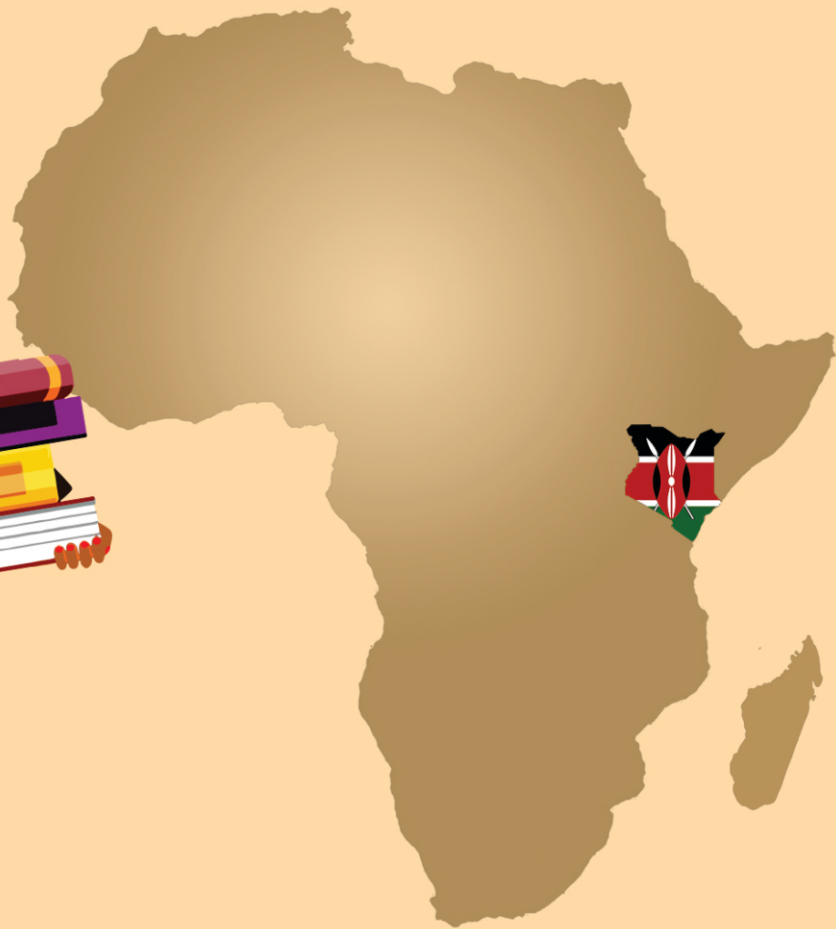




# Women in Law & Leadership

## Kenyan Legal Academy



**PATTERNS | PROGRESS | PROSPECTS**

# **WOMEN IN LAW AND LEADERSHIP: KENYAN LEGAL ACADEMY**

Patterns, Progress, and Prospects



**Institute for African Women in Law**  
**African Women in Law and Leadership Initiative**



**The Institute for African Women in Law (IAWL)** is a nonprofit, non-governmental organization established in 2015. It is committed to supporting the formidable works of women in law across the continent of Africa and the Diaspora. Our mission is to be a focal point for addressing issues across the legal and judicial professions. The institute is headquartered in Washington, DC, USA.

This report is a part of IAWL's African Women in Law and Leadership Initiative.

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# FOREWORD

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Rising through the ranks of the legal academy to the top was a lonely experience for me as a woman because I had no reference points. The prototype of a law academic modeled for me during my training was male. Having broken the glass ceiling and become “a woman of law,” as my students fondly referred to me, I knew I did not want to be the only one. I wanted more women to join me at the top, so I did my best to shore up, encourage, and mentor other female academics. As a pacesetter, I had a fair idea of the barriers women face in getting promoted and ascending to leadership and what could be done to confront them. However, my knowledge of these factors was limited because I could only see things through my experience and those closest to me. The absence of a space for female law academics to share experiences meant that my lenses did not cover the multitude of women's experiences.

This report's insights into the multiplicity of barriers that female legal academics face in Kenya are indeed exciting and enlightening. The report brings together different experiences, voices, and perspectives that deepen the discourses on women in academic leadership. It exposes those barriers that were known but unnamed and those that are emerging. For example, it highlights sexual harassment, which is often kept private. It also notes emerging barriers resulting from COVID-19.

Beyond these barriers, the report provides solutions informed by the study participants' experiences. These solutions are the collective duty of the multiple stakeholders in women's leadership in the legal academy, including institutional leaders, policymakers, funding partners, and female and male academics. Institutional leaders are urged to create an enabling work environment for women and support and invest in formal and informal mentorship programs to help women advance. Policymakers are asked to push for policies that will ensure transparency and equity in promotion, pay, and workload. Funding partners are called upon to invest in more data collection and research on female legal academics. Male and female academics need to be trained to be gender-sensitive, while women are charged to be self-motivated to pursue leadership.

The report emphasizes a notable trend: although women are increasing in number in the legal academy, few are in leadership. Multiple factors are responsible for this trend, including systemic and structural barriers that stand in the way of women seeking leadership opportunities. I believe that this trend can be reversed if these recommendations are taken seriously and effectively implemented. I commend IAWL for driving this study because it signals a new dawn that emphasizes female legal academics and their leadership pathways in Kenya and offers practical solutions.

**Patricia Kameri-Mbote, Ph.D.**  
**Professor of Law**

# FOREWORD

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When I started researching African women in law in 2015, I was frustrated by what I have consistently characterized as the arid desert of information on the topic. As my research continued, I likened seeking literature to the proverbial search for a needle in a haystack. The challenge was enormous, but rather than give up, I decided to make it my mission to build this field of knowledge. This mission led to my co-edited book, *Gender and the Judiciary in Africa: From Obscurity to Parity?* (Routledge, 2016), the first book to cover the topic of gender and judging in the African context. Its success spurred me on and inspired the second book, *International Courts and the African Woman Judge: Unveiled Narratives* (Routledge, 2018), which used the power of oral narratives to center the experiences, achievements, and challenges of African women who had served on international courts and tribunals. Other books followed, which included the World Bank project *Gender and Judging in Africa: Selected Studies* (Routledge, 2021) and *Intersectionality and Women's Access to Justice in Africa* (Rowman and Littlefield, 2022).

The first two books brought two major findings to my attention –the paucity of research on African women in law and the challenges they face in accessing training and leadership skills, contributing to their underrepresentation in leadership. These two findings led me to merge my scholarship with activism to address these challenges. The Institute for African Women in Law (IAWL) was born from my passion for women's empowerment and research. By concentrating on its four main goals, IAWL has positioned itself as a leader in promoting women's development through research, training, mentoring, and advocacy. Today, IAWL is a leading hub for research on African women in law through an exhaustive digital archive that includes research reports, women's narratives, and a Legacy Project on the subject.

This report forms part of the four-nation priority countries of Nigeria, Kenya, Senegal, and South Africa, a series of reports under the IAWL-commissioned Women's Excellence in Law and Leadership (WELL) Initiative. The overarching goals of these reports are to examine women's access to positions of leadership in the legal professions; review their retention and intersectional challenges and barriers that lead to attrition from the profession; and provide recommendations on interventions that can promote and facilitate their representation in leadership roles, with the goal of meeting UN SDG #5 on gender equality. The initiative provides a blueprint and recommendations for interventions by policymakers, gatekeepers within the profession, civil society organizations, bar associations, judicial authorities, funding agencies, and other bodies interested in promoting women's leadership in law.

This report highlights the need for more research on several questions about women in law in Africa. I am hopeful that more investments will be directed toward providing empirically rich and theoretically grounded research, as seen in this report.

# FOREWORD

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Beyond research, what is needed is a comprehensive portal of current data on women in the legal professions across Africa—a project that IAWL is already spearheading. I hope this report provides some glimpses of hope that the problems women in law face can be addressed by adopting the multipronged approaches provided here. To borrow from popular parlance—*you cannot fix a problem if you cannot measure it*. I invite you to support our continued efforts in amplifying women's voices in law and enhancing their capacity for positive societal change and development. Thank you.

**J. Jarpa Dawuni, Esq., Ph.D.**  
**Executive Director**  
**Institute for African Women in Law**

# LIST OF ACRONYMS

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>IAWL</b>	Institute for African Women in Law
<b>KSL</b>	Kenyan School of Law
<b>OAG</b>	Office of the Attorney General
<b>ODPP</b>	Office of the Director of Public Prosecutions
<b>SDG</b>	United Nations Sustainable Development Goals

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# Executive Summary

This study provides a broad overview of women's representation in leadership roles in the Kenyan legal academy. While there is a focus on the representation of women in the legal academy in general, this study serves as a foundation to understand better the dynamics of gender inequality and the obstacles that impact the retention and advancement of women to leadership positions in the legal academy.







The legal system plays a unique role in addressing gender-based discrimination. Therefore, it is crucial for women to be well-represented in the legal sector. Based on their unique perspectives, women's participation and leadership in the justice system can play a valuable role in achieving the United Nations Sustainable Development Goals (SDGs), specifically goal number five on gender equality. This goal can be achieved by ensuring women's specific interests and priorities are represented in decision-making processes. The mere presence of women in a legal decision-making role can counteract both actual and perceptions of gender bias. For this reason, it is critical to document the existing quantitative and qualitative data that identifies women's representation in the legal profession in general and analyze it to assess the points of attrition in the pipeline, barriers to retention, facilitators of promotion, and progress and trends over time.

This report adds to the thin literature on women's leadership in the legal sector across the bar, the bench, and the legal academy in Kenya. The theoretical framework for this report is based on intersectionality, which explains the nature of the multiple social categories, identities, and contexts that influence women's ascent to leadership in Kenya's legal academy. The study attempts to highlight the nuances of the lives of female academics in Kenyan law schools through their career pathways to leadership and how the multiple identities of gender, age, ethnicity, class, rank, and disability impact their choices, experiences, and outcomes.

This report's data were collected via qualitative and quantitative methods, including semi-structured interviews and a survey questionnaire. The study adopted a mixed-method approach, using interviews with elite female academics and focus groups with students. The sample size was 40 participants: six female deans and associate deans, 15 female law professors and lecturers, nine male law professors and lecturers, and 10 female and male student leaders. The former and current deans and associate deans were interviewed using qualitative approaches to understand their journeys to and challenges in leadership positions. Female and male academics at different ranks were interviewed to provide a balanced account of gender-related issues in the academy. Two focus groups were conducted with the student leaders to understand their experiences and what factors inform the motivations of female students to seek leadership.

Surveys were administered to all 40 respondents to elicit responses on their perceptions and experiences of gender diversity and the inclusion of women in leadership, the importance of mentorship, and gender-based biases against women.

By combining the rich qualitative responses from interviews with the quantitative data, the report provides a broad overview of women's underrepresentation in leadership positions in the Kenyan legal academy. The findings from this study highlight the impact of intersectional challenges and key barriers to women's rise to leadership. These challenges affect the entire pipeline, leading to low retention in the profession and high attrition from the leadership pipeline.

	<b>The major challenges and barriers identified include the following:</b>
	False gender neutrality in the recruitment and promotion of women, scholarship and teaching biases
	Gender-based discrimination
	Sexual harassment
	Persisting gender stereotypes and masculinist standards and pathways to leadership
	Working from home due to COVID-19.

Using action-oriented and solution-driven approaches, the study draws on the research analyses and participants' suggestions to provide robust suggestions and recommendations on interventions that can lead to positive outcomes for women.



	<b>These facilitators of promotion to leadership and recommendations for supporting women in leadership include the following:</b>
	Targeted and intentional opportunities for female academics
	Supporting and investing in formal mentorship programs and building professional networks
	Enforcing gender equality regulations and legislation in the workplace
	Creating inclusive and supportive work environments
	Transparency and equity in promotion, pay, and workload
	Encouraging student leadership
	Socializing women and men to be feminism sensitive
	Women working toward change
	Investing in data collection and research on female legal academics.

Despite the challenges and barriers, women in the Kenyan legal academy are forging ahead. The general trends and patterns show that, firstly, women in the legal academy have increased, and more research and scholarship by female academics are needed for promotion partly due to the growing number of role models yet limited leadership opportunities. Secondly, sexual harassment and gender-based discrimination persist. Thirdly, the recruitment and hiring processes have mixed outcomes.

The findings from this study further indicate the need to use multipronged approaches to address the intersectional challenges in the legal academy. These solutions will require key actors and actions from the government, legal professional organizations, civil society actors, women's groups, and male allies in the profession. The role of philanthropic organizations and governmental funding agencies is vital to pushing Goal #5 forward to provide women equal and complete access to decision-making.

The report's findings also indicate the need for more research and data collection on women in the legal academy and investment in relevant leadership-boosting initiatives because of the significant role of the legal academy in shaping the drivers of the law and providing entry points for women's access to justice in society.

# 1 | INTRODUCTION



Women are underrepresented in positions of power and decision-making in institutions, including the legal academy, a key player in a country's knowledge sector. As a significant contributor to a nation's knowledge sector, law schools are crucial in preparing lawyers and judges to assume leadership positions in an increasingly diverse and globalized world. By diversifying their faculty, students, and staff, law schools contribute to transforming the legal profession from a historically male-dominated one to one inclusive of underrepresented groups, such as women. A diversified legal academy improves the delivery of legal education by offering students a diverse group of instructors with different cultural competencies, backgrounds, approaches to problem-solving, and experiences with underserved communities.

