, and goals to achieve diversity and inclusion.

(iii) *Talking about the importance of men allyship and discussing with men how they can become and improve as allies*

“Allyship” is defined as “*using one’s power or position to support or advocate for coworkers with less power or status*”⁸. Men allyship is an important pillar for women leadership in the antitrust

⁸ Further information at: <https://leanin.org/>.

field in Brazil. Many of the women in leadership positions and young generations that are building their careers count with men allies. These men are partners in certain law firms, law professors and members from CADE. They are dedicated to give women opportunities, to pay attention to possible inequalities and Biases and, most importantly, to hear and learn how can they help women achieve their utmost potential.

Nevertheless, stories like the ones described in the last chapter and the data gathered in the WIA report demonstrate that we still must strengthen and expand men allyship in the antitrust field. Men allyship is one of the most complex and challenging pillars in the transformation of women leadership in antitrust in Brazil. In a field with so many strong women, most man will probably self-declare allies. In this scenario, the most urgent and effective action seems to be give a step back on this self-declaration and provoke reflection on the relevant questions that lead a man to become and be recognized as a real ally.

Therefore, my suggestion for action in this topic is that we develop initiatives to provide information and create reflection about the meaning and importance of men allyship. My idea for creating this acknowledgement is to create a debate based on an adaptation of the Questionnaire on *"Male Allyship in the Future of Work Case Studies from the University of Pennsylvania Law School"*. The questionnaire, in my opinion would be the best tool (i) first, to make men reflect on the broad question about what it is to be an ally and how close they are to that and (ii) second, to create acknowledgement on other important topics such as intersectionality, Bias and Bias interrupters, making women leadership a CEO priority, the MeToo movement, family policies, etc. My idea is that we share an adapted version of the questions for reflection in a chapter of the white paper to be created with WIA and further organize conferences with CADE and IBRAC to discuss these questions.

For this specific topic, my suggestion is not that WIA includes an item on men allyship in its next survey because – allyship is difficult to measure and trying to measure it might make it artificial. I am convinced that reflection is the most powerful tool if we want to reach real men allyship. This is why both in the potential conference and white paper I suggest that we bring questions instead of a

lecture: we want men to feel invited and accept our invitation. Also, women and men that are already allies have an important role on holding the men around them accountable for their daily actions, bringing reflection, inviting men to be part of the cause, providing feedback when needed and recognizing ally actions.

(iv) Making diversity, inclusion and allyship as broad as we can

If we broaden the scope of our discussion from women leadership to intersectional leadership, we will find additional challenges. *“Intersectionality is a prism to address the interlinked nature on gender, race, disability, age, socio-economic, migrant status, urban/rural and other social identities”*. If we want to reach real transformation in the antitrust field in Brazil, we should recognize that *“gender is only one axis of difference”*.

On the intersectionality challenge, I would like to highlight that although the WIA Report adopted an approach focused on the analysis of gender inclusion, the group has also demonstrated to be aware that intersectional leadership goes beyond gender. The last initiative led by WIA was a mock trial competition that counted with participants from universities from across Brazil. In a real example of intersectional leadership, the winners of the mock trial were teams from the Universities of Pernambuco, Minas Gerais, and Paraná, bringing diversity to a field traditionally dominated by lawyers from São Paulo and Brasília.

Nevertheless, intersectional leadership is still a real and silent challenge in the antitrust field in Brazil. In 5 years of experience, I remember interacting with less than 5 people of color from CADE, law firms and firms for economic advice. If we want to reach real diversity and inclusion, we need to recognize this gap and start acting to open the doors of our area for people of color – we need intersectional leadership.

My suggestion for action in this topic is that we develop initiatives to provide information about intersectional leadership as part of the transformation of women leadership in antitrust in Brazil. To create this acknowledgement, I could work with WIA in the creation of a white paper with a

chapter about intersectional leadership and further in the organization of conferences with CADE and IBRAC to discuss the subject. After this first acknowledgement and learning phase, my suggestion is that a possible next survey by WIA also approaches how women of color and women from different regions of Brazil are represented in CADE, law firms and firms for economic advice.

These are important steps to make the Brazilian antitrust community mindful of diversity in its broader aspect, including people from different regions, ethnicities, and genders. In this sense, the women leaders in antitrust should dedicate to create allyship with the different groups of competent people with the potential to develop the antitrust area in Brazil.

V. Conclusions and the transformation path ahead of us

This paper reflects my belief in women leadership in the antitrust field in Brazil, my conviction that the tools described above are powerful and transforming and my willingness to connect these dots.

What comes next? To start the transformation of women leadership in the antitrust field in Brazil, I suggest that we take the three main actions described below.

Action #1: White paper to the Brazilian antitrust community to create acknowledgement about bias interrupters, gender policies and measurable indicators, questions for reflection on allyship and intersectional leadership;

Action #2: Conferences with CADE and IBRAC to create acknowledgement about bias interrupters, gender policies and measurable indicators, questions for reflection on allyship and intersectional leadership;

Action #3: Follow up survey by WIA taking into consideration bias interrupters, gender policies and measurable indicators and intersectional leadership. My suggestion is that the survey is conducted annually, creating a database that will allow us to measure the progress of transformation on women and leadership in the antitrust

field and, as consequence, design better actions in the future and hold institutions accountable for their policies and number.

I would be the one to lead these actions on behalf of our Penn Law Women, Law and Leadership movement (giving the credibility and impartiality that are so important to achieve real results) in partnership with my mentor and WIA, which has become a relevant advocate for women in the field and demonstrated the different power created when you bring women together. Exercising this advocate role and our transformational leadership mission, I hope we can create acknowledgment and accountability about women inclusion and leadership in the antitrust field.

These actions would be directed to CADE, law firms and firms for economic advice from Brazil. The best forum to reach law firms and firms for economic advice would be IBRAC since the institute has historically demonstrated its potential to gather the main male and female leaders in the field. This public reflects our consciousness that the only way to make real progress is to discuss intersectional leadership and allyship with all the individuals involved, including men.

I truly expect that this paper and the actions proposed above lead us to real transformation in the antitrust field in Brazil. I also expect that it strengthens our women community, represented by WIA and that it transmits to younger practitioners like me the message that we are aware of the many challenges ahead of us, but that together, one woman at a time, we are powerful enough to overcome each of them.