



# Women in Law & Leadership Kenyan Bar



**PATTERNS | PROGRESS | PROSPECTS**

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

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.

This report is based on research funded by the Bill & Melinda Gates Foundation. The findings and conclusions contained within are those of the authors and do not necessarily reflect the positions or policies of the Bill & Melinda Gates Foundation.

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# ACKNOWLEDGMENTS

This research output is part of a four-nation study made possible by the generous support from the Bill & Melinda Gates Foundation (BMGF) initiative on women in law and leadership. We are grateful for the support received from the BMGF team throughout the grantmaking and writing stages. The research was designed by the lead investigator, J. Jarpa Dawuni, Ph.D. We would like to acknowledge the tireless contributions of the Institute for African Women in Law (IAWL) research team— Maame Edua Addadzi-Koom, Esq., Stephen Muthoka Mutie, Ph.D., and Nonhlanhla Hlazo, Ph.D.

This report would not have been possible without the contributions of dedicated in-country consultants. IAWL is grateful for the contributions of Nancy Baraza, Ph.D. We acknowledge the work done by the anonymous peer reviewers who provided input throughout the multiple rounds of editing and peer review.

We extend our special thanks to the female legal professionals who gave us their time and talent for our survey questionnaires and in-depth interviews. Your willingness to share your time and insights from your lived experience made this report possible.

We are thankful for the support from all the government officials, institutional heads, and statisticians who helped us with our data sourcing. We are forever indebted to the women in law who keep pushing forward, against all odds, to be heard, seen, and acknowledged for their contributions to their institutions, even if they are not rewarded with the leadership roles they deserve.

# FOREWORD

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The legal profession in Kenya has undergone profound transformations since the first law faculty was established at the University of Nairobi in 1970. Key among them is the entrance of women into the profession, which has long been male-dominated and is still largely the case. In recent times, however, the feminine face of Kenya's Bar is gradually taking shape. Indeed, I am delighted to acknowledge the increased participation of women lawyers in a wide range of practice areas and in the profession's governance as elected members of the Council of the Law of Society. The strong mandate of the Council provides an influential decision-making platform for women practitioners to shape the character and values of the profession, especially in relation to the promotion of inclusivity and equity; the improvement of the conditions of practice for women lawyers; access to justice for ordinary Kenyan women; and the advancement of the rule of law and constitutionalism in Kenya.

I look forward to the day that the Bar will fully represent the shared male and female makeup of our society, particularly at the pinnacle of the leadership of the Bar. Having been privileged to be elected as the first and only female President of the Law of Society of Kenya to date, it is a matter of profound regret that many more women have not, since then, assumed this role. If our vision for effective partnership and equilibrium within Kenya's Bar is to be achieved, then the essentiality of women's leadership throughout the legal profession must be fully embraced and sustained. Accordingly, impediments to the progress and agency of Kenyan women lawyers should be deliberately interrogated. In this regard, the collection, collation and analysis of gender-disaggregated data is imperative. I strongly believe that when women's experiences are surfaced, tracked and understood, positive change is possible through targeted and holistic interventions.

This report by the Institute for African Women Law (IAWL) on the progress, patterns, and prospects of women in law and leadership in Kenya's legal profession is a commendable step in the right direction for several reasons, but I will highlight three. First, the report documents the experiences of Kenyan women in law in their voices. The report, as you would discern, is sprinkled with quotations capturing the unfiltered sentiments of the women and men advocates interviewed. I find this style to be distinctive because it emphasizes the realities of women advocates – their barriers and promoters - candidly rather than concealing them in reported speech. I believe the raw narratives make the issues weightier and the realities forthright.

The second thing that stands out for me about this report is that it houses in one document information that was previously hard to come by. I am aware of research on women lawyers generally, but on women lawyers in leadership, that was a rare find; but today, we all can hold in our hands a book that goes beyond the ordinary – addressing the unresolved issues pertinent to women's leadership at the Bar. It is one thing to have women lawyers join the Bar, it is quite another to have women lead it. Women at the decision-making table mean that decisions can be more balanced, inclusive and fairer to both women and men.

# FOREWORD

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Therefore, decoding the barriers to women's rise through the ranks of the legal profession is an important step in unlocking the potential of women and pushing the women in leadership agenda.

The third and final remarkable feature of this report is that it makes evidence-based rather than anecdotal recommendations. The recommendations stand a better chance of fitting the Kenyan context because they are based on the voices of insiders. I believe, taken seriously, this report's recommendations can catapult more women advocates in Kenya to the highest levels possible in the legal profession, both nationally and internationally.

I applaud the Institute for African Women in Law for this impressive body of work.

**Ambassador Raychelle Awuor Omamo, SC, EGH**  
**Nairobi, Kenya**



# 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. 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.

# FOREWORD

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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>ABA</b>	American Bar Association
<b>AG</b>	Attorney General
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>FIDA</b>	Federacio Internazionale De Abogadas
<b>IAWL</b>	Institute for African Women in Law
<b>IBA</b>	International Bar Association
<b>IDLO</b>	International Development Law Organization
<b>LGBTQ+</b>	Lesbian, gay, bisexual, transgender and queer +
<b>LSK</b>	Law Society of Kenya
<b>OAG</b>	Office of the Attorney General
<b>ODDP</b>	Office of the Director of Public Prosecutions
<b>PWD</b>	People with Disabilities
<b>SD</b>	Sustainable Development
<b>SDG</b>	Sustainable Development Goals
<b>UN</b>	United Nations
<b>USA</b>	United States of America

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# Executive Summary








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This study provides a broad overview of women's representation in leadership roles in the Kenyan bar. While there is a focus on the representation of women on the bar 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 profession.

The legal system plays a unique role in addressing gender-based discrimination. Therefore, women must 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 that 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 four priority countries, of which Kenya is one.

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 profession. Data for this report were generated through in-depth interviews and focus group discussions involving 40 lawyers - 8 men, 30 women and two lawyers living with disability, both blind. Respondents were male and female partners and associates in law firms and government offices based in Nairobi, Mombasa, Kitale, and Kisumu, the largest cities in Kenya. Combining the rich qualitative responses from interviews with the quantitative data, the report provides a broad overview of women's underrepresentation in leadership. 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:</b>
	Gender stereotypes and negative perceptions of women
	Lack of access to support networks
	Inflexible workplace structures and policies
	Low salaries and gender pay gap
	Lack of clear promotion policies
	Sexual harassment.

The onset of the COVID-19 pandemic seemed to have exacerbated these barriers to women as some law firms closed their offices and other women were laid off. For mothers, the working-from-home culture that came with the pandemic increased their burden of care. This increased their vulnerability to gender-based violence and discrimination in the workplace. For some women, however, the pandemic was the dawn of a new era where they could upskill their technological capabilities, which resulted in flexible work schedules as they could work remotely.

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

	<b>These facilitators of women's promotion to leadership and recommendations for supporting women in leadership include:</b>
	Taking measures toward realizing gender equality, including mechanisms to address covert and overt discrimination and sexual harassment
	Creating a maternity-oriented change in the workplace
	Training on negotiating skills
	Public and private awareness creation, and sensitization
	Confronting entrenched patriarchal social structures in the workplace.

Women in the Kenyan legal profession are forging ahead despite the challenges and barriers. The general trends and patterns show that there are more women lawyers, but they dominate the lower levels and are less in leadership.

The findings from this study indicate the need for using multi-pronged approaches to address the intersectional challenges women face 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 in pushing the UN SDG goal # 5 forward to provide women equal and complete access to participate in decision-making.

The report's findings indicate the need for more research and data collection on women in the legal profession and investment in relevant leadership-boosting initiatives due to the legal sector's use of the law to either support discriminatory practices or upend them.





# 1 | INTRODUCTION



Women's involvement in decision-making processes across various fields within the legal profession is a fundamental element of their engagement in public and political spheres. It is also a crucial component of good governance and a human right recognized in international human rights frameworks. Specifically, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee has noted that the very concept of democracy requires diversity in key government functions, including those involved in upholding and enforcing the law. Article 7 of CEDAW specifies that State Parties must “take all appropriate measures to eliminate discrimination against women in the political and public life of the country.” To this end, they must ensure the right of women “to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at the level of government” (IDLO, 2018).

According to the CEDAW Committee, political and public life refers to: “the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers.” This means that states should institute temporary special measures to ensure women's equal participation in legal institutions in places where equality in law has not resulted in substantial equality in practice (IDLO, 2018; Norwood, 2020).

Incorporating diversity in decision-making within the legal profession is crucial for establishing, executing, and resolving legal matters in a just manner that upholds the human rights of women and other susceptible individuals impacted by the evolving legal environment. (Dernbach, 2017, p. 123). A gender-diversified bar is also critical for progress on gender equality and for the legitimacy of the justice system in support of SDGs 5 and 16 of the United Nations 2030 Agenda for Sustainable Development (IBA, 2022; UN Women, 2018-2019). A gender-balanced legal profession, with women's equal participation in decision-making, can be useful for challenging and changing behaviors, practices, or procedures that create obstacles to equal access to justice for women and promote those that ensure better access. Women lawyers can contribute to access to justice by addressing gender stereotypes within the justice system. Studies have established that gender stereotypes are the main obstacles to equal access to justice for women (UN Women, 2018-2019).

Although women's equal participation with men at the bar is critical, for many years, the legal profession has been able to limit the number of lawyers and the social diversity of those admitted to practice. This limitation was accomplished through strict formal controls over admissions to law school and bar membership and informal social and referral mechanisms that consigned women to the fringes (Menkel-Meadow, 1986). Consequently, today, women still lag behind men in leadership in most bar sectors, especially in African countries (Uzebu-Imarhiagbe, 2020).

There is very little documented data showing the impact of the challenges African women in law face in the workplace and their pathways to leadership in the profession. The fact that the contexts covered by the literature and data collection are predominantly from the global north highlights the need for more research and data collection on women in the legal profession in Africa. This report aims to document the existing quantitative and qualitative data that identifies women's representation at the bar in Kenya, specifically capturing women in leadership at the bar, points of attrition in the pipeline, barriers to retention, facilitators of promotion, and progress and trends over time.