Despite the plethora of laws to achieve gender equality in Kenya, women remain a marginalized minority due to persisting patriarchal power structures. This report provides a detailed portrait of women's leadership journeys in the Kenyan legal academy, examining their entry into the academy and progress toward leadership. The report uses an intersectional theoretical framework, examining the impact of intersectional identities of gender, age, marital status, living with disability, religion, and prescriptive identities, such as academic rank, on women's entry, promotion, and attrition within the legal academy. The report discusses factors that can facilitate women's promotion to leadership, highlights the general trends and progress in the academy, and concludes with recommendations for addressing the challenges and setbacks to women's leadership choices and positionalities.

For purposes of this report, the legal academy is conceptualized as including the professional-training law schools and law faculties located within universities that train students to become legal professionals. A diversified legal academy improves the quality of teaching through the diversity of thought, provides role models for female students and ethnically marginalized groups, creates opportunities for a diversified legal profession, and expands entry points for access to justice for women. Women's presence in academic leadership is also symbolic, signaling to women and other marginalized groups that they, too, can achieve their professional goals and ambitions. Furthermore, the symbolic representation of women in academic leadership positions has the potential to expand opportunities for addressing gender-based discriminatory practices and inspire other marginalized groups to overcome their intersectional challenges.

However, a limited number of women in leadership is not sufficient to eradicate the intersectional biases that women experience. The current symbolic and numerical representation of women in the Kenyan legal academy is not enough to change the experiences of women in the academy. Besides increasing the number of women in the academy, there must be targeted interventions to support the few women in leadership through feminist consciousness-raising and feminist thought leadership. To prevent women leaders from being assimilated and sucked into the existing masculinist institutional mechanisms and practices that continue to marginalize women. It is crucial to provide them with support throughout their leadership journeys.

At the outset of Kenya's legal academy, women were hesitant to apply due to prevailing social norms and beliefs that the academy was not a suitable place for them (Odhiambo, 2011). The legal academic sector reflects biased customary and prevailing attitudes towards women and girls, leading to gender disparities in women's participation and empowerment (Aura-Odhiambo, 2018). Despite recent improvements, laws and social norms continue to restrict women's agency in decision-making (Isaacs, 2002). Legal sectors like the academy are expected to allow women to challenge unfair and discriminatory practices. Having been exposed to the law, female legal academics should have the essential tools to protect themselves from recurring discrimination and unjust practices. The findings in this report show that women in Kenya's legal academic sector continue to face many challenges as they navigate institutional, organizational, structural, and individual challenges in their pathways to leadership.

Kenya is a signatory to several international treaties, conventions and protocols that seek to protect women. These include the Universal Declaration on Human Rights, the Convention on the Elimination of all Discrimination Against Women, the Beijing Declaration and Platform for Action, the Dakar Framework for Action of Education for All, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the United Nations Sustainable Development Goals (SDGs), and the African Union Agenda 2063.

Before 2010, Kenya did not have a legal framework that imposed mandatory representation of women in elective or appointive positions other than the Executive Decree of October 10, 2006, popularly known as the Muthaura Circular.<sup>1</sup> This Decree was important as it mandated government officers responsible for recruitment to prioritize the employment of women and ensure that new hires adhered to the 30% rule, thereby bridging the existing gender gap. It created a framework through which women could hold the government accountable for any failure to implement this directive in new recruitments, especially when there was no explicit legal framework. During this period, it is acknowledged that female representation was low across all sectors, triggering some intervention in the form of affirmative action.

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<sup>1</sup> This was a directive from the then Secretary to the cabinet to the effect that at least 30% of new employees recruited into the public service should be women. See also the 7th Periodic Report of the Government of the Republic of Kenya on Implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) para 121, p. 30.

Since 2010, a clear constitutional framework and accompanying policy (the National Policy on Gender and Development 2019 (Sessional Policy No. 2 of 2019), and the Education and Training Policy, 2015) require the inclusion of women at all levels of government, and its organs and private institutions are expected to follow suit.

Article 27 of the Constitution of Kenya (2010) addresses the issue of equality and non-discrimination. The Constitution guarantees both men and women the right to equal treatment, including opportunities in the political, economic, cultural, and social spheres. Article 27(6) of the Constitution mandates the government to adopt affirmative action measures to redress any disadvantages that individuals or groups face due to past discrimination. Article 27(8) provides that no more than two-thirds of the members of elective or appointive bodies shall be of the same gender, a requirement that all appointing authorities must observe. These provisions have paved the way for the legal elimination of any kind of discrimination against women in employment. As public institutions, universities are expected to comply with this principle during recruitment, training, and promotion and for appointment to leadership positions.

Article 232 of the Constitution provides for adequate and equal opportunities for the appointment, training, and advancement at all levels of public service to both men and women as one of the critical values and principles of public service. Most universities fall under the public service and are expected to infuse life into this provision at the institutional level. The Constitution equally binds private universities. Article 10 of the Constitution enjoins public servants and everyone else to observe and embrace national values and principles of governance, which include equity, equality, and non-discrimination, among others. Thus, men and women should be accorded equal employment opportunities in the academy without distinction based on gender. Those responsible for hiring are expected to uphold the principle of gender equality and ensure gender balance in recruitment, promotion, and appointments at all levels. The provision on equality and non-discrimination is explicit. The current legal and policy framework in Kenya laid the foundation for ensuring gender balance in employment opportunities in the country.

The findings in this study reveal that more women are joining the legal academy in Kenya. Despite the increasing numbers, women still face challenges regarding their full participation and representation in the Kenyan legal academy. The challenges range from legal, institutional, and political factors to social and personal ones. In investigating the barriers and facilitators in the participation and representation of women in the Kenyan legal academy, it emerged that women play an integral part in the legal academy, and their presence is a human right. Those interviewed believed that women bring different perspectives into the system as they are perceived to be more humane and empathic even as they try to uphold the systems in workplaces that may not always be accommodating of feminine ways of being and leading. As members of society, women deserve equal representation in academic institutions, and both national and international laws guarantee this right.

# 2

## WOMEN IN THE KENYAN LEGAL ACADEMY: A REVIEW



The legal profession was established on a patriarchal foundation that privileged the power and presence of men as the only group to practice law. From its genesis, those in leadership within the legal system have been men. For instance, the people who served in the common law courts of England were men appointed by the king. There was no mention of women serving anywhere in the history of Britain, from which Kenya derived its law, training, and practice (Ojienda & Oduor, 2003). According to Pound (1944), male attorneys dominated the courts of law and equity in England, even as changes took place in the profession in England. The barristers were usually younger sons of the nobility and men of independent means, while the attorneys were recruited from the ranks of clerks. Pound (1944) further references an exclusive club for men when he asserts that only men were appointed to fill the positions of Attorney General and Solicitor during this period.

Kenya became a colony of Britain in 1897, and its governance and legal structure took after what prevailed in Britain. During the colonial and post-colonial periods, the legal profession was male-dominated. The people entrusted with the administration of justice then were males; females were late entrants. No institution offered legal education in Kenya during the colonial and early post-colonial periods. The only law school in East Africa was the University of Dar-es-Salam Law school in the Republic of Tanzania, a former British colony. The first two women who graduated from Dar-es-Salam University in 1967 were Justice Effie Owuor and Nelly Owiri. When the University of Nairobi transformed and began admitting law students in 1970, the number of women entering the legal profession increased, although the increase was still relatively low.

With Nairobi University's expansion and the law faculty's establishment in 1970, more spaces were opened for Kenyans to study law locally without having to travel to Britain, a development that created opportunities for women. The pioneer female students at the university were Justice Joyce Aluoch, retired Chief Magistrate Pamela Uiter Kidula, Justice Roselyn Nambuye, retired Justice Mary Angawa, and retired Justice Sarah Ondeyo. Interestingly, none of the pioneer female students joined the legal academy, as most were absorbed into the judiciary and the state agencies, such as the Attorney General's office as it then was, before the 2010 constitutional changes.



Few women were admitted to study law—not because they did not qualify but because of the misogynistic stereotype that the profession was primarily meant for men and not women. Many women avoided studying law and instead opted for courses that were seen as feminine. Society, in general, also thought it would be hard for women who pursued law to find suitors, as they were deemed tough and not marriage material because of the nature of the profession.

While the number of women was relatively low at the beginning of admissions in the 1970s, the number of women undertaking law has increased tremendously from the late 1990s to the present. Presently, admission into law schools is nearly equal between genders, and in some cases, there are more women than men. The same trend is seen at the Kenya School of Law (KSL), where professional qualification occurs. Both men and women must complete undergraduate courses to qualify for a diploma in law at the KSL. This diploma prepares them for the bar qualifications. Even though the completion rate is almost the same, fewer females than males are absorbed into active practice. The relatively high attrition rate of women can be attributed to the conception of law as a man's profession. This perception further explains why women are highly concentrated in the lower levels of the legal sectors. Women's absence at the peak of the leadership pyramid is conspicuous across the legal profession: in academia, the corporate world, the judiciary, the Office of the Director of Public Prosecutions (ODPP), and the Office of the Attorney General (OAG). However, this study will focus on women in the legal academy in Kenya.

Several studies on women's education in Kenya all seem to agree that there is a significant drop in the number of female students as one moves up the educational ladder (Eshiwani, 1985; Kamau, 2011; Kinyanjui, 1978; Maleche, 1976). Statistics show that even fewer women have access to the graduate level. For example, during the 1989/90 academic year at Kenyatta University, of the 227 students admitted to graduate programs, only 54 (4.2%) were women (Kamau, 2011, p. 120).

The overall position of women's education shows some slight improvements, as evidenced by the 2017–2018 statistics report published by the Commission for University Education (Commission for University Education, 2018). The report reveals that in 2016, the male-to-female ratio in Kenyan universities stood at 59:41, while the 2018 ratio was 58:42, an increment of 1% for females. The gender disparity in academic attainment is crucial because it is from this significant pool of graduates that women legal academics will be drawn (Kamau, 2011). These supply-side factors reveal that the chances of employing a critical mass of women in the academy will be limited or slow to materialize. More importantly, although increasing enrollment and hiring of women at all levels of the educational system is essential, it should not be confused with equality.

The possession of western formal education creates a new dilemma for African women. The colonialists initially introduced formal western education to the male gender to serve the need for manpower development. When formal western education was later introduced to a few colonial Kenyan women, it was an education for adaptability. This meant that the African woman was encouraged to remain the custodian of African culture while simultaneously internalizing 19th century Victorian capitalistic patriarchal ideas about domesticity and a woman's place.



In Kenya, therefore, women's lives began to be shaped and continue to be shaped by both old forms of indigenous culture and western patriarchal practices that live side by side, at times in clear lines of confrontation and with blurred distinctions (Robertson, 1985).

Cultural norms and expectations lead many people in Kenya to believe there is no gender discrimination and that women in Kenya, especially academics, are regarded as the elites and great mothers of society (Kanake, 1997). However, Many's (2000) study of Kenyan women professionals at the University of Nairobi highlights that although the university employs many of the country's leading advocates of gender equity in the political and public sector, these women are not vocal about the position of women within the university. A substantial body of research on women academics and career advancement in other societies mirrors some of the pathways and challenges women in the Kenyan legal academy face (Acker & Amenti, 2004; Blackmore, 1999; Morley, 2006; Morley & Walsh, 1996).

Chacha (2021) recalls that gender mainstreaming in Kenyan universities originates from a workshop in June 2004, which recommended that each university design a policy to enhance gender equity. Between 2008 and 2010, most Kenyan universities developed gender policy documents outlining their strategies to enhance gender equity. These strategies have since been revised to reflect the two-thirds gender rule stipulated in the Kenya Constitution 2010 (Chacha, 2021). In 2018, the enrollment of female academic staff in public and private universities in Kenya was 6,798 out of 20,408, slightly over 33% (Commission for University Education, 2018). Although the statistics indicate that the higher education authorities have met the constitutional threshold, they do not address the fact that women are underrepresented in decision-making organs within academia.

Over the last two decades, scholars have focused on the slow pace of growth in the number of women professors in Kenya. According to Raburu (2011), the number of women professors increased from 7.1% in 2000 to only 10% in 2010. Gachukia (2002) is cited in Raburu (2011) as stating that Kenyatta University had one woman Deputy Vice-Chancellor and two women professors out of 24, and Moi University had one woman professor out of 37 professors. By 2018, the figure had grown to 16.5% (Commission for University Education, 2018).

The existing studies on women in the higher education sector in Kenya have examined issues of gender disparities (Kanake, 1997), the role of women in university governance (Sifuna, 1989), women's participation in university management (Onsongo, 2005), equal opportunity policies (Many, 2000), and women's experiences in higher education (Kamau, 2004; Kipkosgei, 2019). The Kenyan 8th Periodic report to the CEDAW committee (Convention on the Elimination of All Forms of Discrimination against Women) acknowledged that the number of women enrolled in public and private universities had slightly increased. Despite this progress, parity in university education between men and women is yet to be attained at all levels in Kenya (CEDAW, 2016). This explains the historical paucity of women in leadership in university top management.

No study has yet documented women's experiences in the Kenyan legal academy. Therefore, this current scoping report provides an essential starting point for laying the foundation for future research to be carried out and for future investments in addressing the challenges women face in the legal academy in Kenya.

# 3 | THEORETICAL FRAMEWORK



Anti-essentialism, a central tenet of feminist theory, underscores the point that women are not all the same. Women's lived experiences vary along a continuum and are determined by past and current factors that cannot be neatly summarized as “women's experiences.” To understand women's experiences in the legal academy in Kenya, this study adopted intersectionality as a theoretical framework to test the proposition that women's lives are not singular and that individual and collective identities and positionalities intersect to create context-specific challenges that affect and determine their lived experiences.

Intersectionality addresses how various practices of inequity and identity combine to create discriminatory practices against women (Crenshaw, 1995). The notion of intersectionality has two main elements: the first is an empirical basis that denotes that an intersectional approach is needed to understand better the nature of social inequities and the processes that create and sustain them. Secondly, intersectionality has a core activist component, which means that an intersectional approach aims to generate coalitions between different groups to resist and change the status quo (Gillbom, 2015). This approach will allow us to understand the empirical data on women's participation in the legal academy in Kenya and how and whom to work with to overcome the challenges facing women in this sector in Kenya.

This report draws on intersectionality to articulate the complexities of advancing women's rights in the Kenyan legal academy, given women's multiple identities. The study attempts to highlight the nuances of the lives of women academics in Kenyan law schools through their career pathways to leadership and how the multiple identities of gender, age, ethnicity, class, rank, and disability impact their choices, experiences, and outcomes. Intersectionality is concerned with individual-level experience and transforming the systems that produce and maintain the marginalization of some groups and identities (Falcon & Nash, 2015). Understanding the experiences of the marginalized groups who stand at the intersections of these discriminatory practices allows for interventions and advocacy to drive support for institutional change. Advocating for and driving institutional changes will ultimately benefit universities as well as the staff in the universities.

Transformation requires engaging with existing allies and cultivating potential allies to support the career path for women across the ranks in the faculty (Collins et al., 2021). While drawing largely on intersectionality as a framework, the study centers on the personal experiences of women in the Kenyan legal academy. The study uses interviews as a storytelling technique to understand women academics' career experiences who share their failures and victories in protected spaces where women speak candidly.

The scholarship on intersectionality has long embraced the complexities of identity and how that complexity interacts with institutions (Meer & Muller, 2017). Increasingly, as understandings of intersectionality circulate more widely, it is transforming debates on the politics of difference, engineering a new worldview of social identity categories such as race, gender, class, sexuality, and ability (Meer & Müller, 2017). Intersectionality refers to the interconnectedness of social identities and how these identities operate concurrently to produce simultaneous experiences of privilege, oppression, and marginalization. Therefore, scholars must recognize the differences that exist within groups. As a body of scholarship and a social justice paradigm, intersectionality is critical in identifying and understanding societal power hierarchies (Crenshaw, 1989).

Crenshaw (1989) identified three tenets of intersectionality that are useful in giving voice to women's experiences in the academy. These tenets inform the strategies that help address many of the barriers women face. Firstly, intersectionality scholars emphasize that women's experiences cannot be simplified as emanating from a singular "ism," but are the product of multiple "isms." Secondly, intersectionality allows us to understand that while race, gender, and class are leading determinants of power and marginality, determining which group identities are privileged or marginalized at any given time or location is a matter of understanding the context (Crenshaw, 1989). Finally, the coexistence of privilege and marginality is a reality for women. It requires an appreciation of that reality in how we theorize our own experiences and create thoughtful and strategic alliances (Crenshaw, 1989).

These reflections are mirrored in the Kenyan legal academy. It is not surprising that women's experiences within the legal academy in Kenya are similar to those of women within academia worldwide. The literature on women in the academy overwhelmingly asserts that women experience the academy as a hostile environment. Women are more likely to perceive that they are undervalued, suffer from isolation, have their classroom authority challenged, and are perceived as generally less competent than their male colleagues (Thomas & Hollenshead, 2001).

Situating this study in an intersectional framework that focuses on the contextual factors within Kenya advances our understanding of how power dynamics at the institutional, structural, professional, and personal levels can intersect to reproduce multiple layers of marginalization and discrimination that affect women's pathways to leadership in the Kenyan legal academy. While these findings present a general overview of women's experiences in the legal academy, other factors may exist that have not been fully captured by the current study, hence the need for more research.

# 4 | METHODOLOGY



The study used a mixed-method approach, using interviews with elite women academics and focus groups with students to elicit responses to questions on women and leadership (Miles and Huberman, 1994; see also Bryman, 2004). The study's sample size was 40 participants, consisting of 6 women deans and associate deans, 15 women law professors and lecturers, 9 male law professors and lecturers, and 10 female and male student leaders. The former and current women deans and associate deans were interviewed using qualitative approaches to understand their journeys to and challenges in leadership positions.

The small sample size in this report was influenced by several factors. For example, limited time and resources for conducting the study constrained the researchers' ability to recruit a larger sample size. Low response rates were also a significant factor, often due to factors such as interview fatigue. Moreover, the demands of COVID-19 protocols, which restricted physical meetings and movement, meant that fewer academics than would have been ideal were interviewed.

Female and male academics at different ranks within the academy were interviewed to provide a balanced account of gender-related issues in the academy. Two focus groups were conducted with the student leaders to understand the experiences of student leaders and what factors inform the motivations of female students to seek leadership. Surveys were administered to all 40 respondents to elicit responses on their perceptions and experiences of gender diversity, the inclusion of women in leadership, the importance of mentorship, and gender-based biases against women.

The faculty represented in this sample was drawn from three universities in Kenya, namely the University of Nairobi, Moi University, and Egerton University. In order to ensure a representative sample of responses, the geographical representation of the universities and the length of their existence were considered. The University of Nairobi and Moi University are the oldest schools of law in the country. Therefore, they have a long history of women's experiences in the institutions. Egerton University is one of the new entrants in the provision of legal education. Including both old and new universities make possible a comparison to see changes in society's attitude towards women's representation in leadership.

Of the 16 law schools in Kenya, nine are in Nairobi, hence the choice to pick the University of Nairobi as a representative of the schools; it was the first law school established in 1970 and has a rich history of female students and staff from its inception. Moi University was the second law school established in 1994; it is located in Eldoret, in the middle part of the country, in the Rift Valley region. Egerton University is in Nakuru County, northwest of Nairobi, and is the largest urban city in the former Rift Valley Province. Egerton University was established in 2015 and admitted its first students in 2016—after the passage of the Constitution of Kenya in 2010, which includes provisions for balanced gender representation in both appointive and elective positions.

Using a purposive sampling technique, the research team contacted women deans and law lecturers and explained the purpose and goals of the study. Interviews were voluntary and lasted no more than one hour. The voluntary nature of the research meant participants had no obligation to take part leading to a limited number of respondents. The interviews were conducted through various methods—in person, via video conference, by telephone conferencing—and with the interviewees' consent. Ethical considerations included protecting the participants' identity in the research output by anonymizing their names, ranks, and location. The interview questions sought to elicit a broad understanding of the professional trajectory of the women deans and law lecturers.

The questions included the family circumstances and factors that contributed to their careers and the educational experiences and significant events in their lives that affected the development of their careers to identify the motivational factors to pursue a career in academia and to elicit the challenges women face in leadership positions. However, the sensitive nature of some questions raised concerns about possible reprisals from participants' supervisors, and respective governments might have contributed to a lower response rate.

The researchers asked additional questions to: (a) highlight the skills and attributes that contributed to the respondents' success in their careers, (b) examine any challenges the interviewees faced in their careers, (c) focus on strategies they employed to reach their present ranks and (d) provide a roadmap to succeed in academia. The interview data were analyzed and interpreted for emerging themes backed by existing scholarship.



# 5

## WOMEN AND LEADERSHIP IN THE KENYAN LEGAL ACADEMY



Women's participation and representation in any sector of society is a human rights issue. The legal academy is not a gender-neutral space. Therefore, women must be at the decision-making table to promote women's issues. For example, the presence of female professors of law and academics in any law school, who also hold leadership positions, can have multiple effects on women and girls pursuing a legal education and aspiring to become academics. The following discussion focuses on the actual and hypothesized effects of women in academic leadership.

### 5.1. The law schools

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To understand women's symbolic representation in Kenyan law faculties and schools, the study examined 16 universities across Kenya. Table 1 shows the gender-disaggregated data. For an in-depth analysis of women's experiences, the study focused on three universities: the two oldest law faculties (the University of Nairobi and Moi universities) and one newer law school, Egerton university. Data collected as of July 2022 indicate that women currently make up 38% of deans in the Kenyan legal academy (see Figure 1). A longitudinal study of women's leadership since the inception of these law schools will allow for a deeper comparative analysis of women's symbolic representation.



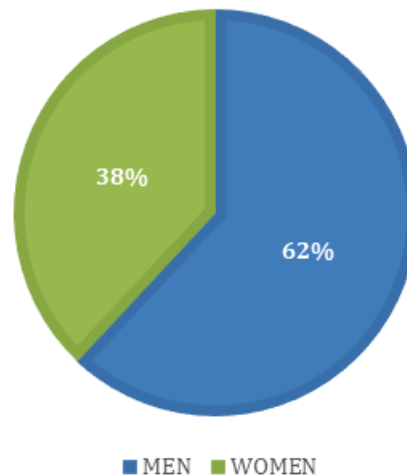
**Table 1 | Sex-disaggregated representation of deans at law faculties/schools in Kenya as of July 2022**

INSTITUTION	LOCATION	YEAR ESTABLISHED	WOMEN	MEN
University of Nairobi	Nairobi	1970	1	0
Moi University	Eldoret	1994	0	1
Kenyatta University	Nairobi	2008	1	0
Jomo Kenyatta University	Nairobi	2008	0	1
Egerton University	Nakuru	2016	1	0
Catholic University of East Africa	Nairobi	2005	1	0
Africa Nazarene University	Nairobi	2010	0	1
Strathmore University	Nairobi	2012	0	1
Riara University	Nairobi	2012	1	0
Daystar University	Nairobi	2018	0	1
Kabarak University	Nakuru	2010	0	1
Mount Kenya University	Nairobi	2009	0	1
Kisii University	Kisii	2009	0	1
Embu University	Embu	2019	0	1
Umma University	Kajiado	2021	0	1
Chuka University	Chuka	2021	1	0
<b>TOTAL</b>			<b>6</b>	<b>10</b>

Source: Data gathered from the university websites, 2022

**Figure 1 | Deans of law schools**

**Deans of Kenyan law schools as of February 2022**



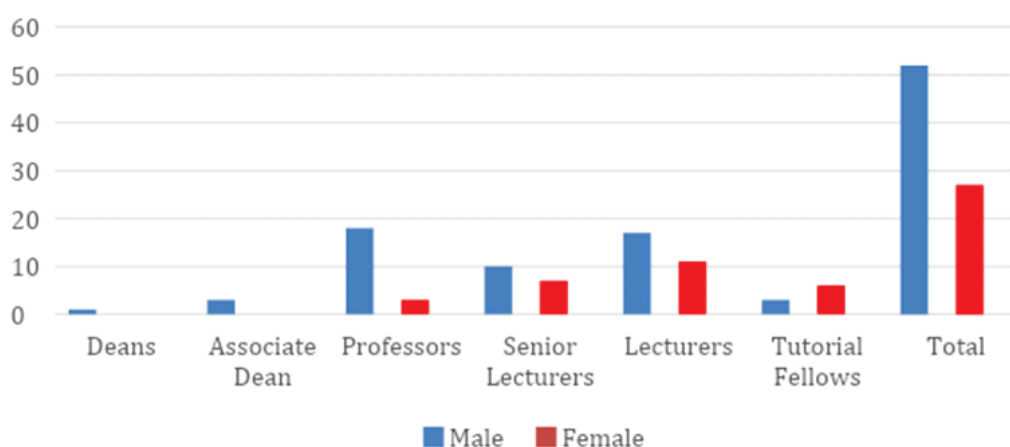
Source: Data gathered from the university websites, 2022



## A. University of Nairobi school of law

The University of Nairobi school of law is the first school of law and the largest employer of legal professionals in academia. Prof. Patricia Kameri-Mbote was the first female dean, serving from 2014–2018, and the first woman in Kenya to be promoted to full Professor. In addition, two women hold the rank of Associate Professor. The majority of the women occupy lecturer and senior lecturer positions. Currently, women comprise 35% of the faculty at the school of law, as shown in Figure 2.

**Figure 2 | Faculty and leadership at the University of Nairobi School of Law, including all satellite campuses, as of July 2022**



Source: University of Nairobi School of Law, 2022

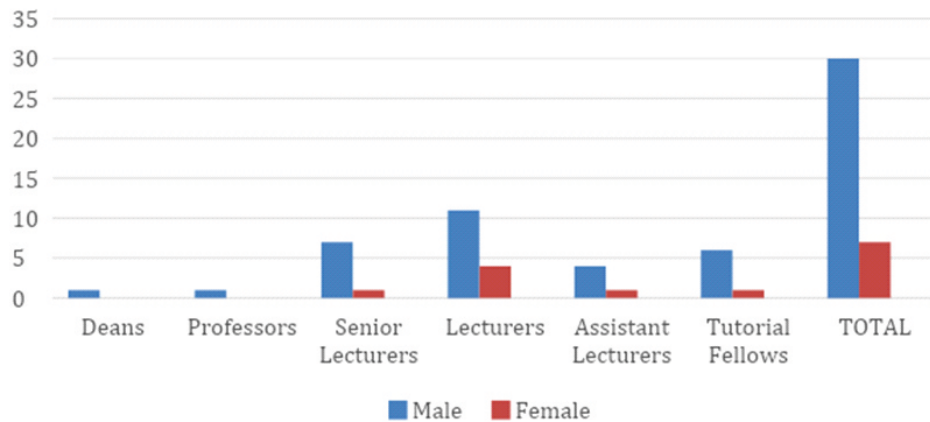
## B. Moi University school of law

Moi University was the second public university to offer law, in 1994, 25 years after Nairobi Law school. According to the staff and one of the pioneer law faculty students, the staffing was lean in the establishment and, in the beginning, there were no female lecturers. The slightest change came with just one full-time female staff member among seven male staff members. After 2000, the university employed four more women. Figure 3 presents the current sex-disaggregated data on the faculty, showing that women comprise only 19% of the faculty.