This report is organized into six parts. Part two provides a global review of women's entry into the legal profession. Part three describes the theoretical framework in which the report is situated. The methodology used to collect the data for the report is outlined in Part four. Part five gives the findings of the study. It discusses the entry of women into the profession and the retention and promotion of women in the legal profession in Kenya. It also examines the barriers to retention and points of attrition, explores the facilitators of promotion (recommendations), and gives the progress and trends: mapping women's leadership. The report's conclusion is in Part six.



# 2

## WOMEN IN THE KENYAN LEGAL PROFESSION: A REVIEW



Women's journeys into the legal profession have been long and arduous, and fraught with many challenges. Across the globe, women were historically denied entry to and participation in the legal profession. In some countries, women were prohibited by law from entering the legal profession or working in law jobs, even if they had studied law or apprenticed with a lawyer (Menkel-Meadow, 1986). In other countries, it took a change in law, whether by legislation or through development in common law, to effect a change in the rules of admission to legal practice. In Africa, women aspiring to enter the legal profession did not face such overt official or legal hurdles set by the male gatekeepers. Instead, several social, cultural, religious, professional, environmental, and ideological factors have often stood in their way (Dawuni, 2016, 2017, 2021b; Ghai & McAuslan, 1970; Uzebu-Imarhiagbe, 2020). In most African countries, colonial official education policies limited the opportunities for African women or girls to pursue education, leaving the profession a male bastion for many years (Ine-Ebi, 2020; IDLO, 2018).

The professional landscape started to improve for women in the 1970s, with the expansion of university education to include women and the development in many countries of an increased role and capacity for universities in training legal professionals (Menkel-Meadow, 1986). Women then started to enter the profession in large numbers. Brenner (2014) attributes the increased number of women in the profession to the sheer determination, drive, and commitment of early women pioneers in law, which paved the way for women's entry. In Africa specifically, the fourth wave of democratization across the continent saw the promulgation of new constitutions that promised, among other things, liberalization, freedoms, rights, and equal representation (Tamale, 2020). Also, the rise and spread of the post-material cultural values of universalism, meritocracy, and equality promoted the entry of women into high-status occupations in general, including the legal profession (Tamale, 2020). Data from bar associations and law societies across Africa reveal a remarkable increase in the number of women entering the bar. In several countries, women lawyers are becoming partners, and women lawyers are occupying high positions in government institutions (Dawuni, 2021b).

Women's entry into the profession is attributable to their efforts and the exercise of their agency. Women often choose a career in law because they enjoy the opportunity to solve problems and are interested in advocacy. Some women make this deliberate decision because they want to make a positive difference in social, civil, environmental, and human rights issues.

Some women desire to ensure economic independence using their skills in the challenging legal profession.

It is commendable that progress has been made in the number of women entering the profession. While women in most countries have achieved near parity with men, gender gaps persist at the top. Women have yet to break the glass ceiling and are not equally participating in leadership and decision-making processes with men (Masengu, 2016). While formal equality has been achieved, substantive equality in the profession has not yet been reached. The noble declarations and good intentions of gender equality envisaged since the founding of the UN, from the Universal Declaration of Human Rights in 1948 to UN Sustainable Development Goal (SDG) 5 to promote gender equality and the empowerment of women and girls, are yet to be realized (Brodherson et al., 2017). Women remain constrained by many obstacles along the path.

Several scholars have identified barriers that prevent women from becoming leaders in the legal profession. Masengu (2016) singles out the lack of mentoring opportunities and support, but most importantly, the unequal distribution of work and discriminatory perceptions of women's abilities as the most prominent barriers preventing women from taking up higher positions in their workplaces. Dawuni (2021b) argues that despite their increased numbers in the profession, women continue to encounter different and intersecting gender-based challenges and discriminatory practices. This finding debunks the myth that simply increasing the number of women in the profession would solve the disparities between men and women who practice law (Dawuni, 2021b; Epstein, 2001; IDLO, 2018). The patriarchal principles and mindsets that often form the fabric of the legal institutions are seen as another factor inhibiting women's progress to leadership and a cause of attrition (Ine-Ebi, 2020). Scholars such as Chitapi (2018) and Rhode (2001) argue that the legal profession is masculine in approach, for example, operating in an adversarial system that aims at winning over another lawyer or case. Thus, the legal profession's approaches were established to suit men. For this reason, it is easier for men to be rewarded in the profession because being loud, brash, and argumentative are acceptable traits in men but are undesirable in women (Epstein, 2001; Rhode, 2001).

Stagnation and work/family balance are other challenges that women encounter in their places of work, especially in law firms. An international study by McKinsey (Brodherson et al., 2017) noted that at the entry-level in most law firms around the world, the gender gap had almost disappeared. Still, there remained a promotion gap in most countries, with men more likely than women to be promoted (Brodherson et al., 2017). The study also revealed that while women were more likely to be “pulled sideways” and leave for family reasons, men were more likely to be “pulled up” and leave for career reasons, such as promotions (Brodherson et al., 2017). A similar study by Fernandez and Fogli (2009) found that even within global law firms, the differences between women and men exist in estimates of regressions, promotion, exits, wages, and ratings. There are differences across countries in the promotion of women relative to men and in their ratings and wages. The study concluded that part of this gap appeared to be attributable to differences in the prevailing preferences and beliefs about women's role in society or to the cultural values of specific nations (Fernandez & Fogli, 2009).

Lack of mentorship is another obstacle to most women's professional development. Women fail to rise to higher positions at the bar partly due to a lack of mentorship, which male advocates find accessible in law firms. Young male advocates generally benefit from established structures in law firms and the legal profession that nurture them (Chitapi, 2018; French, 2018). These include a more unrestricted environment with their male seniors, from whom they learn and gain confidence. On the other hand, women are in a space that was not meant for them in the first place, is alien, and has no structures to assist them in mentoring. However, mentoring is important because access to it can significantly impact women's progress, or lack of progress, in law firms. Some of the benefits of mentoring include opportunities and broader training for associates to learn experientially (Chitapi, 2018; French, 2018). Mentorship also allows associates to rise more quickly toward becoming clients' contact persons and helps them win clients' loyalty. Additionally, mentoring relationships lead to expanded responsibilities, including managing existing client caseloads and the inheritance of clients. Mentorship also creates affiliations and contacts critical to attorneys' economic success (Chitapi, 2018; French, 2018). Therefore, lack of mentorship means that women miss out on these enumerated benefits, which are essential for their progress and rise to top positions at the bar.

Sexual harassment is another challenge that women face in the legal profession. The findings from the International Bar Association (IBA) study *Us Too? Bullying and Sexual Harassment in the Legal Profession* (Pender, 2019) indicate that many lawyers are victims of bullying and harassment. A survey by IAWL found that 64.1% of respondents had experienced harassment in the workplace, while 21.8% said that they had not, and 14.1% said they were not sure (Mugenyi, 2021). The survey found that the common forms of harassment the participants faced included inappropriate touch, sexist language, not being recognized and allowed to speak, and suppressing women's confidence in their work.

While these challenges are real, they are surmountable. Therefore, this report first investigates the extent to which the challenges in the literature manifest among women in the Kenyan bar and makes evidence-based recommendations that suit the Kenyan context.



# 3

## THEORETICAL FRAMEWORK



This report adopts intersectionality theory as its theoretical framework, as popularized by Kimberlé Crenshaw (1989; 1991). Women in the legal profession face multiple and intersecting challenges that hinder their career progress. Traditional feminist and human rights approaches, which are single-axis, tend to single out gender as the determining factor for women's marginalization. This single-axis view of women's marginalization has yielded wrong outcomes. Thus, there is a need for a radical approach to addressing the marginalization of women that considers the multiple and intersecting factors that shape women's lived experiences. Intersectionality is a suitable approach as it contests the single-axis or linear worldview, preferring a “matrix” worldview (May, 2015).

Intersectionality theory helps researchers to look at how social identities, as well as socially constructed markers of group membership, influence beliefs and experiences of gender (May, 2015; Obani, 2021; Rodriguez, 2018). A matrix perspective challenges the traditional hierarchies of identity and oppression by recognizing lived identities as interconnected and mutually reinforcing, rather than separate and distinct (May, 2015; Crenshaw, 1989). In this view, one aspect of a woman's identity or form of inequality that she faces is not treated as superordinate or separable but as a combination of both (May 2015, p. 3) and hence, dealt with as such.

This report recognizes that examining women's marginalization in leadership in the legal profession through a formal, linear, or single axis of gender is insufficient. Instead, a matrix approach using the intersectionality theory helps to examine the many intersecting factors—including gender, ethnicity, disability, religion, sexual orientation, and social and economic status—that women navigate in a society strongly grounded in patriarchy. At the bar, similar multiple identity categories, in addition to bias, stereotyping, and social structures, affect women's entry into the profession and ascent to leadership and may work to create points of attrition in the leadership pipeline. The intersecting categories affect women lawyers differently and with different outcomes. Therefore, in this report, the intersectionality theory will deepen our understanding of the particular identities that intersect to impact women's ascension to leadership at the Kenyan bar.

# 4 | METHODOLOGY



The study adopted a qualitative method of inquiry to elicit comprehensive insider perspectives. In-depth interviews were conducted with 40 male and female partners and associates in law firms and government offices. Interview questionnaires were sent to each of them in advance of the scheduled date for the interview. Several key factors influenced the report's small sample size. One of the main challenges was the voluntary nature of the research, as participants had no obligation to participate, resulting in difficulties in gathering sufficient respondents. The COVID-19 pandemic, which necessitated strict physical distancing protocols, made it challenging to interview as many lawyers as would have been ideal. Only one in-person focus group discussion was conducted; all other interviews were conducted virtually. Those who could not make it to virtual meetings via Zoom responded in writing to the emailed interview questionnaires. However, limited internet access, a widespread issue in many African countries, further restricted access to the study. The sensitive nature of some questions also raised concerns about possible reprisals from participants' supervisors and respective governments, leading to a lower response rate.

Time and resource constraints also limited the researchers' ability to recruit a larger sample size. The sample areas covered in the study are Nairobi, Mombasa, Kitale, and Kisumu, the largest cities in Kenya, with a high number of law firms and other branches of the bar where most of the lawyers work. The ease of administering the ration of the interviews/questionnaires also informed the choice of study sites. Given the limited number of potential participants, that is, lawyers who have had some leadership experience or exposure in their legal career, the sample for the study was purposively selected; the sample size is also representative of a broad sample of lawyers in the country.



**Figure 1 | Map of Kenya showing the location of the study areas**



Source: Ontheworldmap.com

All participants were informed that their responses would be used for this study that would document women's representation in the legal profession in general and assess the points of attrition in the pipeline, barriers to retention, facilitators of promotion, and progress and trends over time. They were also informed that all information collected would be confidential and anonymous. The 40 lawyers interviewed comprised 30 women, eight men, and two persons living with disabilities (PwDs) (both of them are blind women) (see Table 1).

**Table 1 | Sample locations and number of participants**

Location of Study	Male	Female nondisabled	PwDs (Female)	Total
Nairobi	4	28	2	34
Kitale	2	1	0	2
Kisumu	2	0	0	1
Mombasa	0	1	0	3
Total	8	30	2	40



Desktop review was also undertaken to supplement the primary data collected. The information from the desktop review was used to triangulate the current knowledge on women in Kenya's legal profession and trace the historical development of women's participation to inform observations on women's current status and the challenges they face, and the necessary recommendations.





# FINDINGS



# 5

## ENTRY, RETENTION AND PROMOTION OF WOMEN IN THE LEGAL PROFESSION IN KENYA



Kenyan women's entry into the legal profession is closely tied to the country's colonial history. Kenya was colonized by Britain and became a protectorate in 1897, and thus the British imported their culture and practice of law as existed in England in that period (Aura-Odhiambo, 2018; Digby, 1992). British culture largely excluded women from the legal profession. Therefore, from the period of colonization, Kenya's legal profession was male-dominated, and the training was designed to ensure that few women were willing to apply to join the profession (Aura-Odhiambo, 2018; IDLO, 2018).

During the colonial period, all lawyers were trained outside the country, as there were no training facilities for them in Kenya. There were few Kenyan law practitioners, all of whom had received their legal education outside the country, either in Britain or India (Aura-Odhiambo, 2018; Kameri-Mbote, 2014). The Kenya School of Law (KSL) was established in 1953 to provide law training, initially for articled clerks and afterward for law graduates during the vocational stage of their legal education (Lumumba, 2014). A trainee lawyer served under an experienced lawyer bound by a written contract. It was not until 1961 that legal education was institutionalized through the Advocates Ordinance No. 34 of 1961, on the recommendation of the Denning Committee Report on legal education (Ghai & Ghai, 2011).

The Lord Chancellor of Great Britain appointed the Denning Committee to consider what facilities were necessary for the training of lawyers educated in the United Kingdom and how to make them fit for practice in African countries. It was also mandated to consider the form of assistance that could be given to African countries in providing legal education locally to their inhabitants (Aura-Odhiambo, 2018). The Denning Committee Report became a vital policy document on legal education for the region. Its recommendations included opening legal practice to persons trained in local law. The committee's recommendations led to the establishment of a Faculty of Law at the University College of Dar-es-Salaam in Tanzania in 1961 (Aura-Odhiambo, 2018, p. 98). The Faculty of Law was to provide training leading to the award of the Bachelor of Laws degree within East Africa. For the eight years that followed, all prospective lawyers in Kenya had to be trained in Tanzania.

The opportunity for training local lawyers at the University of Dar-es-Salaam was initially open only to men. Women were excluded due to societal perceptions then that law was a masculine course and not suitable for women. Colonialists, with their Victorian inclinations, deprived women of equal education opportunities equal to men, an ideology that mirrored Kenyan beliefs (Aura-Odhiambo, 2018). When the education space eventually opened for women, it was limited to courses and programs deemed “easy” for women, such as nursing, cookery and needlework, teaching, and secretarial work (Aura-Odhiambo, 2018; Chege & Sifuna, 2006). These factors explain the exclusion of women in the legal profession in colonial and immediate post-colonial Kenya.

Among the first female students the University of Dar-es-Salaam ushered in from Kenya was the Hon. Lady Justice Effie Owuor (retired judge of the Court of Appeal). In 1970, a full-fledged Faculty of Law was established at the University of Nairobi (UoN). The faculty was to offer law courses locally to Kenyan students. It admitted its first students the same year (Aura-Odhiambo, 2018). The pioneer students at the university included Hon. Joyce Aluoch, retired justice of the Court of Appeal, Hon. Lilian Mwaura, founder and president of the Kenyan Chapter of the International Federation of Women Lawyers (FIDA), and Hon. Jean Gacheche, a retired justice of the High Court of Kenya.

Upon completing their undergraduate studies in law, students are admitted to the Kenya School of Law for a postgraduate diploma in legal studies. Thereafter, they are called to the role of advocates, from where they take different paths at the bar. All become members of the Law Society of Kenya (LSK), which regulates the affairs of members of the legal profession and keeps records of all its members. Today, women and men are joining the legal profession in almost equal numbers, as shown by the LSK statistics in Table 2.

**Table 2 | Members of the LSK disaggregated by gender 2016–2022**

Year	Female	Male	Total	% Female	% Male
2022	8460	10516	18976	44.6	55.4
2021	9187	10077	19264	47.7	52.3
2020	9180	10668	19848	46.3	53.7
2019	7364	9248	16612	44.3	55.7
2018	7176	9146	16322	44.0	56.0
2016	5641	7761	13402	42.1	57.9

Source: Law Society of Kenya, 2022

Female respondents who have been at the bar for over 20 years stated that the increase in numbers of women during the last decade has been phenomenal. This trend contrasts with the number of women that joined the bar in the early 1970s and 1980s. One pioneer female advocate stated that in her class in the early 1970s, there were five women in a class of 110 students, while another stated that in her class of 1980, there were 23 female students in a class of 80. Hence, the women who were admitted to the bar then were few. Notwithstanding these data, there is a feminization of the legal profession in Kenya, as seen in Table 2, which shows the growing trend from 2016 to 2022. Some explanations for the increasing feminization of the bar are discussed below.

### **5.1. Inclusive legal education system**

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The increase in the number of women joining the bar has been attributed to an all-inclusive education system that provides access to education for girls and boys, allowing them to strive for any career they choose. Opening educational opportunities has meant more women as role models for girls as the number of women in the legal profession increases. More girls and young women are becoming ambitious and competent, striving to join the profession. Most fundamental, however, is the 2010 Constitution, which entrenches gender equality and has had a remarkable influence on eliminating gender inequality, including in the legal education system.

A respondent stated:

I attribute the same [increase in the number of women lawyers] to having more female law professors that the female students can look up to, more women in Kenya taking up top positions in leadership in the profession. I also attribute the same to affirmative action and free basic education, which has changed the mindset on the value of educating a girl-child, together with various government/non-governmental organizations seeking to support the girl-child.

Therefore, the inclusive environment for legal education in Kenya is a significant factor contributing to the feminization of the legal profession, mainly through providing equal opportunities for women and men to enroll in law schools and the constitutionally entrenched values of gender equality.

### **5.2. Diverse career pathways for women**

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Like elsewhere in the world, upon admission to the bar, men and women follow legal career paths that increasingly diverge over time. Private law practice absorbs most women admitted to the bar, most at the entry-level as associates. Since the enactment of the 2010 Constitution, which created several constitutional commissions and a devolved system of government, women lawyers have taken up jobs in those spaces. Some are chairs or commissioners in the commissions. For instance, the current chair of the National Commission on Gender and Equality is a woman; the chair of the Kenya National Commission on Human Rights is a woman.

Some are legal officers within the structures of the national and county governments as executives or speakers and deputy speakers of the parliament (Wambua, 2013). Others choose employment in government institutions such as the judiciary, the State law office, the office of the Public Prosecutor, various departments of national and county governments as legal officers, or constitutional commissions, among others. These diverse career pathways have given women options away from the traditional private law practice that portrays law as a masculine profession. This gender-driven dynamic is considered next.

### **5.3. Intersectional gender-driven dynamics**

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The study reveals that for most women, diverse career paths are influenced by gender-driven dynamics. Forty percent of respondents stated that those who opt to join government institutions are driven by the need for a stable job that will enable them to nurture their families. To a large extent, women's different career trajectories result from the dynamics of gender inequality within the legal world (Rhode, 2001). Whichever path women take at the bar, they face obstacles in their rise to leadership positions. For instance, in private practice, women do rise to partnership positions. However, for several reasons, their rate of promotion is relatively slower than men's, while in government institutions such as the Office of the Attorney General (OAG) and the Office of the Director of Public Prosecution (ODPP), the political nature of the appointment of the Attorney General (AG) has tended to favor only men. No woman has managed to get through the competitive process in the ODPP, for example. These will be discussed later in the report.

The increase in the number of women at the bar revealed in this report has yielded mixed outcomes in women's leadership progress, influence, and decision-making. In some institutions, such as the judiciary, progress in women's numeric representation at the bench and its leadership has been achieved, with women not just joining the institution but occupying leadership positions in many courts. However, other important organs of the state with strong links to and impact on law-making, law reform, and access to justice, such as the OAG and the ODPP, remain male domains in terms of leadership. These trends are not unique to Kenya but mirror global trends in women's continued marginalization in the legal profession. Despite the increased numbers of women in the Kenyan legal profession, the number of women represented is disproportionate to the partnerships they hold in law firms. It does not override the challenges that lead to their attrition (Sterling & Chanow, 2021).

### **5.4. Women and leadership in the Office of the Attorney General, Office of the Director of Public Prosecutions, and law firms**

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To provide a cross-sectoral analysis of women's leadership at the bar, the following section examines three sectors within the profession: the Office of the Attorney General, Office of the Director of Public Prosecutions, and law firms. These areas were chosen to offer balanced consideration of the private sector (law firms) and the public sector (AG and ODPP).