**Figure 3 | Faculty and leadership at Moi University School of Law as of July 2022**



Source: Moi University Faculty of Law, 2022

Universities founded after the University of Nairobi have fewer women who hold the position of Professor or, as in the case of Moi University, none.<sup>2</sup> Moi University Faculty of Law, the second to have been founded, has fewer female than male staff.

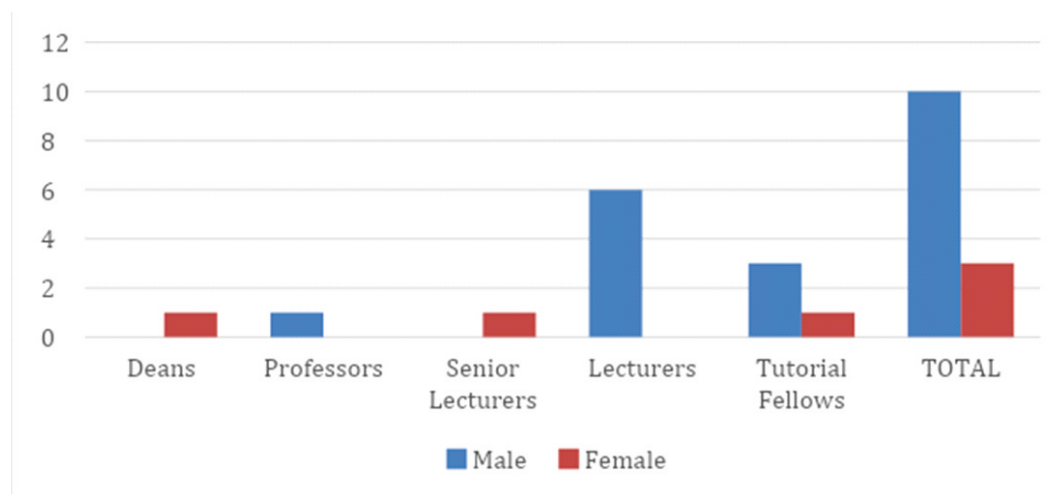
### C. Egerton University

Egerton University Law School was accredited in 2016. Egerton also has few women faculty members, but as of 2022, the position of dean was occupied by a woman. Women currently comprise 23% of the faculty at Egerton University (see Figure 4).



<sup>2</sup> Most universities, including Catholic, Egerton, Mount Kenya, Kisii, and Kabarak among others, have few professors, and most establishments have deans whose positions are at the senior lecturer or lecturer rank, both because of the few titles in academia in this field due to the promotion criteria to get the level of Associate Professor or Professor.

**Figure 4 | Faculty and leadership at Egerton University Faculty of Law as of July 2022**



Source: Egerton University Faculty of Law, 2022

## 5.2. Symbolic representation

The data from the three universities sampled for this study suggest that women comprise 27% of the faculty in these universities combined. As the oldest institutions in the country, the University of Nairobi and Moi University have done well in recruiting and retaining women faculty in the past decades. However, that is not always the case for the faculties of law founded recently, such as Egerton University, which scores low at 19%. With the low number of women represented at these universities, a lower number of women in leadership is expected. The findings for Kenya deviate from the scenario elsewhere, where newer universities and faculties tend to provide more opportunities for recruiting women faculty (Dawuni, 2021). As of July 2022, Kenyatta University Law School, Egerton University Law School, Nairobi University Mombasa Campus Law School, and Nairobi University Kisumu Campus Law School were led by women deans and associate deans. The underrepresentation of women in the legal academy is historical, given that they were largely absent from the profession in the earlier years. Teaching requires another level of learning; a teacher at the entry point must have attained a master's degree in law or a doctorate. For an extended period, women lawyers were disadvantaged in education and were not admitted to mainstream traditional courses and careers, which were the preserve of men. Hence, only men progressed to the higher levels of education needed to become lecturers.

## 5.3. Modeling the effects of women's representation in academic leadership

Based on the data presented, it is evident that women are falling short of the 30% benchmark that is typically regarded as necessary to achieve a critical mass capable of initiating change. Informed by the interviews conducted with women academics, the discussion below presents four models of women's leadership in law, categorized as follows: *leadership effect, substantive representation, role model and leadership change effects.*

## A. Women in academic leadership – leadership effect

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As the number of women pursuing a law degree increases, the opportunities for women to pursue legal careers widen. Though women continue to dominate the lower ranks of the academic ladder, a few have funneled their way into leadership positions. However, it is important to acknowledge that having women in leadership positions can come at a cost to the “pioneer” women occupying these positions. It may be more appropriate to shift the focus from asking “Are women in leadership positions?” to “Where in the leadership landscape are the women located?” Many of the respondents in this study agreed that representation was not a significant issue at their law schools, but they qualified that symbolic representation was insufficient.

A respondent explained:

**There is the question of the type of leadership positions women are given. The leadership positions I have been given mostly require me to dedicate much time and energy to the role, which would eat a lot into my academic work than most of the other team leaders (mostly male). I would be the one to set up meetings, coordinate, plan, and hold up the whole project, even though it is ideally meant to be teamwork or a group effort. This is partly why I have turned down some offers to take up leadership roles. It is more about the type and how much they will affect my well-being and career progression.**

Women have had to be selective and strategic about whether they take up leadership roles because of the blurred lines between the social expectations of women as caregivers at home and the expectations of extending such caregiving roles to the workplace. The multiple axes of expectations on women mean that women have to put more effort into their leadership roles. The demands and expectations placed on women in leadership positions can deprive them of the time needed to focus on academic work and research, typically the primary factors for promotion within academia (Acker & Feuerverger, 1996).

## B. Women in academic leadership—substantive representation effect

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The study also revealed that women add value to the academy. Therefore, their presence and participation in the academy are imperative in solving issues that affect women directly.

A respondent affirmed this:

“

**Women understand women's issues and sexual harassment prevention. They take the initiative to address women's issues. For example, sexual harassment was a problem on campus, but no attempt was made to address the issue until I took the initiative to develop an anti-sexual harassment policy. The reason being that, as the Associate Dean, students come to me with issues of sexual harassment as well as other workers and female lecturers. However, there was no forum to discuss these issues nor policy to address them. Men were not sensitive to the issues affecting the females. This made me [take] action and develop the said policy.**

”

It can be argued that the gender of an academic is important not because women and men are inherently different as people but because they are at least differently positioned. As a result, there are cases in which their perspectives and interests might diverge, especially on gender-based issues.

Some respondents affirmed this proposition, one of whom said:

The Constitution pushes for equal opportunities for male and female students. It also promotes equity and the uplifting of women to take up leadership positions to fill in the gaps compared to their male counterparts. Women must be included such that discrimination based on sex and gender roles is eliminated. This will push for an empowered society, and women in leadership positions imply that their issues will be aired out and the issues affecting them advocated for.

The equal representation of women also has a knock-on effect on other women to aspire to leadership roles. Respondents mentioned the continued existence of several barriers to women's career paths in the legal academy. They emphasized the importance of more female participation and representation in the academy at different levels and on equal footing with men. In addition, women must participate and be represented in positions of leadership to bring attention to their unique perspectives and interests.

One of the respondents stated:

Females make up more than half the population; hence, their exclusion means missing out on half the population's contribution in the legal sector. Women are known to be more honest and empathetic besides being professionals. These added values would improve service in the legal sector. Women would also help advocate for facilities for other women, such as the provision of childcare facilities at the workplace. These facilities would enable more women to join the workforce and retain their jobs rather than drop out due to childcare.

The responses above suggest a consensus that women in leadership roles have the ability and make significant contributions to other women's experiences within the legal academy. This consensus is exemplified by the proactive stance of the respondent, who developed an anti-sexual harassment policy for her university.

### **C. Women in the academy—the role model effect**

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Mentorship forms an integral part of one's professional career. While there are few formal avenues for mentorship, most young women look up to role models from whom they learn and aspire to be like them. Kipkosgei (2019) identified the lack of women in Kenya's higher education and the challenges the few in the academy face as factors discouraging other women from pursuing a career in higher education. Women in the legal academy act as role models to many young girls and women who aspire to join the profession. Sometimes, students may develop relationships with law professors who act as mentors and advisors.

One of the interviewed women students expressed her reasoning and the impact of discovering a woman:

“

**In the first year [of law school], we got introduced to the law, and it was more like joyriding. From the second [year] the course became tough, and I felt like giving up. Then while reading some judgments, I came across Professor Mbote, and I decided to google and read more about her. Her work inspired me, and I resolved to continue with my studies with the hope that I would one day be a good professional like her.**

”

The respondent added, “Professor Mbote inspires me, her work is amazing, and someday I will want to be a law professor. I am working hard towards this and have already applied for a master's degree in law.”

The presence of such good role models is an inspiration for young female professionals or law students joining the legal academic sector.

A respondent discussed her motivations and aspirations for joining the legal academy:

For me, it came naturally since it was my second option after engineering. I have always wanted to do it growing up, looking up to people like Hon. Mary Ang'awa and Hon. Effie Owuor, whom I was purposefully named after. I have currently enrolled for my masters at Sheffield University and would like to come back and teach and further enroll for my Ph.D. I would also like to litigate as I believe that a good teacher brings theory plus practice.

The increase in female academic legal professionals will create a critical mass for gender-sensitive work conditions. This resonates with a male lecturer who said that increasing the number of females would inspire young girls to join the academy, thereby boosting academic morale.

A respondent stated:

“

**[The] role of mentorship and role models have contributed to seeing more women in the legal academy. The composition of classes in the 1990s is different from what it is now. There has been an increase of women academics and even [female] students. In some classes where I teach, females are more than males, and generally, the ratio is close to 50:50.**

”

Another respondent was resolute in stating that it is not just the numbers that matter, but the presence of women is just as crucial, as they bring different perspectives to the discussion of the law. Women's presence in the educational system can help shatter gender stereotypes about the roles that women are expected to occupy in society (Wilson, 1990).

#### **D. Women in the academy—leadership change effect**

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In the 16 law schools in Kenya, profiled in Table 1, women account for 38% of the current decanal positions at the time of this publication. While there have been improvements in the number of women taking up leadership positions, many challenges remain to break down the remaining bottlenecks to women's leadership. Until that happens, the encouraging trend shows that women's symbolic representation can positively impact other women.

According to a former law school dean, from her experience, women can be influential figures at the top of the academic pyramid:

**The female to male ratio in the academy is ok[ay]. Female lecturers are there, but they occupy lower positions in the academy. [Women] lack presence at the top positions or rankings in the academy, they are many at the assistant lecturer and tutorial fellows positions. I encourage females to acquire a doctorate. This is a duty I did religiously to both men and women: I encouraged them to pursue a doctorate. Of course, some females were resistant. Now the number of women with PhDs has grown. This increase is attributed to women going for their studies and more role models. Role models are powerful as females see women doing what they can do and get the courage to do similar things.**

The respondent, however, cautions, *“my advice to young women academics is that one can only be encouraged to do well but really cannot emulate another—chart your own path.”*

For others, the change is not happening fast enough. Despite the growing numbers of women in the legal academy and the trickle-up effect for those accessing leadership positions, women continue to encounter a steeper rise to the top due to the confluence of intersecting axes of oppression and historical and current practices of exclusion and subordination. According to one respondent, while the gender diversity gap of the faculty may be closing, the “ratios have not significantly changed – senior lecturers are mainly men.” Men continue to dominate in the upper levels of the academic profession hierarchy. The next part explores some of the challenges hindering women's upward mobility and the reasons for them.





# FINDINGS





# 6

## RECRUITMENT AND PROMOTION IN THE ACADEMY



Historically, legal academics are drawn from the legal profession. The prerequisites for pursuing a career as an academic differ among universities. In the past, having a law degree was enough to teach at the law school or in a law faculty. In recent years, law faculties have required people to possess a doctorate to teach. The assumption is that all people with the requisite qualifications are equally likely to be employed in the academy. The discussions below present a different outlook on the chances of women entering and being promoted in the academy.

### 6.1. False gender neutrality in the recruitment and promotion of women

Transparent recruitment processes can create opportunities for women's entry into the academy. The lack of transparency in the recruitment and appointment processes is one of the key factors identified by some respondents. The processes are shrouded in mystery. Some respondents said that their hiring chances are limited if the first entry point is not fair enough and deliberately geared to integrate women. Even when women are hired, there is a slower trickle effect up the ranks. Hence, men continue to dominate and occupy strategic leadership positions.

As more universities require a doctorate as a prerequisite to joining their faculty or for promotion, women stand to lose many opportunities in the academy. To join the academy, one needs both experience and the minimum qualification of a master's degree. Traditionally, most women academic aspirants do not have these qualifications due to socio-cultural factors and intersecting challenges that demand women be married off while young or restrict them from further studies because of family obligations. Increasing numbers of women are now pursuing higher education and attaining, at the minimum, a master's degree, thereby increasing their chances of being considered for an academic position. Most law faculties have the requirement that once employed, an individual has a certain number of years to complete their doctoral program. Such demands are not always easy for women to fulfill, who often begin their families at this stage in their careers.

The Commission for University Education Report (2018) reveals that the number of male academics across all ranks was higher than that of females.

The ranks of professor, associate professor, and senior lecturer show more gender disparity than those of lecturer and graduate assistant. This demonstrates that the disparity between the male and female academic staff widens as academics move to higher ranks. This can also be explained by the trend reflected in the gendered enrollment of students by degree, as shown in Table 2, with fewer women at the higher levels of postgraduate degrees.

**Table 2 | Enrollment in public and private universities by degree of study by gender**

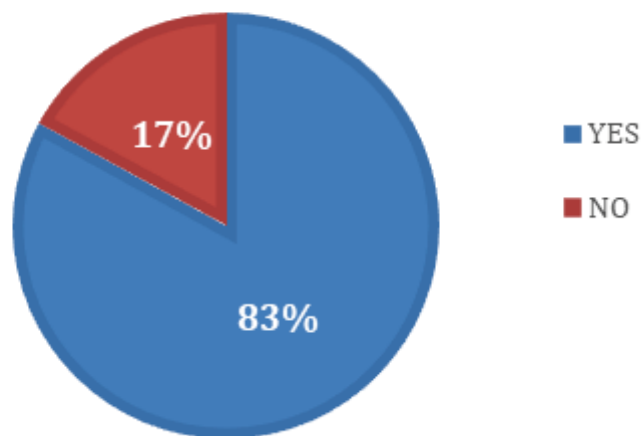
Program of study	Gender			Total
	Male	Female	% Female	
Doctorate	19	5	21%	24
Master's	516	208	29%	724
Postgraduate	2	0	0%	2
Bachelor's	3,237	3,241	50%	6,478
Diploma	1	0	0%	1
<b>TOTAL</b>	<b>3,775</b>	<b>3,454</b>	<b>48%</b>	<b>7,229</b>

Source: Commission for University Education 2018

Survey respondents were asked if women were fully represented in the legal academy, and the responses indicate that an overwhelming majority, 83%, felt that women were not adequately represented (see Figure 5). Women's inadequate representation went beyond the numbers to include limited opportunities for the representation of their views and voice and their pursuit of leadership mobility.

**Figure 5 | Women's representation in the legal academy**

**Are women adequately represented in the Kenyan legal academy?**



Source: IAWL survey, 2022

The Commission for University Education recognizes the glaring disparity, especially at the different levels of programs for the law faculties, as highlighted in Table 2. At the doctorate level, there are fewer women than men; at the master's level, the number of women is less than half the number of men; at the bachelor's level, women are slightly more. These figures lend credence to the underrepresentation of women, as highlighted by the respondents in the study. Even a male respondent acknowledged the challenges women face in the early stages of their careers:

**“While there are limited opportunities for all in academia, women may be more prejudiced in this area at early career stages, perhaps because of gendered roles in their families. Professional growth in Kenyan universities is always pegged on an advanced degree, i.e., a Ph.D., which takes several years to attain and pursue. This may be a challenge, especially for women with families.”**

The barriers women face in participation and representation are not limited to entry but also extend to upward mobility within the profession. There is growing evidence post-2010 that more women are being recruited into the academy but still face many challenges.

A respondent said:

In the past, the discrimination was very high in the legal academy, but now women have taken positions, and more women have taken over. When it comes to professorship, women are still discriminated against. I have applied for the position, but despite being qualified, men are still advantaged. Men are favored and discussed at a forum or the “men's club.” Top management at the University is male-dominated, at the mid-level, we are at par with men, but at the apex, the men dominate. University Executive Management Board is still male-dominated, and the composition is still skewed.

All the respondents who said that men and women have the same intellectual capacity to work in the academy based on their qualifications echoed this sentiment. However, this is not the case only for meeting the entry qualifications; even those with the right qualifications have experienced discriminatory and exclusionary practices. This confirms the false gender neutrality in promotion processes.

One respondent recounted:

**The entry point was difficult. I got in as a part-time lecturer. The practice then was that after six months, one would be employed as an assistant lecturer. When the position was advertised, issues arose with the faculty, they wanted someone else, [a candidate who was not qualified] was employed. I was denied a chance, yet I was qualified. One colleague left in protest, but I stayed on. I was called for another interview one year later and was employed as Assistant Lecturer, yet I was the best and should have been engaged as a lecturer, nevertheless became a lecturer with time. I applied for the position of Associate Professor, I had all the requirements, yet not shortlisted instead, a male lecturer who did not have a Ph.D. was shortlisted. When I made inquiries, no response was forthcoming. Then a position was advertised for which I was the only one who qualified, so I was promoted to Senior Lecturer and became the Chair of the Department. This did not stop, the environment was not conducive. During my appraisal, a male colleague indicated that my performance was sub-optimal. He was very mean, but here I am, a professor of law.**

Therefore, the argument that the proportions of the positions are based on academic rigor is not wholly accurate. This statement of events clearly shows that the system of employment and promotion is skewed against women.

The response above is corroborated by an earlier study by IAWL– Women and the Legal Academy (IAWL, 2021). Professor Dee Smythe reported that women legal academics usually decide to apply for promotion when they are overqualified (IAWL, 2021). There is overt discrimination against women, perpetuated because of misogynistic tendencies. Some of the women's responses suggest that with women at the helm of academic legal institutions in Kenya as deans, associate deans and chairs of departments, the recruitment and promotion processes have somehow improved compared to the last two decades.

## **6.2. Double jeopardy—compulsory assimilation, performativity, and extra labor**

Women faculty members face the presumption that they were hired based on gender and are, therefore, not qualified for their positions. The presumption that women are not qualified results in extra scrutiny of their teaching, scholarship, and service (the double standard). Women faculty members encounter constant pressure to prove themselves and overcome the resentment of their colleagues by making extraordinary efforts to “fit in” and put others at ease.

This sentiment was also shared by a participant who revealed that she was often given duties that did not contribute to her academic work, but she felt obligated to accept them for the sake of collegiality.

The majority of those interviewed felt compelled to conceal or mute aspects of their identities to make their students and colleagues feel comfortable—to mask the very diversity that makes their presence in legal academia so valuable. They may sidestep controversial topics in the classroom and faculty gatherings, shun modern hairstyles or attire, and behave in gender-conformist ways to avoid triggering stereotypes, such as “the angry woman.” One respondent recounts, “*when I was in one university, people could not talk. Lecturers were not supportive; they saw me as a man more than a woman. I fought many battles.*” Sadly, the need to appease detractors to survive in an unwelcoming environment has led women academics and student leaders to remain silent in the face of unfair or discriminatory treatment. Women students and women academics in Kenyan law schools who complain about sexual harassment, pay disparities, and faculty incivility are likely to see their careers disrupted.

A respondent recounted the humiliation she went through:

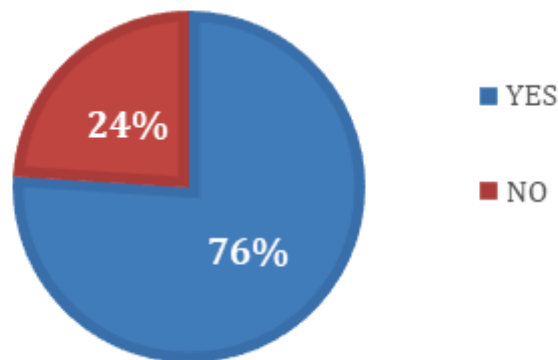
**The school board meetings were the worst and had many gender slurs. The men would say that women could only do three things: one, cook in the kitchen, two, to be slept with, and three, to bear and take care of children, and therefore implied the females were in the wrong place. Whenever they said that, I would tell them off and insist that the statements are withdrawn before the meeting proceeded, or else I leave. If I did not go through this, there would be no path. I can see the path I have made.**

According to 76% of the respondents for this study, women academics in Kenyan law schools are generally expected to carry heavier teaching and service obligations than their male colleagues to demonstrate that they are team players fully committed to their school's mission (see Figure 6). One respondent who stood out was categorical that in her experience, women are mostly given organizational work and do most of the heavy lifting in administrative tasks, leading to less time to work on publications, hence stagnating their academic growth. Compared to their male colleagues, women may teach more courses during the academic year (including courses on gender, women, and the law) at the expense of scholarship.

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**Figure 6 | Teaching and service expectations of women**

**Are women expected to do more teaching and service work?**



Source: IAWL survey, 2022

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The double burden of service obligations weighs heavily on women. Women academics in Kenyan law schools are often appointed to several law school and university committees, assigned as faculty advisors to several student organizations, expected to be the face of diversity at every student and university function, and pressed by their communities to offer legal advice and assistance. One of the respondents echoed this sentiment and expressed her dissatisfaction at how she was always given activities or required to attend to issues not geared toward her academic progression. In addition, women are likely to be sought out as mentors by women and others whose identities differ from the institutional norm. Most of these tasks offer little or no benefit to their promotion and career progression. These obligations are exhausting, leaving little time for scholarship, and may jeopardize their careers and upward mobility within the profession (Acker & Feuerwerker, 1996; Dawuni, 2021).

### **6.3. Scholarship and teaching biases**

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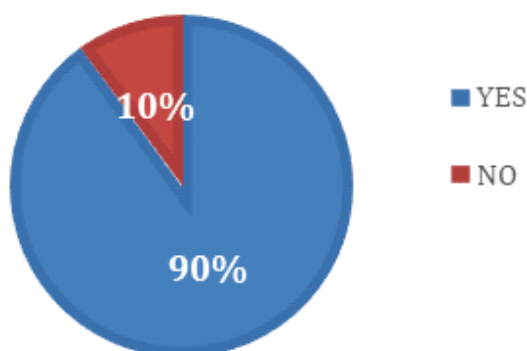
In addition to burdensome teaching and service obligations, female faculty in Kenyan law schools frequently encounter skepticism about their abilities as scholars despite stellar credentials and substantial publication records. Colleagues may not regard their writing on gender, class, and sexuality as intellectually rigorous, or they may believe that women (unlike their male counterparts) cannot be “objective” when writing or teaching about such contentious topics. Paradoxically, the women academics who teach and write in areas other than family, children, and gender find that their qualifications are repeatedly questioned and that they are marginalized in their respective disciplines.

Respondents were asked if they felt or had expressed gender-based biases in their scholarship and teaching. The survey response revealed that 90% had experienced or felt gender bias against women faculty, as shown in Figure 7.

In reflecting on these challenges women face in the scholarship biases, one respondent posed pertinent questions in her interview:

**“Gender discrimination exists everywhere, including in law schools. It is seen by the allocation of courses. Why are some courses seen as the preserve of female lecturers? Why is Gender and the Law only taught by female lecturers?<sup>3</sup> Why do we still experience gender discrimination in boardrooms of university management? Why is high-level university management dominated by men?”**

**Figure 7 | Do women face gender bias in the legal academy?**



Source: IAWL survey, 2022



<sup>3</sup>There is a deliberate effort, according to 67% of the respondents, to develop teaching in such a way as to have gendered teaching roles in the academy, whereby courses such as “Gender and the Law” and family law are seen as ones that should be taught by women.

A respondent explains the gender bias in course selection:

“

**Women professors are not made to teach the courses, but you find that during course allocation during faculty board meetings, the men rush to pick the courses that are traditionally perceived to be more masculine and suitable to them. The men are reluctant to take family law, gender, and child law. Men often argue that women have a soft touch and are nurturing, and therefore in a better position to teach those courses. In one scenario, a colleague once said that gender is for women and women should teach the course because they understand women's problems, yet gender encompasses men and women. The perception is that gender is synonymous with feminism/women, and the wrong perception is that feminism is about women who are out to fight men. Perhaps there is a need to debunk this myth about the courses.**

”

Another respondent described her experience as an academic and pursuing a Ph.D. at the same institution where she was teaching:

The challenges were purely gender-based. No woman had graduated with a Ph.D. from the faculty. The worst part of the supervision process was when the reader decided that I change my topic and defended twice. My supervisors were confident I would go through, but the reader dismissed my topic without giving me a chance to defend. I was told to do a completely different thesis. It turned into a quarrel; new comments were to materially alter the thesis far from the topic. My experience was very difficult. It was not easy. It was an ego issue. The men did not like it, but I still graduated.

The survey data and responses above strongly suggest that whether in their teaching, research, or pursuit of higher education, women in the legal academy face intersecting biases and discriminatory practices deeply embedded in the power structures within the institutional arrangements.

#### **6.4. Mentorship, ageism vs. godfatherism as a pathway to promotion and leadership**

The interview responses from younger women academics and women student leaders in Kenyan law schools reveal that women legal academics who become professors typically do not receive the mentoring they need to understand the opaque institutional codes, ambiguous tenure and promotion requirements, and byzantine faculty politics that will determine their professional destinies. The academic landscape is littered with landmines and unwritten rules that may torpedo the careers of those who do not receive proper guidance and support.