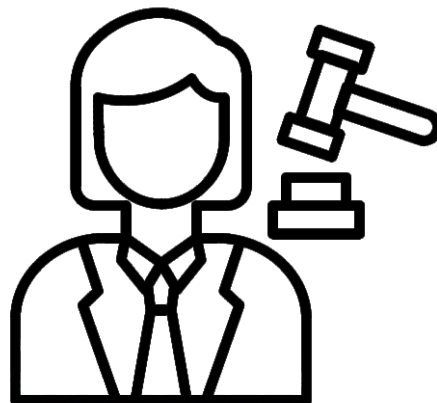
## A. Women and leadership at the Office of the Attorney General

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Known as the biggest law firm in the country, the Office of the Attorney General employs many newly admitted advocates. The OAG is the titular head of the legal profession and makes policy decisions regarding the nature of the drafted laws and the kind of legal reforms the country needs. Consequently, gender diversity in the leadership structure of the OAG is important. Women's presence in policy-making roles can influence the reform of laws that have been oppressive to women or the drafting of new ones that will take women's perspectives into account. However, this point is speculative: more research is needed to examine whether and how women's presence in this office has impacted gender sensitivity and the focus with which laws are reformed and cases prosecuted (Wambua, 2013).

Since independence, Kenya has never had a woman AG. The AG is a political office, with its holder appointed at the president's sole discretion. No president—all of whom have been male—has ever appointed a female AG, even though there are men and women equally qualified for the job. The principal assistant to the AG is the Solicitor General (SG). The SG is also a political appointment by the president, and since independence, no woman has ever held the position. What is evident from the study is that male presidents have tended to appoint their fellow men to leadership positions at the OAG. The tendency of people to promote or appoint persons who are like them is not new or farfetched. According to Gorman (2006), men tend to hire fellow men in law firms even when hiring processes have been systematized to minimize subjective promotion practices.

Despite not having any woman appointed as AG and SG, the heavy presence of women heading the various departments at the Office of the Attorney General demonstrates that it has been the preferred place of employment for women for years. Women head the various departments of the OAG due to the length of time they have worked there. Some interviewees who have worked at the state law office for years complained of stagnating in the same positions and that women are never considered when it comes to appointment to the highest offices, the AG or SG. For instance, the current AG was a Court of Appeal judge before the president appointed him, while the current SG was in private practice before he was appointed. This trend notwithstanding, the fact that two women have served as deputy Solicitor General for many years and one of them could have served as an SG is promising.



One respondent reported that:

**“Some of us joined the state law office almost 30 years ago, and in fact, we form the bigger percentage of employees. However, we are sidelined in terms of promotions and work allocation and other opportunities, all of which go to men. Men get international assignments that expose them to opportunities, while women are overlooked. Usually, the office recruits male personnel from outside whom they elevate. This is influenced by the negative attitude that the leadership of the office has had toward women. It is a gender-based bias.”**

One cannot argue that suitable female candidates do not exist for these positions. Given that the positions of the Attorney General and Solicitor General are political appointments, it is essential to create political awareness among political gatekeepers and appointers to consider equally qualified women.

## **B. Women and leadership at the Office of the Director of Public Prosecutions (ODPP)**

The Office of the Director of Public Prosecutions (ODPP), headed by the Director of Prosecutions (DPP), is another key government institution in which many lawyers, both men and women, are employed. The main functions of the ODPP include instituting and undertaking criminal proceedings against any person before any court who is suspected of having committed an offense, to take over and continue any criminal proceedings in any court that have been instituted or undertaken by any person or authority, and to terminate any proceedings at any stage before judgment is delivered (Wambua, 2013).

The prosecutorial duties of the ODPP are also central to women victims' access to justice and realizing Goal 16 of the SDGs. Women victims of crimes are often vulnerable. If their cases are not handled in a gender-sensitive manner by empathetic personnel, they may be denied access to justice (Wambua, 2013). Consequently, equitable gender representation in this vital institution is imperative, especially in decision-making positions.

**“According to the ODPP's 2022 statistics, the leadership positions at the ODPP as of 2022 are fairly distributed among men and women. Women occupy 42.8% of leadership positions, while men occupy 57.2%, but since its inception, the office has never had a woman DPP.”**



Wambua (2013) notes that despite having a male Director, this institution has achieved fair representation of women in its top leadership positions, in adherence to the constitutional gender threshold of two-thirds. This is demonstrated in Table 3.

**Table 3 | Structure of top ODPP leadership as of August 2022**

Designation	Female	Male
Director of Public Prosecution	0	1
Senior Public Prosecutor	1	0
Deputy Director, Head of Offences Against the Person	0	1
Deputy Director, Central Head of County Affairs	0	1
Deputy Director, Public Prosecutions and Head of Economic, International and Emerging Crimes	1	0
Deputy Director Central Facilitation Services	0	1
Director, Prosecution Training Institute	1	0
<b>Total</b>	<b>3</b>	<b>4</b>

Source: ODPP website, 2022

### C. Women and leadership in law firms

In Kenya, most women who qualify as advocates from the Kenya School of Law (KSL) join a private practice, mostly as associates in established law firms, or in corporations as in-house lawyers. Others set up their law firms as sole practitioners or proprietors. The 2021 and 2022 LSK statistics of the pathways lawyers take upon qualification show that women associates stood at 89% against 11% men associates in 2022 and at 90% against 10% male associates in 2021. These statistics indicate that women are the “working class” of the law firms, as shown in Tables 4 and 5.

**Table 4 | Gender-disaggregated data of associates, in-house lawyers, partners, and sole proprietors as of 2021**

Gender	Associates	In-house lawyers	Partners	Proprietors
Male	437	3,222	1,835	1,506
Female	3,696	743	717	477

Source: Law Society of Kenya

**Table 5 | Gender-disaggregated data of associates, in-house lawyers, partners, and sole proprietors as of 2022**

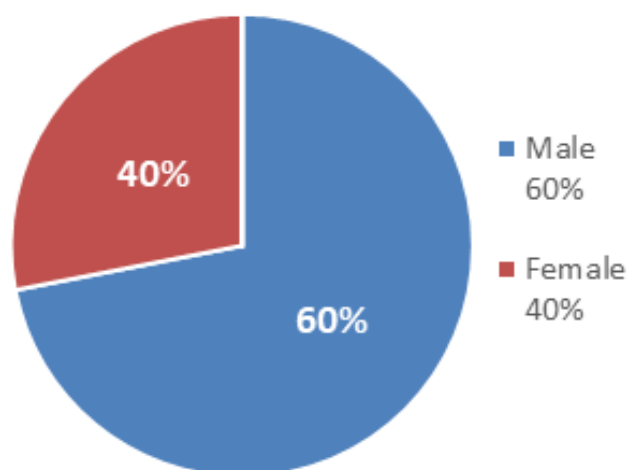
Gender	Associates	In-house lawyers	Partners	Proprietors
Male	437	3,250	1,940	1,608
Female	4032	752	794	489

Source: Law Society of Kenya

According to 60% of respondents, it is easy for women to be recruited as associates by law firms, but they remain in that position without being promoted until most of them exit to set up their own practices or look for jobs elsewhere. Women respondents complained that they usually see positions they wish to occupy in law firms but often encounter barriers that hinder them from rising to influential positions, as opposed to their male counterparts. Hitting the glass ceiling is not unique to Kenyan female advocates. Writing about the experience of American female lawyers in practice, Epstein et al. (1995) note that women in law firms hit a “glass ceiling” in terms of real barriers that prevent them from getting to the highest position in their professions. The glass ceiling perpetuates sex-based prejudices against women, limiting their leadership prospects (Epstein et al., 1995).

Although many women in the legal profession experience the glass ceiling in law firms, progress has been made. Women advocates now make up, on average, 40% percent of partners, compared to 60% for men, in 16 of the top law firms in the country. Figure 2 shows the overall percentage of men and women in 16 of the top law firms in Kenya.

**Figure 2 | Overall Percentage of female partners in 16 of the leading law firms as of 2022**



Source: IAWL survey, 2022

The higher percentage of women in partnership positions in big law firms is explained by the deliberate efforts made by the law firms to retain women by promoting them to partnerships. A partner in one such firm reported that due to global demands for diversity and inclusivity in law firms, some had adopted policies such as maternity policies that encourage women's success and that allow women to be parents as well as professionals. He stated that deliberate efforts were made to promote women to leadership positions in the law firm, as it recognized that having women in leadership is not only fair but also a sound business strategy. This inclusion is because more clients are attracted to law firms that demonstrate fairness to women, which has resulted in increased profitability for law firms. He noted, however, that only a few firms have taken these deliberate steps and that he is aware that most firms do not have such policies, hence the few women in partnerships and the high attrition, with most women leaving the firms when they are unable to move upwards.



# 6

## BARRIERS TO RETENTION AND POINTS OF ATTRITION



As evidenced by the data above, the status of women at the bar in Kenya has dramatically improved. Over the last decade, the number of women in the profession, women law partners in major law firms, women general counsels in other government sectors such as the OAG and the ODPP, and women in the governing council of the LSK has grown tremendously. However, women still face many challenges, including stereotypes and negative perceptions, lack of access to support networks, inflexible workplace structures, and sexual harassment. These factors hinder their progress to leadership and sometimes lead to workplace attrition. This section provides an overview of these barriers.

### 6.1. Stereotypes and negative perceptions

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The study revealed that women in the legal profession face many challenges, including conscious and unconscious biases due to gender stereotypes based on widespread patriarchal social values. All these challenges must be addressed through systemic changes in social structures and attitudes. Constitutional and legislative initiatives have guaranteed formal gender equality in all spheres of life, including the legal profession. However, there is a need for policy initiatives targeting changes in attitudes among the public and the workplace if women are to rise to leadership positions.

Respondents agreed that whatever sector of the bar they were in, they faced stereotypes and negative perceptions regarding the work they could and could not do simply because of their gender. Even those working in public institutions such as the OAG and the ODPP face some stereotypes, like work allocation and assignment of responsibilities.



A respondent from one of these public institutions had this to say:

**Work deemed important and challenging is given to men. Sometimes the office hires private male lawyers to attend to cases, yet we are there. Cases of international nature attract heavy briefs for private practitioners. An example is the International Criminal Court case, which involved important personalities in the country. The office hired male private law practitioners to attend to them. In another case involving a dispute between Kenya and Somalia on the boundaries in the Indian Ocean, the office hired male foreign lawyers to attend to it. The assumption is that we are not able to handle such cases.**

One of the pioneer women lawyer respondents stated:

It took a long time for the courts, clients, and the public to accept that I am a lawyer. This is because people were not used to having women in the profession. I remember attending a magistrate's court to represent a client. I took a seat on one of the benches reserved for advocates. The magistrate looked at me and told me that bench was reserved for counsels. He did not think I was one. In the office, when clients were referred to me, they would tell me that they had come to see a lawyer. In their minds, I could not possibly be a lawyer. Even male colleagues in courts keep completing sentences for women like they would forget what to say. This goes on all the time. It does not matter how smart a lawyer you are. This happens to women advocates all the time.

All the respondents interviewed felt that there is an expectation that women will drop out or slow down at work after bearing children and that they will not be as professionally committed once they have family obligations. They also face stereotypes about motherhood and its compatibility with the life of a professional that inhibit their upward mobility. These stereotypes impact the kind of work that is allocated to them once they are employed and the efforts employers put in to mentor them at the workplace.

One respondent stated that:

“**As an expectant woman lawyer, people generally do not think you can effectively represent a client in court. I remember a client who had been assigned to me rejected me, forcing my employer to assign his case to a male colleague. The client was unsure that I could argue his case effectively in court due to my pregnancy. I was assigned specific cases which the employer thought were not serious enough, not because I could not handle any case but because they concluded a pregnant woman could not handle important cases. This eventually adds to whether you will ever be promoted in the law firm. Most women then end up stagnating in the same positions and doing unchallenging work, hindering them from progressing to partnerships and other positions of authority.**”

Of the women interviewed for this report who work in law firms, 75% felt that in law firms, they were not assigned what are considered serious cases that are likely to take a long time to conclude. The “serious” cases are assigned to men, while the “less serious” and short-term ones are assigned to women. A respondent from one of the government institutions reported that there might be no differences in women's and men's jobs in the public sector. Still, there is a tendency to sideline women in allocating high-premium work, which often goes to men. Usually, work and briefs that involve travel outside the country and that give exposure go to men.

Asked if they challenge these stereotypes and negative perceptions, most respondents said they hardly do. Instead, they tend to go along with them because they believe complaining may backfire on them. This concession by the respondents parallels Epstein et al. (1995) assertion that women often accept gender stereotypes instead of confronting them and demanding equal treatment to men. Women sometimes also unconsciously expect biased treatment against them, such as not being deemed competent professionals after having children. These stereotypes and negative perceptions need not persist nor inhibit women from advancing their careers if adequately addressed.

## **6.2. Juggling family and work**

One of the most significant challenges women face at the bar involves workplace structures that fail to accommodate a balanced life. In this study, 60% of respondents reported challenges in balancing family and work as one of the most significant barriers to women's progress and advancement.

A respondent stated:

Things are not easy for women in private practice because of the multiple jobs that we do. Most of us enter the profession as young women and at a time when we are also ready to start our own families. This comes with getting children, and it becomes difficult to be a wife, a mother, and a practitioner. We end up being too thinly spread. I am not sure that we can balance work and family well enough for us to flourish in practice like our male colleagues. I believe both family and work suffer in one way or the other. One is always tired and harassed, which is not conducive to professional development. We merely end up scrapping through, trying to do our best in the circumstances. This is why most women cannot rise to partnership positions as men do. We are seen as not doing sufficiently enough to merit promotion. Most women hardly expect any promotions.

The intersection of womanhood and motherhood negatively affects most women's advancement in law firms. Women are placed at different points of the axis of exclusion—and it matters if one is a woman who is married with children or divorced with children—with the latter likely to have more demanding care obligations. In this study, 60% of the respondents attributed their stagnation in their places of work to the fact that in most law firms, they are seen as being transitory because of the prospect of them getting married and having children and are, therefore, not considered to be as committed workers as men. Also, 90% of female respondents reported insufficient time for themselves or their families. All female respondents reported high-stress levels in navigating their family and work responsibilities. Some spoke of how trying to give more attention to either work or children at home has had serious ramifications for them. One participant who did not want to create doubt in her employer's mind about her ability to work said that she used to take her sick children to the hospital late in the night after work, meaning that the child endured the pain until that time:

**In order to survive in law firms, women tend to conceal their family pressures by working within the expected hours like all is fine. I used to postpone taking a sick child to the hospital during working hours. I waited for nighttime to do so not to give any reason for my employer to think I was a liability to the firm. Today, I regret doing that because I do not think I gave the best to my children. Yet there was not much choice for me because I did not want to lose my job and, therefore, my source of livelihood for both myself and the children. I am a divorced mother.**

Some respondents also cited excessive working hours and reluctance by employers to put in place flexible schedules as another significant barrier to their advancement. Inflexible work schedules in most law firms were cited by 70% of the female respondents as a major hindrance to their progress. The challenges associated with balancing work as a practitioner in a law firm also explain the attrition of women from law firms to other jobs. In some cases, the attrition is lateral, with women moving out to set up their law firms, even with the risk that they may not get briefs.

One respondent noted:

Most law firms do not consider women's unique problems by relaxing working conditions such as working hours. Yet they are aware of their other responsibilities to their families. This leads to many leaving the firms and setting up their own solo practices so that they can have the liberty to attend to work and their families. I had to resign from a reasonably well-paying job in a law firm to set up my own law firm so that I could attend to my family. It came with its challenges, such as not making enough money, but at least I could spare some time for my family.

The difficulty in juggling family and work is not unique to Kenyan women lawyers but a global phenomenon. Rhode (2001) has written about how unpredictable deadlines, uneven workloads, or frequent travel pose difficulties for female lawyers, especially those with substantial family obligations.

However, the situation of women looking after their families and working effectively is not a mirage. A senior partner in one of the major law firms in Nairobi indicated that their firm has put in place mechanisms such as flexible working schedules that allow women to take maternity leave without losing benefits, working at their convenience, even from home, and that this has enabled women to progress in the firm. He reported that womanhood is not a disadvantage and should not be used against women:

**“ We have adopted policies specifically targeting female employees, ensuring that they can take maternity leave and return to work. We have workplace measures that enable them to look after their young children as they attend to their work. We even allow them to work from home. We celebrate them when they give birth. The firm shops for the young baby, and that is part of our policy. This motivates young mothers to attend to their families without compromising their work or feeling insecure about losing their jobs by becoming mothers. This has worked well, and the young women lawyers we employed years ago have risen to become equity partners and be great family people at home. ”**



The above discussions show that the reality of most women legal professionals who are also mothers is an either-or situation, especially if they work in law firms. A woman is deemed either a competent lawyer but a lousy mother or a good mother but a lousy lawyer: essentially saying women cannot be good at both. However, there is a silver lining: some law firms, like the one above, are doing better, making an effort to have family-friendly policies that are helpful to mothers.

### **6.3. Lack of mentoring and support networks for professional development**

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Another issue cited as a contributor to women lawyers' failure to advance to leadership is the lack of mentoring and support networks, which are important for self and client development. Such networks are mostly available to their male counterparts, who easily fit in the existing male networks or can create new ones. Of the female respondents, 60% reported that the profession remains a “man's world” and that, as women, they cannot create networks due to the heavy burden of balancing family and work obligations. Through socializing over business lunches, dinners, and drinks at prestigious clubs, men get into strong social and business networks, which are essential for their advancement.

Law firms or other workplaces for lawyers cannot create mentoring structures for women, so most women settle for supporting other women who are similarly placed in terms of their backgrounds, experiences, and values. This drive towards supporting women with shared common affinities further highlights how intersecting identities can converge to lock some women out of support systems. Thus, in environments where their identities are not commonly shared, such as being a sexual minority, living with a disability, or belonging to a minority ethnic group or a less popular religious affinity, they are likely to receive less support.

A senior female advocate stated that:

Whereas male advocates end the day by joining social spaces where they meet new clients or have extended meetings with old clients, women have no such opportunity. The idea of going off to clubs and meeting people there is alien to women. In any event, they cannot afford it because of having to run home to attend to the children and the family. This means their chances of meeting and bonding with clients the way men do is out of the question, limiting their chances.

Other scholars have cited the challenge of social spaces for mentorship being inappropriate for women; for instance, Norwood (2020) mentions that social sites for mentorship, such as golf courses, are alien to women because women have historically been excluded from such games.

Respondents indicated their preference for women mentors because of their shared gender identity and experiences. Older women partners may resonate better with the experiences of younger women associates (Epstein, 2001). However, senior women lawyers who could act as mentors have heavy family commitments and may not have enough time to properly mentor others or engage in the after-work social activities that often help with networking and building one's clientele.

A senior female advocate who was a respondent in this study had this to say:

**“ Younger women advocates indeed need mentoring. But we are so swamped with work and other obligations that we can hardly afford the time to spare for mentoring the young. We all struggle with children, families, and work, especially those of us running our law firms. We do not have time even for ourselves. We wish we could mentor others, but it is hard. I wake up by 5 am, attend to my family, run to the office, then to court, sometimes attending more than one court in a day in different parts of the city, then return to the office to attend to clients, then do some drafting. By the time I return home, which is not earlier than 6 pm and catch up with family, I can hardly breathe. We cannot afford to employ associates because the kind of work we do does not earn us much. This is typical of all of us female practitioners. It is hard to spare time to mentor the younger ones. ”**

In summary, the lack of mentorship and support networks for women's professional development in the legal profession is twofold. Firstly, social spaces where mentors and mentees can interact and build relationships are often inappropriate for women, especially mothers. Some activities are organized after work when mothers are unavailable because of family obligations. Secondly, older women mentors barely have the time to attend to mentees because of their family and other professional development obligations.