In addition to mentors, women also need allies—highly respected senior faculty, often male, who will advocate for them in faculty meetings and behind closed doors when they are being reviewed for promotion. Although there is an increasing number of women in the legal academy, they still face marginalization as a minority group, particularly because they often occupy a position at the intersection of age, gender, and sex. While male allyship is essential in the fight for gender equality, there can sometimes be a thin line at the intersection of ageism and sexism, as captured in the Ghanaian context as noted by Dawuni (2021:166):

The concentration of women as junior faculty in the lower academic ranks implies that they will adversely be affected by the impact of age on their relative standing within the faculty, where the most senior are often men. The boundaries between ageism and sexism are further blurred when a junior female faculty must constantly navigate the boundaries of deciphering when unwanted gestures and comments should be regarded as generational and when these should be taken as sexist and discriminatory. Each person must make that call in how they choose to handle such situations, and it is not easy for women faculty confronted with sexual harassment to respond to such negative gestures without being punitively characterized as disrespectful. The fact that women will have to choose between speaking up or keeping quiet is a clear sign of gender inequality.

For young women academics, standing at the intersection of age and sex/gender can be a dangerous tightrope when a male ally begins to make sexual advances. The fear of saying no and being retaliated against is a fear most young women academics must constantly navigate.

The shortage of senior women faculty who can act as role models and mentors compounds the problem, as does the outright hostility of some senior faculty toward junior faculty.

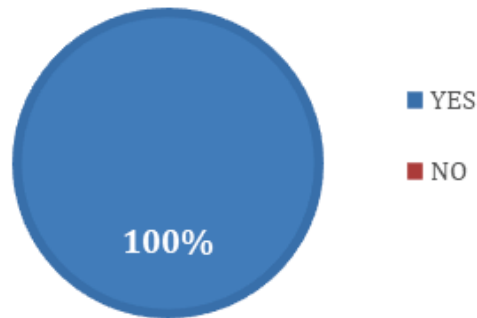
One senior woman lecturer recounted:

**“Whatever I went through, nobody should go through. It was difficult but I endured. The males did not suffer the same pain or frustrations I went through. There were no females to look up to, and few females to discuss issues with. When I joined, there were only three women, two others and myself. One would leave later to join the UN, and the other returned to her country.”**

Generally, women acknowledge the critical role of mentorship in encouraging other women to develop professionally. As shown in Figure 8, the survey results show unanimous agreement about the importance of mentorship for women legal academics.

**Figure 8 | Role of mentorship for women legal academics**

**Is mentorship important for women legal academics in Kenya?**



Source: IAWL survey, 2022

One respondent stated:

The path has been beaten. Female staff are many, about 50:50. Professors are few, but they are getting there. They are there as chairs of departments on campus. It has changed. The campus is now headed by females. Entire heads in the Mombasa campus are females, from the associate dean to the chairs of departments and the campus coordinator. There is strong, intentional mentorship by Prof. Patricia Mbote, from her and other males like Dr. Njaramba. Patricia was encouraging and pushing us to pursue a Ph.D. and publish too. We have more Ph.Ds now through this mentorship.

The fewer women in the legal academy have meant fewer opportunities for women to receive sustained mentorship. The few women at the top are inundated with work and their survival, which sometimes leaves minimal time for effective and targeted mentoring. Therefore, mentoring has been a significant barrier for women in the Kenyan academic legal sector.



# 7

## BARRIERS AND POINTS OF ATTRITION IN THE LEADERSHIP PIPELINE



Women have made considerable strides in the legal academy in Kenya. Their presence is felt in different areas of the academy, including publications, supervision of theses, mentorship, moot courts, and teaching. Despite their growing presence, women are not at the apex of the academy. This part explores the challenges and barriers women face regarding representation at the power echelons in these institutions.

### 7.1. Gender-based discrimination and sexual harassment

Although more women are entering higher education, gender-based discrimination and sexual harassment still affect junior female faculty and female students on university campuses. Gender-based discrimination can take many forms, sometimes overt and other times subtle and covert. These practices are sometimes considered culturally acceptable forms of interaction—for example, calling a female colleague “my wife” or making remarks about their clothes and looks.

The medium to long-term effects of such microaggressions can have disastrous impacts on women's well-being and ability to function optimally in spaces that are not safe. Many women academics in Kenya do not have the luxury of quitting their jobs because of such aggression. They also do not have avenues for reporting perpetrators, who are often high in the power hierarchy. Women victims of such acts suffer in silence. Women who are courageous enough to report such misconduct and confront patriarchal practices and discriminatory norms may encounter obstacles regarding course assignments, approval for leave, promotions, or travel to conferences.



A respondent summarized these practices in these words:

**“Discrimination still exists on campus. There is indirect discrimination, especially on infrastructure. Sexual harassment from male lecturers. Students can also harass. One male student was audacious and sent me a valentine's message on Valentine's Day, so I went to class and told him off. They are so daring. They can tell you outrightly, “madam, you are smart,” or “you are so hot.”**”

A male respondent explained that while women have joined the academy in good numbers in the recent past, they still face many challenges, such as:

gender-based discrimination, sexual harassment, bullying, and toxic workplace; challenges balancing their teaching duties, research, and family responsibilities; and biases against women in promotions given that majority of senior academics consists of male members.

Gender-based discrimination poses a challenge to women's mobility. The long-term effects of such aggressions impact women's upward mobility.

## **7.2. Persisting gender stereotypes**

Women academics and women student leaders in Kenya encounter unique barriers to success because of gender stereotypes they confront in the academic workplace. The popular image of the law school or university professor remains an older, tweed-clad male or perhaps a younger male version of this iconic image. Even in those institutions that have achieved a critical mass of women in the faculty, the culture of academia remains male. Perhaps this explains why women joining the academy remain on the sticky floors and are not rising to the professorial positions that men are, even when they are equally qualified. Those who differ from this unspoken and often unconscious norm are, to a great extent, presumed incompetent as teachers, scholars, and participants in faculty governance.

A respondent stated:

**“Regarding professorship, women are still discriminated against. I have applied for the position, but despite being qualified, men are still advantaged. Men are favored, they are discussed at a forum/men's club. Top management at the University is male-dominated. At the mid-level, we are at par with men, but at the apex, the men dominate.**”

For example, when a woman academic walks into the classroom, some students presume that she is not as accomplished as her male colleagues. They question the professor's competence, challenge everything she says, and become enraged if they receive a low grade in her course. As one of the interviewees explained: "In my earlier career days, doubts were always raised about my competence, and I was thoroughly scrutinized, unlike my male counterparts. You always had to fight to prove a point to my male colleagues." To withstand this additional scrutiny, women academics in Kenya often "overprepare" for classes. However, this takes valuable time away from research and writing and may threaten their academic careers because unfair social and professional perceptions force women to overachieve as scholars to overcome the presumption of incompetence.

### **7.3. Masculinist standards and pathways to leadership**

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Contrary to what may be expected, gender barriers for women in Kenyan law schools do not diminish as they advance through the ranks and take on greater responsibilities. Rather, as revealed by our interviews with senior academics, these barriers often intensify over time.

One of the respondents narrated her traumatizing experience in this way:

Leadership is tricky. Men have serious wars when it comes to public appointments. Daggers are drawn, and this discourages women. Few women apply for top positions. We must understand that men decide who takes what, and this is discussed at the men's club, which is not within reach of women [to] occupy top leadership. Men still want to be at the apex, with females given symbolic positions to serve male interests. I have applied for [a] position, but despite being qualified, men are still advantaged.

The perception that leadership is for men is very strong in the academy. Female student leaders are often found more as class representatives than higher leadership, such as the Congress—the student body in the university. This was echoed by a female student who stated, "No single woman has ever been elected to serve in Congress from the faculty." A male student agreed and stated, "Even though there are more women students amongst the student population, the women students vote overwhelmingly for the male student candidates." This statement by the male student tells of women's perceptions of other women.

Unconscious bias training and feminist consciousness-raising should be included in the educational curriculum at universities and law schools. Women must also benefit from this training to deconstruct the masculinist gender norms they have been socialized to believe are the right norms. If there is to be an acceleration in achieving gender equality and UN SDG 5, creating an informed pipeline of future women leaders in law must begin at the university level, if not earlier.

#### **7.4. Impact of COVID-19 on women in law and leadership in the legal academy**

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When the COVID-19 pandemic emerged around the globe, many sectors did not imagine—nor were they prepared for—its impact in shaping new methods and developments for operating under such tough circumstances. The impact on higher education was devastating. Learning in universities around the world was temporarily brought to a halt. The government of Kenya announced the first case of COVID-19 on March 13, 2020, and on March 16, 2020 the President, through an executive order, closed all learning institutions. Some containment measures implemented to curb the spread of the virus included social distancing, a dusk-to-dawn curfew, and a ban on public gatherings. To ensure that learning continued, universities had to devise new ways of learning. It is instructive to note that postgraduate students primarily undertook e-learning in most Kenyan universities and a few undergraduate programs through open distance learning. Adjusting to the new normal then was a challenge for the universities.

Lecturers had to be trained in developing and uploading e-content for online learning. The period of adaptation of lecturers to the rapidly developing world of online teaching tools was rather protracted. When the pandemic arrived unexpectedly, all the teachers were forced to rely on online teaching; the students also had no choice but to study online. Suddenly, electronic devices became essential studying tools, while new applications were hastily introduced and needed to be learned. Online learning depends on e-lectures and access to e-content, online study material, and practice sheets. Students who are not privileged, particularly female students, were held back from access to online classes due to the costs of the devices and the internet, thus compromising their learning.

While the emergence of the COVID-19 pandemic had harmful effects on all, it exacerbated the existing inequalities faced by women in law and leadership in the legal academia. Women, therefore, felt the negative impacts of the pandemic the most. There was an increased burden for women who already had care responsibilities at home. It became difficult for women academics with young children to take care of their children as they navigated the new normal. The home assumed an additional function as a workplace. Adapting to sudden unexpected changes, such as online teaching, while still ensuring that the children were well taken care of at home was tough.

Adapting to online teaching was also challenging since women had to get used to new modes of teaching. This included using complex video conferencing tools that required the users to be technologically adept. Additionally, many women in law may not have had access to such resources and technology, making it difficult for them to adapt to these new changes. Women leaders also faced challenges in convincing their colleagues in the faculty to adapt to the new teaching methodology. Most staff were either reluctant to adjust to online teaching or cited unpreparedness and that the costs of undertaking the services were not sufficiently covered. They saw it as an additional expense.

Online teaching methods also limited the time women had for publishing in their field of academia. They spent much time familiarizing themselves with the new teaching methods, trying to understand how the online platforms work, developing modules and online course material, and uploading the material to the online platforms. Consequently, little time, or none, was devoted to research and publication, yet these are core factors in promotion processes. Women in legal academia spending very little time making publications negatively impacted women's efforts to advance in academia.

It is essential to recognize that, despite the difficulties brought about by COVID-19, including those faced by women, the pandemic has also presented opportunities in the realm of work. The lockdowns led to the widespread adoption of remote and flexible working, making it easy for women with young families to multitask at the click of a button and still make time to care for their families. Lockdowns also reduced the long hours of commuting to work and, by extension, reduced the exhaustion and fatigue associated with travel. Women academics could attend work-related conferences remotely that may have been impossible to attend in person. All these factors reduced, to a limited extent, the inequalities that may have existed during normal times. An extensive empirical study should be undertaken to establish the extent of the impact.



# 8

## FACILITATORS OF PROMOTION



This part discusses internal and external factors integral to expanding opportunity structures for women's leadership in the legal academy. The analysis is drawn from the fieldwork responses from respondents on what works, what does not, and what can work. Further observations are drawn from thematic analyses, observations, and learnings from existing scholarship on some tested models that facilitate women's leadership opportunities and outcomes.

### 8.1. Targeted and intentional opportunities for women academics

The discussions presented so far have delineated the factors that affect women's leadership mobility within the Kenyan legal academy. Remedying the issues of gender-based discrimination in hiring, promotion, teaching loads, and work-life demands requires intentionality and targeted interventions. These actions must be deliberately implemented, measured, and tracked to assess their longitudinal impact on women's careers. Opportunities for women to take study leave with their families to pursue doctoral studies, funding for training and capacity-building, and joining supportive professional networks will facilitate women's upward mobility. Most women join the academy early in their childbearing years, thereby increasing the intersectional demands on their times as professionals, mothers, and caregivers.





One of the respondents offered the following as ways to address this situation:

“

**Maternity leave/rights are there and related [measures] that ease work for breastfeeding lecturers are needed. Gender policy [and] breastfeeding spaces should be available to women academics. This can make female lecturers do better in childbearing while still working. For instance, the University should have kindergarten, primary, and high school within its locality/premises. On maternity, young women are largely affected by issues of publications that are criteria for promotions, which are gender neutral and turn out to be subtle discriminatory due to responsibilities bestowed on motherhood—set criteria such as attracting grants, publishing in journals, book chapters, or books involves writing and research, which the university does not make easy for women given their other roles in the private. No deliberate research fund targets women.**

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While some might see these suggestions as giving women preferential treatment, the same case and opportunities benefit men too. They should be made available to men who are engaged in caregiving roles at the same levels as women.

## **8.2. Mentorship and building professional networks**

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Mentoring will assist women academics and student leaders at the structural and individual levels. Mentoring creates the benefits of advancing careers and performance and positively contributes to career success. As discussed above, the promotion process has identified a lack of networks and support for overcoming barriers. Mentoring is important for gaining access to established research circles and contacts. One strategy for women to attain excellence in their academic careers involves collaborating and co-publishing with more senior, dedicated scholars, resulting in more citations of their publications.