## 6.4. Low salaries and gender pay gap

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As reported by a majority of the respondents in this study, there is a gender pay gap and salary disparities between male and female lawyers in most law firms, even when employed simultaneously and do similar jobs.

One such respondent stated:

**There seems to be this silent rule that women should earn less than their male counterparts. There seems to be a brotherhood between the gatekeepers in the law firms and the male employees, which tends to favor the males. Generally, they are offered very low salaries, and in hard economic times, they are forced to take whatever they are offered without negotiating. Conversely, men start off at higher salaries, and they negotiate with their employers. This, coupled with the differentiated work that men and women employees get, makes it seem like men work harder and they do harder cases, so they are entitled to better pay. This is a source of unhappiness and discouragement among women lawyers. This is one of the reasons that they leave law firms to seek greener pastures elsewhere or set up their own law firms.**

Salary disparities to the detriment of women in legal practice are not unique to Kenya. A study by Markovic and Plickert (2022) titled *The Gender Pay Gap and High-Achieving Women in the Legal Profession* stated that high-achieving female lawyers in the American state of Texas earn less than high-achieving male lawyers across practice settings and earn less than their lower-achieving male counterparts in private practice. The report concluded that whereas high academic achievement boosts male lawyers' incomes substantially, it does not have the same effect on female lawyers' incomes (Markovic & Plickert, 2022).

Apart from salary disparities, most female respondents indicated that women generally lack opportunities for professional development, such as learning to negotiate salaries and benefits. In most law firms, male advocates are afforded opportunities such as attending conferences and workshops, all paid for by the law firms, while women do not get similar opportunities.

## 6.5. Sexual harassment

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Sexual harassment at the bar is what this study would call the biggest proverbial elephant in the room. Eighty percent of the female advocates interviewed reported having experienced it or knowing female colleagues who have been sexually harassed. In the present study, sexual harassment was cited by most as being one of the most substantial factors impeding women's rise to leadership and leading to high attrition rates from law firms. The respondents indicated that the most common forms of sexual harassment were offensive sexual comments, jokes and degrading comments, demands for sexual favors, and unwelcome sexually suggestive advances. They reported experiencing harassment from colleagues, employers, and clients.

A senior respondent who is a partner in one of the big law firms said:

**Sexual harassment, especially among young female advocates, is alarming. Most of them are asked for sexual favors by male lawyers, even those in senior positions in law firms. Those who resist live in fear of losing their jobs, and consequently, they are miserable. One came to me for advice on what to do because she has spent 12 years of misery at her place of work. She was crying.**

Another senior female advocate stated:

Sexual harassment is rife, and young female advocates are suffering. It is like, as a female, it is expected that you engage in sexual relationships with your male colleagues, like it is the normal thing to do. I had to go to a male advocate's office in a renowned law firm to tell him off because he had been persistently harassing this young female lawyer to the extent that she was almost breaking down. I had to take her away from that law firm to my own firm to save her from an impending mental breakdown.



Another respondent stated that she had to quit her job after her employer's persistent sexual manoeuvres towards her got out of hand:

**“ He ordered me to accompany him to attend court out of Nairobi. After the court session, he refused to drive back to Nairobi and booked one room in the town. I had no money, so I could not get my room, and my protests fell on deaf ears. What happened to me in the room was the most horrible experience I have ever had. I had to fight to [ward] off his sexual advances physically. He slapped me. But thank God I fought hard enough. Of course, that was the end of my job once we returned to the office. I quit. ”**

A senior female advocate respondent reported that:

I was offered a job as an associate in one of the reputable firms in practice. From day one, I experienced sexual harassment from colleagues and senior partners in the firm. When I tried to protest, I was told, “but you are so beautiful,” making it seem like I was inviting the harassment because of my alleged looks. It got so bad that I reported it to my mother's friend. She walked into the offices, grabbed one of my tormentors and roughed him up before she left with me to her law firm, where she offered me a job.

As revealed in a study by Wambua (2013), instances of sexual harassment in the legal profession in Kenya are not a new phenomenon. Some of the cases of bullying and harassment included repeated interruptions by men, displaying of offensive materials, verbal threats and abuse, demands for sexual favors, and offensive sexual comments (Wambua, 2013). Sexual harassment is not unique to the Kenyan legal profession but is a global problem. In 2018, the research company Acritas and the International Bar Association (IBA) conducted a worldwide survey on sexual harassment and bullying in the legal profession. Seven thousand individuals from 135 countries responded to the survey. The report revealed that sexual harassment and bullying are rampant in the legal profession, with one in three female respondents reporting having been sexually harassed and one in two female respondents reporting being bullied in their places of employment (Pender, 2019).

Despite many of the respondents in this study reporting either having experienced sexual harassment or knowing of incidences of sexual harassment among their colleagues, none reported the situation to any authority. Asked why they did not report or take action against the perpetrators of the harassment, they cited fear of repercussions. Some respondents also stated that they did not think anything positive would come from reporting as they would not be believed. The IBA report cited similar reasons among its respondents, attributing the lack of reporting to fear of repercussions, the power relations between the victims and the perpetrator, and the commonness of incidences of sexual harassment and bullying in the workplace (Pender, 2019).

## 6.6. Lack of clear promotion policies

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Most young female advocates joining law firms hope to ultimately become partners, thrive and reach positions of authority and leadership. Many aspire to become partners in law firms and not stagnate at the associate level. Not only is it prestigious to clinch a partnership, but partnerships also come with many benefits, such as shares, work autonomy, job security, and participation in the firm's governance. Associates merely earn salaries and do not enjoy these benefits. This study has established that whereas women now make up 40% of partners in some major law firms in Kenya, most women are associates or the “working class” cadre of the majority of the firms.

This report has also established that although many young advocates are employed as associates in law firms, they tend to move out of practice after a short period to seek employment as in-house lawyers in state and private corporations or in government institutions such as the judiciary or commissions. They opt for these areas of employment because they consider them more stable in terms of job security. These areas provide more stable incomes, which enable women to sustain their families. The work environment in these areas is more conducive for women to work and look after their families than the harsh and cutthroat environment at law firms.

Another main reason for women's outward mobility from law firms is the lack of clear promotion policies and their work's rather ad hoc nature. Most respondents did not think they would ever get promoted in the firms and hence saw no reason why they should stay longer in the firms. Yet, in firms with policies that create clear advancement trajectories, women who entered the firms as associates have stayed on and risen through the ranks to become partners. This means that clear promotion and growth policies can incentivize women to work hard and establish themselves in law firms.

A respondent from a big law firm with near gender parity in partnerships stated that:

Most of the female and male advocates we hired years back have stayed on and risen to become partners. This is because we have employment and promotion policies that give them a clear picture of their future in the law firm.

## 6.7. Socio-cultural challenges

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Although women are entering the profession in almost equal numbers with men and also getting employed in law firms in almost equal numbers, this report found that the number of women at the top in large law firms pales in comparison with men, at about 40% in the 16 largest firms. In other areas of the bar, such as government institutions, including the OAG, there are more women than men, and all of them have stayed there for most of their careers. Due to the time, women have been there, most departments of the OAG are headed by women. However, the top positions—the AG and the SG—have never been occupied by women. In the ODPP, which employs many women, there is almost gender parity in the number of men and women prosecutors. However, no woman has ever occupied the position of the Director of Public Prosecutions.

There are several reasons for these numbers and the persisting glass ceilings for women. Systemic barriers are raised by the profession's gatekeepers and senior partners at law firms, who design rules about the organizational structure and promotions that make it difficult for women to rise. Other ceilings are imposed by factors external to law firms, including by families more generally, by stereotypes, and by general socio-cultural effects as well as conscious and unconscious bias.

## 6.8. Challenges in the workplace environment

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The work environment in law firms varies from one firm to another. Some firms have deliberately moved away from the past and improved the working conditions for women. A respondent from one of the most prestigious firms reported that a particular firm has made the work environment more suitable for women to thrive as professionals and attend to their families and motherly duties. This study found that most other law firms have not. Therefore, there is no uniformity in maternity policies, unpaid or compassionate leave. The older women lawyers in the progressive law firms, who lived through the time of overt gender-based discrimination in the workplace and now find accommodating family-friendly policies, are highly appreciative of these changes.

This study also found that while there is almost equal employment opportunity in law firms for young men and women at the entry-level, there is no comparable equity in access to specialization in all areas of law. Women tend to get allocated work in areas deemed to be soft, such as family law and insurance claims. Women are often missing in huge and more challenging and rewarding areas of work, which goes to men. Yet, promotions and progress depend to a large extent on the type of cases individual lawyers handle and the kind of public profiles they build. Therefore, skewed work allocation is a form of discrimination that hinders women from progressing to leadership in law firms.

## 6.9. The COVID-19 pandemic and its impact on women in law practice

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The COVID-19 pandemic unsettled the global economy and the legal profession. All the respondents agreed that the pandemic had caused them many problems, with some closing their offices or being laid off.

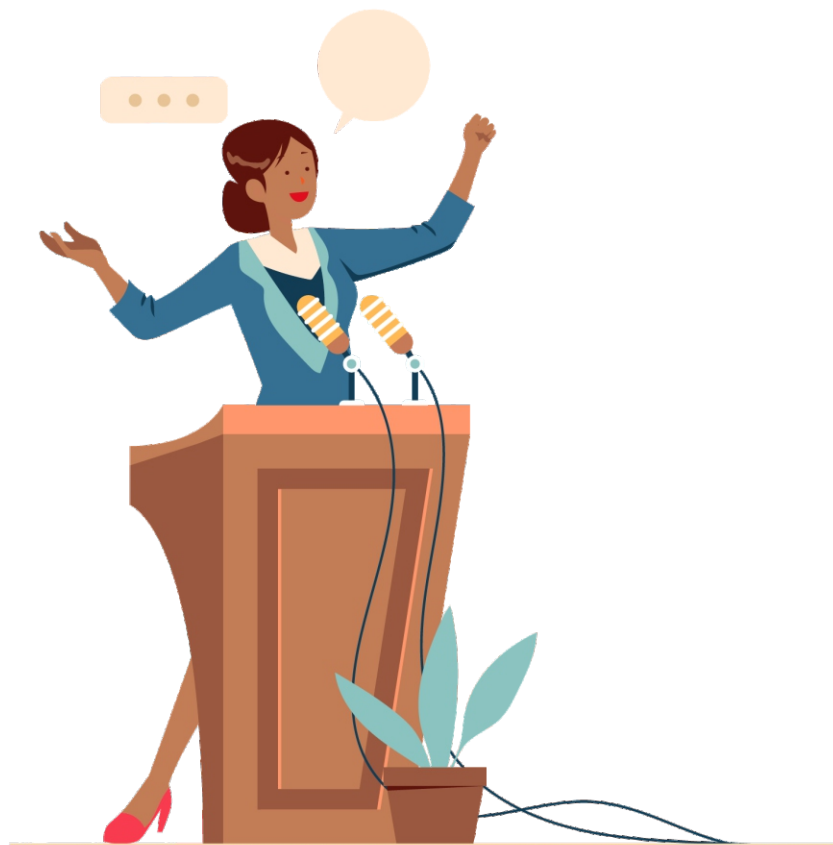
One respondent had this to say:

**“ I was declared redundant in a law firm where I had worked for ten years. I was not offered any redundancy package, and I found myself on the streets without any income. Although firms are trying to rebuild, I have not been invited back to my job, and I am on my own. I am trying to set up my own firm, but it is difficult. It has been terrible. ”**

Some respondents complained that the COVID-19 pandemic had increased the burden of care on women, leaving them disproportionately vulnerable to economic shocks, and has led to a marked increase in gender-based violence. With working from home becoming the norm at the height of the pandemic, women lawyers had to juggle their professional and domestic work in the same physical space, which created unexpected challenges for lawyers, who have traditionally been averse to embracing technology and generally wary of innovation (Muigua, 2018). Most were caught flatfooted, without sufficient technological know-how or the skills needed to navigate the new technology work environment introduced by the COVID-19 pandemic.

Women have been hit hardest due to their historically precarious financial situations. Women with childcare responsibilities have been forced to leave their jobs in law firms, either temporarily or permanently, due to the increased childcare needs. The global pandemic exacerbated these challenges and made many women lawyers unable to give their best professionally (Melaku, 2021; Offutt, 2021). This exacerbation impacted not only access to justice by the vulnerable and marginalized litigants but also lawyers' ability to render their services to those in need, most of whom happen to be women.

Despite its obvious downsides, the pandemic has created new opportunities for women to adopt strategies, including upscaling their technological skills and finding ways to work remotely. These new skills could address the issues of juggling work and home by enabling women to have flexible work schedules.





# 7 | FACILITATORS OF PROMOTION



To achieve gender parity in the legal profession, it is essential for the stakeholders and gatekeepers within the profession to acknowledge that the problem of gender inequality does exist in some sectors of the bar. Beyond recognizing and accepting this problem, conscientious efforts and plans must be developed to create awareness about the challenges women face. The LSK must work with law firms and lawyers to ensure that gender inequality in the legal profession is addressed. The following section analyzes the facilitators of promotion and recommendations for improving women's access to leadership positions.

## 7.1. Addressing stereotypes and negative perceptions

Although the 2010 Constitution of Kenya and other legislation and policies have been implemented to curb gender-based discrimination, that alone has not changed attitudes and mindsets. The law and policies are critical for setting the correct standards and conveying the country's intolerance of gender-based discrimination and attitudes. However, women face hidden and subtle forms of discrimination that cannot be addressed by law alone.

A respondent had this to say:

Most people, especially employers in the legal profession, are now aware of the provisions of the law and the constitution, which guarantee gender equality and non-discrimination. Some have put in place policies to ensure compliance with the law. However, such policies are mostly on paper, as implementation is far from achieved. Most young women face injustices such as disparate salaries with their male counterparts, discrimination in work allocation, mentorship, and programs or chances that lead to professional development. This means that looking at formal laws and policies alone is insufficient to deal with gender discrimination in the profession.

The above response shows a need to work long-term toward changing the mindset biased against women. In this regard, the LSK and lawyers' associations such as FIDA-Kenya can actively advocate for adopting and implementing gender equality and flexible workplace environment policies among their members. These professional organizations have the authority, resources, and political capital to catalyze and support changes in Kenya's legal profession through training, especially for young lawyers to speak up about gender inequalities in the workplace.

A respondent had this to say:

The LSK and other nongovernmental organizations such as FIDA are doing a lot to sensitize lawyers about the importance of gender equality and fair treatment of lawyers regardless of their gender. They have periodic seminars to do this. However, this should go beyond occasional seminars and should go beyond lawyers and include the general public. This is because stereotyping of women cuts across the board, and focusing on lawyers alone will only solve half of the problem. Good work is being done, but much more is needed.

## **7.2. Training on negotiating skills**

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Lack of negotiating skills came up as a challenge for most women at the bar. Half of the respondents (50%) stated that they tend to take the salaries as their employers offer them, while their male counterparts negotiate and get better remuneration. This trend is common both in private practice and in some government institutions. A respondent who is employed in a senior position in a commission indicated that women get paid less because even when they attempt to negotiate a higher salary, the employers tell them they are asking for too much. However, men holding the same position name their figure, and the employers do not raise questions about it. There is a need for women lawyers to be trained in negotiation skills to avoid being underpaid. FIDA and the LSK can facilitate this.

## **7.3 Sensitization of clients and the public**

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The sensitization of clientele, as well as the public, to the need for gender equality in the profession is good not only for women advocates but also for business law firms. One respondent was of the firm opinion that gender equality is good for business and increases the fairness with which society treats its citizens. Since clients drive the legal profession, they can be powerful and positive drivers for gender equality. Law firms and other institutions can instill an acceptance of the need for gender equality in clients, as indicated by one law firm that has done so with good outcomes.

A senior partner in one of the oldest and most prestigious law firms in the country remarked:

**“ We have also realized that clients, too, would like to go to a firm where there is inclusivity, equity, and fairness for all staff. We have periodic get-togethers with clients where we all mingle freely. Women colleagues bring in an aspect of warmth and hospitality that clients appreciate. We also invite clients to some of our workshops, where we showcase our experts in various fields of the profession with a specific focus on women. They have been outstanding. This is good for us all. We do hope that other law firms can emulate the steps we take, but unfortunately, few have attempted to do that. ”**

Sensitization of clients will be effective if managing partners at law firms give women strong briefs and allow them to prove their capabilities. Law firms must stand their ground when clients ask for a change of lawyers because they do not trust a female lawyer. Lastly, law firms can showcase the work of women lawyers to set in motion the attitudinal shift towards trusting women as capable lawyers.

#### **7.4. Maternity-oriented changes in the workplace**

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The legal profession must find ways to help women stay full-time within the profession. Societal norms have kept most women lawyers tied to their roles as primary caregivers in the home, so they cannot take on full-time law practice. This trend hinders women lawyers who are mothers from getting promoted or rising to leadership. It behooves law firms, government agencies, and other legal organizations to provide family-friendly solutions to allow women to pursue career progress while juggling family life so that women can stay on and be considered for leadership in due course. Some law firms have succeeded at doing so, so women do not have to stagnate to exit employment due to their multiple responsibilities.



A senior partner commented:

“  
**As the oldest and leading law firm in the country, we consider women's empowerment to be important for the law firm. Therefore, we have in place mechanisms aimed at creating a suitable work environment that enables women to thrive. We have in place policies that outrightly target our female colleagues, such as long maternity leave without them losing any emoluments or benefits, flexible working hours to enable them to attend to their families and work in a manner that does not disadvantage any, we allow them to work from home when they cannot report to the office, among others. We have an informal program that celebrates motherhood which we have done for many years. This, in my view, is good for the female colleagues and the firm because people are happy and motivated. Women are not punished for who they are. They are left to be mothers of our children and also be good professional workers. I do not think this has been adopted by other law firms, but they should.**  
”

A senior female advocate, one of the most prominent women lawyers in the country and a former employee of that firm confirmed the respondent's views above.

She stated:

I was an employee in that law firm, and I can confirm that they had fantastic policies for all of us. I got all my children when I was there, and these were joyous moments. Not only did I receive gifts for my children, but those very senior partners visited or, in other ways, showed concern for my welfare and that of my newborn baby. Maternity leave was long enough, and I never lost any benefits. The work environment for women was fantastic. We were allocated work equally, and we were mentored equally. That is what has made me who I am today in the profession.

Practices such as those discussed above by a senior partner in a law firm and corroborated by a former employee of that law firm should be highlighted for other law firms to see and emulate.

## 7.5. Address sexual harassment

The clear message from all the respondents was that sexual harassment is rife in the profession and should be seriously addressed. Although the employment and labor relations law in Kenya requires all employers with more than ten employees to have a sexual harassment policy, this study found that this requirement is not complied with, and the few employers that have complied do not seriously enforce the policies. Consequently, young female advocates continue to suffer from this behavior.

A respondent said:

**“As young female advocates, we live in fear. We live a life of indignity. We are like hunted animals, yet there is not much recourse for us. I do not think we should keep migrating from one place to another just to evade being sexually harassed. It has to stop. Some firms have policies, but we only hear of them. There is no implementation. I do not think it is right for us to struggle to get into a profession of our choice only to be hounded out by men, both old and young. Almost all female lawyers have experienced this harassment, although no one reports it to authorities for fear of losing jobs, or stigma, among others. They talk of just finding a way to survive. This does not stop men from harassing women lawyers. We cannot settle in our profession and prosper because of bullying and sexual harassment. Yet men are thriving as we do not. Sexual harassment has to stop.”**

The LSK should establish a body that receives and checks women lawyers' complaints of sexual harassment and discrimination, including ensuring that sexual harassment is disciplined under the professional code of conduct. Law firms need to have sexual harassment policies, with mandatory effect, to ensure that women legal practitioners are cushioned against victimization whenever a case of sexual harassment is reported. Women lawyers should be encouraged by the LSK to open up on sexual violence and not to cover it up.