A respondent indicated:

The participation of women in the academy has improved due to: awareness and decision-making, for instance, Prof. Mbote being at the helm encouraged women to participate, and mentorship has been vital to working together. Many women have joined the academy but are not at the same level as men.

Another respondent, who is a dean of a Kenyan law school, stated:

“

**The practical solutions and policy recommendations we can offer to enhance women's participation and leadership in the legal academy include mentorship of upcoming young female academicians; availability of databases of opportunities in research and advancement of studies for women, and encouraging mentorship in research as one's research capacity influences promotion, which in turn influences one's chances of being considered for leadership.**

”

Mentorship and role models are important not only for women's promotion but also for women who choose to enter the legal academy.

### **8.3. Enforce gender equality regulations and legislation**

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Facilitators for the promotion of women include supportive policies and legislation aiming to encourage law schools in Kenya to support women in achieving senior leadership positions. Equal employment opportunities are a primary facilitator for the promotion of women. As some interviewees noted, some universities place more importance on collegial characteristics such as listening, consensual decision-making, and people skills, which are traditionally seen as feminine. Women make positive contributions to university decision-making at senior levels of management and are known for making decisions sensitively and being more pragmatic and fairer in all processes.

Respondents were asked about the existence of a legal policy that protects women in the legal academy. 85% indicated that such policies exist (Figure 9). While affirming the existence of such policies, one respondent clarified the point with an emphasis on the need to enforce such policies:

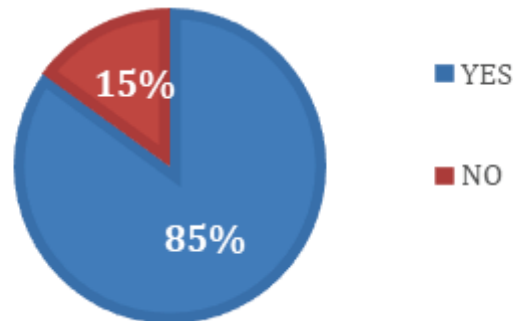
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**Kenya has laws such as the Constitution prohibiting discrimination based on gender and encouraging education for both girls and boys. Policies such as the National Policy on Gender and Development are in place. The policy seeks to achieve gender equality and women's empowerment. There is, however, a failure to implement the said laws and policies. Some of the laws and policies are also gender-neutral. They do not, for instance, provide for affirmative action in favor of women, which would deal with historical violations. Without specific affirmative action provisions, the number of women will remain low in leadership positions in academia and elsewhere.**

”

**Figure 9 | Policies for protecting women legal academics**

**Is there a legal policy for protecting women legal academics?**



Source: IAWL survey, 2022

Another respondent stated that the existence of policies is not enough, as women have to keep fighting for their rights. She added, “the measures have not helped. The women have fought to be where they are. Growth has been organic. At the time I was employed, the person was progressive and employed more women.” Another respondent, who is a dean of a Kenyan law school, stated, “*the legal and policy framework is in place—what is needed is the customization to the legal academy and also sensitization of those in positions of authority at the university level.*”

#### **8.4. Work-life balance**

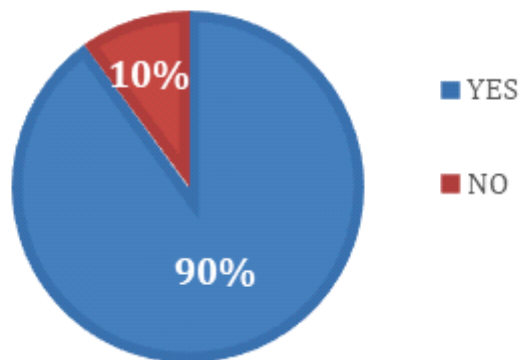
Women enter the legal academic profession with a perception that they will be flexible in successfully managing their family responsibilities and professional work. However, this is not the reality. Some academics have immersed themselves in research and appreciate the time it takes to think slowly, write and rewrite as a testimonial to their dedication, engagement, and enthusiasm as researchers.

Participants overwhelmingly agreed that work-life balance challenges affected women's ability as academics, as shown in Figure 10.



**Figure 10 | The impact of work-life balance on women**

**Does work-life balance affect women legal academics in Kenya?**



Source: IAWL survey, 2022

This challenge was explained by one of the respondents:

“

**It all has to do with our context. Patriarchy is so endemic in Kenya. This is particularly in leadership and decision-making, yet these are the critical areas where real change can happen. Echoing Ali Mazrui, the centering of women in Kenya, the respect of women as caregivers, homemakers, and cultivators, does not amount to women's empowerment. In addition, when we talk about the other excluded groups, we have to take note of the intersecting grounds of discrimination, which make the experience of a vulnerable group worse. If it is persons with disabilities or persons from marginalized and minority groups, their experience is certainly worse if they are, on top of such identities, women.**

”

Another respondent stated:

Splitting time is a big challenge for me as a caregiver. I got facilitated to go to Finland to write my Ph.D. thesis, it was a scholarship for six months, but as a caregiver, I had to negotiate for three months instead of staying there for six months. Men rarely face such challenges. No amount of money to do short courses on legal theory would have enhanced my career advancement.

A male respondent also observed:

**The intake of women into law schools and entry into the legal profession has registered notable improvement over the years. There is, however, a decline about a decade into their careers as a significant number of them take time out to raise their families or venture into other careers aside from mainstream legal practice/academy, partly owing to the busy nature of legal practice/academy.**

Even the men in academia admit that motherhood is a great challenge for women in the Kenyan legal academy. Men do not often have to struggle with this work-life balance, yet, women are required to compete on equal terms with their male counterparts.

Many academic women enjoy their job and the financial security it brings. Other academic women have found that mothering may not meet their needs and is exhausting, whereas academic work provides meaning in life, a sense of purpose, autonomy, and personal achievement.

### **8.5. Creating inclusive and supportive work environments**

Academic leaders should model and champion diversity, respect, and inclusion to create a conducive campus climate. This includes establishing a diverse leadership team that incorporates members of underrepresented groups, publicly recognizing the contributions of women faculty (to rebut the presumption of incompetence) and creating leadership development opportunities for women. Academic leaders should develop a public statement of the law school goals for the inclusion and mutual respect of all persons and incorporate these goals into the strategic planning process.

One of the interviewees insisted that law schools should ensure that these commitments to diversity are not just aspirational. In addition, academic leaders should establish the promotion of diversity as one of the criteria for evaluating deans and department chairs and devise concrete performance appraisals through a fair appraisal tool. A male respondent echoed this by stating, *“my support is first on individual capacity where one is willing to do something. I have recommended females for promotion and scholarship to do PhDs, and some were successful. I have collaborated with them in research and publications.”* In offering practical solutions and policy recommendations, a male academic stated that there is a need for “more women and professional caucuses and peer groups, campaigns for increased enrollments in law schools, favorable policies at workplaces and academic institutions towards women, policies on gender parity, and media campaigns as well as online women awareness campaigns.”

## 8.6. Transparency and equity in promotion, pay, and workload

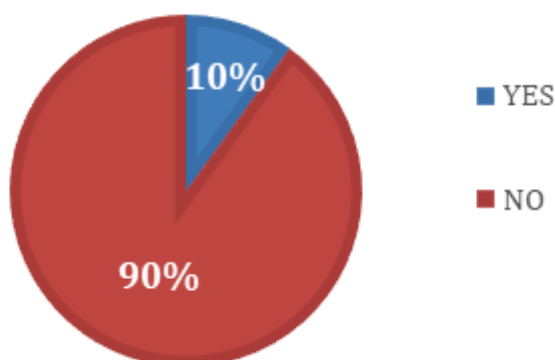
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Leaders in law faculties should conduct salary surveys to identify inequities and make appropriate adjustments. Additionally, workload assessments should be undertaken to remedy the inequitable teaching and service obligations that typically overburden women. Faculties should develop sexual harassment and anti-discrimination policies (including a standardized process to investigate these claims and to impose disciplinary sanctions on violators) and mandate training on unconscious bias, sexual harassment, and anti-discrimination for all faculty, staff, and students. An overwhelming majority of the survey respondents did not believe that conditions of service were inclusive for women (see Figure 11). While some students reported experiencing inclusivity, none of the academics interviewed acknowledged the presence of inclusivity.

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**Figure 11 | Gender inclusion in the academy**

**Is there an inclusive environment for women in the legal academy?**



Source: IAWL survey, 2022

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A respondent stated:

There is a need for providing incentives including an objective criterion for promotion that is not based on approval of senior academics, especially where they are predominantly male and biased; adoption of flexible working schedules to accommodate women's unique needs; providing more scholarships/financial support for female students to pursue postgraduate students to enable them to venture into academia; a general improvement of welfare and terms of service for academics.

Hiring policies must be reviewed to create an equal and balanced promotion mode to senior levels. Most academics interviewed indicated that there is no problem in hiring at the junior level, but the promotion of women academics to senior levels is problematic. There must be a deliberate policy in law schools, mandated by the government, to ensure that hiring and promotion, especially to senior levels and professorial roles, are distributed equally and that affirmative action policies are enforced for more women academics to access leadership roles.

# 9

## TRENDS: PATTERNS AND PROGRESS



The current state of women in the legal academy presents mixed outcomes. While the number of women is increasing, the intersecting challenges women face in their entry into and mobility within the profession show that there is more to be done to create equitable opportunities for women in the academy.

### **9.1. Increased numbers but limited leadership opportunities**

The research has revealed an upward trend in the recruitment and inclusion of women in Kenya's legal academy. At some point, almost all law schools in Kenya today have had women deans. This study has shown that women account for 37% of the current law school deans, and according to one of the deans interviewed, this is an improvement over earlier days. The universities are generally required, as part of their obligations as public institutions, to submit quarterly reports to the National Gender and Equality Commission on how they have promoted gender equality in terms of recruitment and promotion at all levels of the faculties (NGEC, 2016, pp.7–9). The report indicated that six of the 11 universities sampled had not achieved the 33% gender principle. It also found that promotion to the top management level required a minimum qualification of a professor, which disadvantaged female academics. The NGEC (2016) report highlights an exceptional best practice from Chuka University, which provides flexible time for lactating mothers. This is a good practice that should be replicated in other universities.

### **9.2. A ripple effect or a tidal wave? The growing number of women in leadership**

With women accounting for 37% of deans, the prospects look good for an increase in women's representation as leaders in law schools. However, the growth in numbers also stands to reverse due to institutional backlash from men who may feel their positions as leaders are being taken over by women. Women's representation in the current leadership trends may become a ripple effect subject to retrogression if active interventions are not taken to increase the number of women in the leadership pipeline. On the other hand, the current numbers may signal the beginning of a tidal wave that will increase the number of women in leadership through gender-focused leadership interventions such as leadership training, research support, formalized mentoring and network opportunities, and scholarships for higher education. Women are making tidal waves in other sectors of the legal profession, including the judiciary, with the appointment of Martha Koome as the first woman Chief Justice of Kenya.

### **9.3. Mixed outcomes in recruitment and hiring**

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The public universities seem to have a better record of recruiting women staff members than private universities. One plausible explanation for this trend is the intersection of religion and gender biases in recruitment processes. Religion, patriarchy, culture, and gender bias always influence the choice of who is in leadership. These factors are intertwined when it comes to opportunities for women's leadership. For example, Africa Nazarene University, a private Christian university, has had only one woman academic since 2019. The appointment of women law professors remains very low in some universities despite the higher number of female law students in almost all law schools.

### **9.4. Persistence of sexual harassment and gender-based discrimination**

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Some progress has also been made in reducing sexual harassment, with many of the law schools having sexual harassment and workplace harassment policies, as required by law. However, some interviewees indicated that the laws and policies were ineffective. Some of those accused of sexual harassment continue to teach and have faced no real consequences for their actions.

### **9.5. Increased research and scholarship by women academics**

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On the positive side, publications by women legal academics have also increased in law schools. Professor Mbote was awarded a higher doctorate, one of the few in the country, in 2019, and more women are now publishing books and manuscripts in law schools. The participation of female students in national and international moot courts is also on the rise, to the point where all-female teams are now represented in the international moot arenas and are winning trophies. This is a sign that the next generation of women academics is being developed.

### **9.6. Growing number of role models**

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Despite the limited number of women in leadership, and the absence of formalized mentoring programs for women in law, the growing number of women leaders in the legal academy serve as symbolic role models for younger faculty and law students. The hard-won victories and achievements of pioneer women in the academy are a strong signal for other women that they can overcome their intersecting challenges and change their marginalized positions.

### **9.7. Leadership must begin early**

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The focus groups indicated an increase in women seeking leadership positions within law school student governance. Though many of them still complain of hostile politics and policies for campaigns, our sample analysis of student leaders in five law schools reveals a trend of women making up about 40% of student leaders in the different law schools. As more female students take up leadership positions in law schools, the gender-based stereotypes of women's leadership abilities will gradually change, and women's self-perceptions of their leadership abilities will increase.



# 10 | RECOMMENDATIONS



The recommendations in this section aim to assist in bridging the gender leadership gap identified in the Kenyan legal academy and provide some blueprints for developing women academics in the profession. These recommendations provide insights for different actors, including institutional leaders, policymakers, funding partners, and women and men academics.

## **10.1. Eliminate gender-based stereotypes and expectations**

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Intersecting biases that affect women include gender, age, and motherhood, as most women entering the profession are younger and of childbearing age. Deliberate efforts must be made to ensure that women in the profession are judged fairly and equally with their male colleagues, without the gender perceptions that cloud the profession. Gender equality in the academy will include allowing women academics to teach all courses, especially those perceived as “masculine courses” in the legal academy. This will, by and large, help stop gender stereotypes. The same applies to publications by women academics in journals of subjects considered very “male-oriented” subjects. There must be a balanced division of roles for both men and women in the legal academy in Kenya. Many women complained about getting roles that do not promote their professional advancement, which should be changed. Both men and women academics should have equal roles that develop their careers in the legal academy.

## **10.2. Provide an enabling/flexible work environment**

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Work environments for women academics in Kenyan law schools must be more accommodating. This will include providing spaces and resources for childcare in the law schools, including flexi-hours for staff with young children, as is the case for Chuka University. Gender-sensitive promotion criteria would also help. For example, women's reproductive roles and maternity leave should not be used against female academics. Family-friendly study leave, and scholarship positions that allow women academics to move with their families should be offered. These interventions will make it easier for them to take up research and fellowships abroad.

### **10.3. Support and invest in formal mentoring programs**

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This study has demonstrated that women academics need more professional mentorship, specifically formalized mentoring between senior women academics and their junior and senior colleagues, recommendations for scholarships, consultancy, and academic positions. Mentorship programs and workshops that allow more networking in the academy, encompassing female academics and students, should be encouraged. The senior female academics could be role models that spearhead such programs to facilitate the growth of young female academics in publications, research grants, and co-teaching to make them better people and prepare them for leadership in the academy. As good role models, female academics could also inspire female students to join the academy, rise through the ranks, and improve the status of women in the academy.

### **10.4. Enforce laws and policies on gender sensitivity in the workplace**

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Law faculties should create a culture that embraces gender equality through policies and regulations. Male academics should be challenged and encouraged to be advocates of gender equality to ensure that they promote these policies in the academy. They should also be encouraged to join their female counterparts in pursuing this equality through policy recommendations and regulatory frameworks in law schools. Such initiatives would also require stricter enforcement of anti-sexual harassment policies at the workplace and ensuring that action is taken when such conduct occurs to stamp out impunity and make the workplace safe and conducive for work and learning for the female staff and students.

### **10.5. Encourage student leadership**

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Research is needed to understand how student leadership during university studies impacts leadership later in life. This study interviewed student leaders to understand their experiences of leadership. As reported earlier, in one university, no female student had ever contested for the leadership of the law school student body. Overwhelmingly, female students vote for male contestants for office. Raising women's awareness of leadership positions and roles should be part of the law school curriculum and institutional norm change. Leadership in law school organizations can be a testing ground to prepare women for leadership.

### **10.6. Feminist-sensitive socialization for women and men**

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The intersecting challenges women face in the academy result from sociocultural, religious, and structural assumptions of women's (in)ability to lead. Intentional and targeted efforts must be made to deconstruct and reconstruct socialization processes that currently portray women as incapable of undertaking certain tasks, preserving higher-value positions for men, and maintaining the power hierarchies that discriminate against women. Feminist-sensitive training programs must be conducted for women to understand the "masculine power dynamic" role in their marginalization.

Women must also be trained from a feminist perspective to understand their role in shifting these power dynamics. Men must receive unconscious bias training to understand their role in the marginalization of women and the collective value of promoting equality between men and women.

Feminist socialization through capacity building on gender issues and women's rights for both men and women will create bridges for men to embrace equity in representation, which is essential for good governance. Gender resocialization will allow men to play important roles as allies to promote gender sensitivity in dismantling the power hierarchies in a society that marginalizes women.

### **10.7. Women working towards change**

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Deliberate institutional and cultural changes should be made to ensure that society sees women as critical partners in development and not inferior to their male colleagues and embrace gender diversity as a necessity for institutional development meaningfully. As society is competitive, women must demand positions at all levels and show their interest in serving by applying for the positions when they open. They should acquire skills that propel them to qualify for such positions, and, ultimately, women must not remain in their comfort zones. Every job has risks, and women's abilities can only be tested and proven through service delivery. While great efforts have been made to ensure that women access, participate in, and are represented in the legal academic profession, much must be done to close the gender gap through accelerated and deliberately targeted strategies for achieving gender equality.

### **10.8. Invest in data collection and research**

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This scoping study has shown a deficit in existing scholarship and targeted data collection on women in the Kenyan legal academy. While some studies on women in higher education exist, the dearth of knowledge on women in the legal academy specifically calls for more research. Women lawyers and law academics play important roles in preparing future leaders, advocating for women's rights, and providing opportunities for women's access to justice through legal counsel. Research topics on women in law will help policymakers understand how to expand opportunities for women's leadership in law. However, the knowledge gap may not be remedied speedily since these topics will most likely be written about by female academics, who, as discussed above, are already overburdened by competing for the professional, social, and cultural demands on their time.

To ameliorate this situation, it is crucial to strategically invest research funds and free up academic time for further studies to be conducted in this area. Such research would use ethnography and life stories to document the professional trajectory of women in the legal academy—like the African women's legacy project and the Amandla series by IAWL. Funding to collect and analyze quantitative data across all the law schools in Kenya will also produce rich data that can be used for sophisticated regression analysis to aid in the prediction and modeling of accurate trends and patterns of gender representation within the legal profession.

# 11

## CONCLUSION



Women who teach and conduct research in Kenyan law schools remain at the intersection of marginalized identities. They experience remarkably sharp contradictions and dilemmas as they try to disentangle themselves from gender-dependent roles in a capitalist patriarchy. These contradictions and dilemmas create tensions and conflicts in women's quest for leadership in the academy. Women are constantly negotiating these tensions, shaped by socio-cultural gendered attitudes that marginalize women on the one hand and the resistance and activism by academic women to change their social and professional conditions on the other. Academic women continuously attempt to redefine their identities and to adjust, resist, negotiate, and subvert their gendered roles to make the academy work for them. Through their role and higher education, female academics are privileged compared to women in the broader society. Still, they are significantly disadvantaged and marginalized compared to male academics in the same institutions.

Generally, Kenyan society and the university community view women in leadership with ambivalence. They are expected to excel and model their biological role as “good” wives, mothers, caregivers, and custodians of African culture. At the same time, they are expected to behave as western-educated women and be goal-oriented, assertive, competent, and productive in the academic world, just like their male counterparts. This duality works to the disadvantage of Kenyan female academics. Their presence is neither resented nor welcomed. They are perceived as outsiders within the sacred grove, intruders, incompetent, and sometimes ridiculed as unfeminine. The number of women in law schools and faculties has grown over time. Hence, the ratio of women to men is almost at par at the bachelor level, with the number of women slightly higher (Commission for University Education 2018, p. 23). The Commission for University Education report (2018) refers to general academic staff and is not divided by cluster or field of education. Nevertheless, the female-to-male ratio of academic staff shows a disparity of 33% women to 67% men. This ratio is undoubtedly an improvement in the symbolic representation of women. However, despite progress, women are still underrepresented in positions of authority or influence compared to their male counterparts.

The findings from this study show that the attainment of substantive gender equality remains obscure despite constitutionally mandated efforts to ensure equal and meaningful participation in Kenyan public life. Not all is lost: some opportunities and some good will exist that can improve female legal academics' status in Kenya. Strategies to address these challenges will entail adopting multifaceted approaches, intentional financial investment, and building strong alliances and networks to ignite the change of norms. Other strategies include adopting and enforcing legal and policy measures and advocacy strategies targeted at behavioral and attitudinal change toward women's ability and leadership in society and the legal academy.



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# Appendix

## Interview Question Guides

### A. Questions for Women Deans

1. For how long have you been teaching in the Kenyan Legal academic Sector?
2. Why did you take the decision to become an academic in the Kenyan Legal sector?
3. Where did you study, and have you undertaken other studies apart from law?
4. Did you attend the Kenya School of Law to become an advocate of the High Court of Kenya?
5. What did you do after finishing law school?
6. Which other organizations have you worked for apart from the academy?
7. Describe the culture of the Kenyan law school academy with reference to gender?
8. Do you think there is a low female academics ratio in the Kenyan law schools? If so, what reasons would you attribute to this?
9. How would an increased female academics ratio improve service in the legal sector in Kenya?
10. What are your views on gender discrimination in the Kenyan law schools against women? Do you think it exists?
11. How important is the inclusion of women in the various facets of the academy, especially leadership?
12. Do you think that women are excluded from networks or socializing, such as to adversely affect their advancement to leadership in law schools?
13. Other than exclusion, what are some of the other challenges women face and hinder their full participation in the academy?

14. Do you think there's a link between women's participation, or lack thereof, and the existing legal and policy framework?
15. Have the measures already in place to improve women's representation had any impact in improving the number of women and their influence?
16. Does gender-related theory influence your personal philosophies on teaching in the law school?
17. What practical solutions and policy recommendations can you offer to enhance women's participation and leadership in the legal academic sector?
18. How have women fared in the Kenyan legal academy as professionals?
19. Are you satisfied with the current composition of women in the academy compared to men?
20. Many groups suffer discrimination and are excluded from the justice sector, why is there so much emphasis on women?
21. What is your best moment as a woman academic?
22. What advice would you offer for younger women academics and junior researchers who would like to emulate your academic journey?

## **B. Questions for Deans**

1. How have women fared in the profession?
2. The law school's leadership has been largely composed of males, right from colonial to post-colonial period. What is the current membership compared to the previous years?
3. What is the impact of women in leadership positions and their influence?
4. Is there an increase of the number of women academics and students in the profession? What do you attribute to the increase?
5. You are occupying an influential position in the profession. How have you assisted women academics and students in being part of leadership of the profession?
6. What do you think are the current challenges women members of the legal profession face in academia?
7. What is your perception of gender representation in the academy?
8. Are you satisfied with the current composition of women in the law academy compared to men?

9. Do you have a preference on the gender of an academic teaching a class?
10. What do you think can be done to increase representation of women within legal academia?
11. Do you think an increased number of women academics and women student leaders in law schools influence judicial prosperity and outcomes? Where are the guarantees?
12. What practical solutions and policy recommendations can you offer to enhance women's participation and leadership in the legal academic sector?

### **C. Questions for Women Academics (not in Leadership position) in Law schools**

1. For how long have you been teaching in the Kenyan Legal academic Sector?
2. Why did you take the decision to become an academic in the Kenyan Legal sector?
3. Where did you study and have you undertaken other studies apart from law?
4. Did you attend the Kenya School of Law to become an advocate of the High Court of Kenya?
5. What did you do after completing law school?
6. Which other organizations have you worked for apart from the academy in Kenya?
7. Describe the culture of the Kenyan law school academy with reference to gender?
8. Do you think there is a low female academics ratio in the Kenyan law schools? If so, what reasons would you attribute to this?
9. How would an increased female academics ratio improve service in the legal sector in Kenya?
10. What are your views on gender discrimination in the Kenyan law schools against women? Do you think it exists?
11. How important is the inclusion of women in the various facets of the academy, especially leadership?
12. Do you think that women are excluded from networks or socializing, such as to adversely affect their advancement to leadership in law schools?
13. Other than exclusion, what are some of the other challenges women face and hinder their full participation in the academy?

14. Do you think there's a link between women's participation, or lack thereof, and the existing legal and policy framework?
15. Have the measures already in place to improve women's representation had any impact in improving the number of women and their influence?
16. Does gender-related theory influence your personal philosophies on teaching in the law school?
17. What practical solutions and policy recommendations can you offer to enhance women's participation and leadership in the legal academic sector?
18. Are you satisfied with the current composition of women in the academy compared to men?
19. Many groups suffer discrimination and are excluded from the justice sector, why is there so much emphasis on women?
20. What is your best moment as a woman academic?
21. What advice would you offer for younger women academics and junior researchers who would like to emulate your academic journey?

#### **D. Questions for Women Student Leaders in Law Schools**

1. When did you begin studying at the Law school?
2. Why did you choose to study Law?
3. What do you plan to do after finishing law school?
4. Describe the culture of the Kenyan law schools with reference to gender?
5. Do you think there is a low female academics ratio in the Kenyan law schools? If so, what reasons would you attribute to this?
6. Do you think there is a low female student leaders' ratio in the Kenyan law schools? If so, what reasons would you attribute to this?
7. How would an increased female student leader's ratio improve service in the legal academic sector in Kenya?
8. What are your views on gender discrimination in the Kenyan law schools against women? Do you think it exists?

9. How important is the inclusion of women students in the various facets of the academy, especially leadership?
10. Do you think that women students are excluded from networks or socializing, such as to adversely affect their advancement to leadership in law schools?
11. Other than exclusion, what are some of the other challenges women students face and hinder their full participation in the academy?
12. Do you think there's a link between women's participation, or lack thereof, and the existing legal and policy framework?
13. Have the measures already in place to improve women's student representation had any impact in improving the number of women and their influence?
14. Does gender-related theory influence your personal philosophies on learning in the law school?
15. What practical solutions and policy recommendations can you offer to enhance women's student participation and leadership in the legal academic sector?
16. How have women student leaders fared in the Kenyan legal academy as professionals?
17. Are you satisfied with the current composition of women student leaders in the academy compared to men?
18. Many groups suffer discrimination and are excluded from the justice sector, why is there so much emphasis on women? What is your best moment as a woman student leader academic?
19. What advice would you offer for younger women who would like to emulate your academic journey of student leadership and starting law school?

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