A respondent in this study observed:

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**Sexual harassment is hushed up because female lawyers fear victimization and stigma if they report or talk out. We discuss it among ourselves and then get on with our lives. We are not guaranteed any form of support if we come out. In any event, we do not think that anyone will believe us. That may even spell doom to our careers because nobody would want to employ someone who would talk about sexual harassment that would embarrass them. We have to open up, but with the LSK assurance that we shall continue to practice law.**

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# 8

## PROGRESS AND TRENDS: MAPPING WOMEN'S LEADERSHIP



### 8.1. More women, but at lower levels and fewer in leadership

The report’s findings show that within the private and public legal section, more women are being represented, but they are stagnated at the lower ranks. In the private sector, some women continue to stay at the bottom until they eventually leave to set up their own law firms, starting from the bottom again. Apart from a few big law firms where women have risen to occupy about 40% of the leadership positions, women dominating partner positions is not the norm.

In the public sector, the OAG and ODPP in particular, there is a heavy presence of women with a fair representation in leadership but not in its topmost leadership positions. At the OAG, for example, there has never been a female AG since Kenya’s independence. Similarly, at the ODPP, no woman has ever been appointed as the DPP. The LSK’s chair and vice chair positions have also been predominantly male from 1949 until 2001 when Raychelle Omamo became the first female chair. In 2003 the first woman, Lucy Kambuni, became the vice chair. About 15 years later, another woman, Caroline Kamande, became the vice chair in 2020. As of 2022, the third woman, Faith Moni, was the vice chair (Table 6).

**Table 6 | Chairs and Vice Chairs of the LSK (1949-2022)**

CHAIR	GENDER	VICE CHAIR/ GENDER	PERIOD
Humphrey Slade	M	M	1949-1950
N.S. Mangat, Q.C.	M	M	1950-1951
L. Kaplan (M)	M	M	1951-1952
J. Sorabjee, Q.C.	M	M	1952-1953
C.F. Schermburucker	M	M	1953-1954
J.M. Nzareth, Q.C.	M	M	1954-1955
Ivor Lean, Q.C	M	M	1955-1956
Justice Madan, Q.C.	M	M	1956-1957
J.A. Mackie- Robertson, Q.C.	M	M	1957-1958
Justice Chanan Singh	M	M	1958-1959
J.O. O’Brien Kelly	M	M	1959-1960

CHAIR	GENDER	VICE CHAIR/ GENDER	PERIOD
Justice Madan	M	M	1960-1961
A.E. Hunter	M	M	1961-1962
Satish Gautama	M	M	1962-1963
Justice Harris	M	M	1963-1964
B.T. Modi	M	M	1964-1965
S.M.C. Thomson	M	M	1965-1966
G.S. Sandhu	M	M	1966-1967
K.B. Keith	M	M	1967-1968
E.P. Nowrojee	M	M	1968-1969
P. Le Pelley	M	M	1969-1970
S.N. Waruhiu	M	M	1970-1972
M.Z.A. Malik	M	M	1972-1973
J.A. Couldrey	M	M	1973-1974
Ramnik	M	M	1974-1975
S. Sangale	M	M	1975-1976
P.J. Ransley (M)	M	M	1976-1977
K.C. Gautama	M	M	1977-1979
S. Amos Wako	M	M	1979-1981
Lee Muthoga	M	M	1981-1982
Mutula Kilonzo	M	M	1982-1984
G.B.M. Kariuki	M	M	1984-1986
Joe Okwach	M	M	1986-1988
Fred Ojiambo	M	M	1988-1990
Paul Muite	M	M	1991-1993
F.W. Kagwe (Ag)	M	M	1992-1993
Willy Mutunga	M	M	1993-1995
Paul Wamae (M)	M	M	1995-1997
Nzamba Kitonga	M	M	1997-1999
Gibson Kamau Kuria (M)	M	M	1999-2001
Raychelle Omamo	F	M	2001-2003
Ahmednasir M Abdullahi	M	F Lucy Kambuni	2003-2005
Tom Adhiambo Ojienda	M	M	2005-2007
Okong'o Omogeni	M	M	2007-2010
Kenneth W. Akide	M	M	2010-2012
Eric Kyalo Mutua	M	M	2012-2016
Isaac E.N Okero	M	M	2016-2018
Allen Waiyaki Gichuhi	M	M	2018-2020
Nelson Havi	M	F Caroline Kamande	2020 - 2021
Eric Theuri	M	F Faith Moni	2022 - 2024

Source: Law Society of Kenya, 2022



Therefore, even in leadership, women leaders stay at the bottom of the leadership ladder. The factors contributing to this bottom-heavy trend for women in leadership in Kenya's legal profession, both private and public sector, include gender stereotypes and negative perceptions, lack of access to support networks, inflexible workplace structures and policies, low salaries and the gender pay gap, lack of clear promotion policies, and sexual harassment. However, the lack of political will to appoint women is the leading factor for the AG and DPP positions.

## **8.2. Persisting sexism and gender stereotypes**

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Of the multiple factors impeding women's rise or retention, persisting sexism and gender stereotypes top the list. This trend reflects the deep-rooted nature of the stereotypes that form part of the very fabric of Kenyan society. The legal profession was once a man's profession. Therefore, the entry of women comes with confronting age-old biases and stereotypes about women working in a men's domain. These gender stereotypes also inform the gender-based discrimination perpetrated against women in the legal profession.

## **8.3. Future impact of COVID-19 on women lawyers**

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The COVID-19 pandemic had a varied impact on women at the bar. For some women lawyers, the pandemic exacerbated the barriers and challenges they were already facing, as some law firms closed their offices and others were laid off. For other women lawyers who were the primary caregivers at home, working from home during the pandemic increased their burden of care as they had to perform their professional and domestic duties in the same physical space. This increased burden of care left women more vulnerable and susceptible to some of the barriers discussed, such as work-life balance and gender-based discrimination in the virtual workplace. However, other women found the changes that COVID-19 brought to their work situation more welcoming.

The need to incorporate technology to facilitate remote work helped some women to build on their digital skills. It led to flexible work schedules, such as working from home where necessary. Thus, while the consequences of the pandemic may further stagnate some women's promotion, it may also thrust other women higher up the leadership ladder. Either consequence depends on women's ability to pivot and balance their domestic and personal demands with the new professional working conditions. Once again, these outcomes largely depend on the intersection of factors such as motherhood, caregiver roles, age, and geographic location.



#### 8.4. SDG 5 and 16 and the importance of women in leadership

The report has shown in several ways why women must be in leadership at the bar. Gender-sensitive policy decisions in society and access to justice for all depend on the equal representation of women and men in decision-making processes. Therefore, to make the relevant UN goals a reality—SDG 5 on achieving gender equality and empowering women and girls, and SDG 16 on promoting justice and strong institutions by 2030—women leaders must be brought on board in all sectors, including the bar. Therefore, working towards equal representation of women leaders in the Kenyan bar must be fast-tracked. As the report on the Kenyan bench has shown, progress has been made in getting more women on the bench and in leadership positions. The same can happen at the bar with the strategic implementation of the facilitators of promotion discussed in this report.



# 9

## CONCLUSION



Kenya has recorded tremendous progress in the number of women admitted to the bar since the late sixties. Currently, the number of women entering the profession is almost equal to that of men.

**“The enactment of the 2010 Constitution, which grounded gender equality, has seen equal numbers of women and men join public legal institutions, while the majority enter private law firms either as associates or sole proprietors in their firms. However, even as the number of women admitted to the bar is almost equal to that of men, women lag in leadership positions, especially in law firms.”**

Except for a few big law firms that now have women partners standing at 40% against 60% men, women remain stagnated in associate positions, thus forming the working class of most law firms. The majority do not rise to partnership or other positions of power and do not hope to ever become partners or leaders.

Women lawyers continue to face challenges that hinder their retention and advancement to leadership positions. In law firms, they remain at the bottom of the ladder, and few rise to partnerships, except in a few large firms. All sectors of the bar face various barriers, such as conscious and unconscious bias, stereotypes and societal prejudices, unfavorable working conditions, and low salaries. All these hinder women's progress and lead to high attrition rates. However, implementing the facilitators of promotion offered in this report can address these challenges.

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# APPENDIX

## Interview Guide

### **Female and Male Members of legal practice/CEO LSK/ CEO of Female Lawyers Organization**

1. Do you think there is gender equality in legal practice?
2. What is the composition of membership disaggregated by gender from 2010- 2019 and 2021-2022?
3. Is there an increase in the number of females in legal practice? What do you attribute to the increase?
4. What are the current challenges women members of the legal profession face in private practice?
5. How many women occupy positions of partnership in major law firms? What is the nature of those partnerships?
6. Do you think women in law firms occupy positions of power and authority?
7. What practical solutions and policy recommendations can you offer to enhance women's participation in the legal profession?

### **Council Members/CEO/ Female Lawyers**

1. How have women fared in the profession?
2. The law society's membership has been largely composed of males, right from the colonial to post-colonial period. What is the current membership compared to the previous two phases?
3. What is the composition of membership disaggregated by gender from 1981-2001, 2001-2010, and 2010- 2019?



4. What is the representation of women in leadership in the law society governance structure from independence? What is the impact of their influence?
5. Is there an increase in the number of females in the profession? What do you attribute to the increase?
6. You are occupying an influential position in the profession. How have this impacted female members of the profession?
7. What are the current challenges women members of the legal profession face in private practice?

### **Female Advocates**

1. How many women fared in the legal profession?
2. As young women joining the legal profession, what are your hopes and aspirations?
3. Do you think there is gender equality in legal practice? What do you attribute to the increase?
4. What is the composition of membership disaggregated by gender from 2010-2019, and 2021-2022?
5. What are the current challenges women advocates face in private practice? a
6. What is the experience of women living with disabilities in private?
7. How many women occupy positions of partnership in major law firms? What is the nature of those partnerships?
8. Do you think women in law firms occupy positions of power and authority in law firms?
9. Is there sexual harassment in the profession?
10. How has COVID-19 impacted women practising advocates?
11. What practical solutions and policy recommendations can you offer to enhance women's participation in the legal profession?

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**Women in Law & Leadership**  
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