

CHALLENGES FACING WOMEN LEGAL PRACTITIONERS IN KENYA

BY

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DECLARATION

This project paper is my own original work and has not been presented to any other institution for award of a degree.

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This project paper has been submitted in partial fulfilment for the award of Masters of Arts in Gender and Development Studies with my approval as the University of Nairobi Supervisor.

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ABSTRACT

Gender inequality in the legal profession has continued to undermine the delivery of justice. The aim of this study was to investigate the gender related challenges facing women legal practitioners with specific emphasis on the social and cultural challenges as well as economic and professional challenges. The study intended to provide a platform to relevant stakeholders in the legal profession for addressing gender inequalities within the private legal practice. The study adopted Feminist Legal theoretical framework by Margaret Thornton, A conceptual framework was logically designed to describe the model of the problem, causes, strategies and results of women legal practitioners. The study was based on the assumption that women legal practitioners in Kenya face social and cultural challenges as well as economic and professional challenges which are gender related and common and can be overcome. The study employed a cross sectional descriptive survey focusing on women legal practitioners within three categories; partners, sole proprietors and associates. The target population comprised of women legal practitioners within the three categories practicing within Nairobi County .The Researcher stratified data from the register of advocates with the Law Society of Kenya, in regard to the number of women and men legal practitioners in the three categories of private practice in Kenya, simple random sampling was used to select the sample size for the study. A semi-structured questionnaire was used to collect data from the respondents followed by interviews. Data was analyzed quantitatively and qualitatively by descriptive statistics and was presented in form of tables, charts, graphs and narratives. The study established that women in the legal profession still remain underrepresented in position of greatest status, influence and economic reward in law firms. Women face gender related challenges; social and cultural challenges which include lack of proper accommodation of familial roles, sexual harassment, limited career advancement, stereotypes and gender discrimination including sexist behavior, harassment, demeaning comments. Women legal practitioners are faced by economic and professional challenges, with fewer women reaching the level of partnerships, unequal pay, lack of mentors, lack of policy to address sexual harassment and promotions in the law firms. The findings also indicated that employer's offers women legal practitioners work assignment and career opportunities that are generally less challenging or of lower profile than those of men. It was concluded that women legal practitioners are faced by both social and cultural challenges as well as economic and professional challenges. The study recommends for the Law Society of Kenya to develop gender model policies necessary to enhance women welfare in the legal practice and provide equal opportunities for the advancement of women in the legal field. Law firm needs to put in place strategies to increase gender equality and implement concrete steps to assist their women lawyers in advancing their career. Law firms need to develop and implement reduced hour policies, written full time flex policies and provide backup child care facilities.

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ACRONYMS AND ABBREVIATIONS

ABA	- American Bar Association
CAP	- Chapter
COK	-Constitution of Kenya
CEDOW Women	-Conventions on Elimination of all Forms of Discrimination against Women
CWAFCP	-Civics World Alliance for Citizen Participation
EALS	-East Africa Law Society
NALP	-National Association for Law Placement
NAWLC	-National Association of Women Lawyers in Chicago
LSK	-Law Society of Kenya
LLB	-Bachelors of Law
LLM	-Masters of Law
PHD	-Doctor of Philosophy
USA	-United States of America

CHAPTER ONE

BACKGROUND TO THE STUDY

1.0 Introduction

A lawyer, according to the Black's Law Dictionary is a "person learned in law; as an attorney, counsel or Solicitor; a person who is practicing law. Law is that which is laid down ordained or established .A rule or method according to which phenomena or actions coexist or follow each other. It is that which must be ordained and followed by citizen's .It is also referred to as the system of rules of conduct established by the sovereign Government of a society to correct wrongs, maintain the stability of political and social authority, and deliver justice. Working as a lawyer involves practical application of abstract legal theories and knowledge to solve specific individualized problems or to adverse the interest of those who retain (hire) lawyers to perform legal services.

The legal profession in Kenya is a regulated profession with clear entry, certification and disciplinary processes in place. To be allowed to practise law within Kenya one must be admitted to the Roll of Advocates and be holder of a practicing certificate as provided by the Advocates Act Cap 16 of the Laws of Kenya. Upon entry into the Bar most beginning lawyers start in salaried positions as associates in law firms as well as research assistants to experienced lawyers or judges. After several years of experience they may become partners in the firms or set up their own practice, some opt, due to various reasons to abandon the active legal practice and join the Judiciary as Magistrates or Judges, while others join civil society as well the public service as legal officers. The legal profession is one of the key professions in Kenya. The profession plays a critical role in the political, social and economic development of

the Society. Almost all sectors namely the teaching profession; medical, engineering, manufacturing, business among others requires the service of a lawyer in running business or in provision of service. Lawyers serve as both advocates and advisers, as advocates they converse for their clients in court by presenting supportive evidence .As advisers they counsel their clients on their legal rights and obligations. Lawyers interpret laws and apply laws to specific situations including participation in the drafting of proposed laws.

The Law Society of Kenya is the leading Bar Association, with membership of both men and women advocates currently numbering to over ten thousand. It is documented that legal profession is one of the male dominated professions not only in Kenya but also internationally, As at December 2012 the number of women on the Roll of Advocates was 3,619 while the male advocates were 5,784 with a figure of 853 members having not declared their gender! While these numbers show a great disparity, over the last 15 years there has been noticeable parity in terms of women being admitted to the universities to study law and those being called to the bar. The increase in numbers has not yielded equivalent increase in power and influence. Although we have high levels of women admitted into the legal profession these numbers are not reflected at the management or more senior level of the profession. A survey by National Association of Women Lawyers in Chicago (2013) on Retention and promotion of women in law firms revealed that a lot needs to be done to achieve gender parity in legal profession. The common challenge facing the legal profession globally is mainstreaming gender issues and concerns in its operations.

A survey conducted by EALS “Gender Disparities in the Legal Profession within East African Community” 2008, revealed that much remains to be done to achieve gender equality in the legal profession in East Africa. In Kenya there is a clear gender disparity in the legal profession. According to the LSK statistics available for the last four year indicates that we have few women lawyers in private practice in law firms. For the last four year the average number of women who took out practising certificate was only 33.2 % whilst those of men were 66.8 % of the total number of active Advocates. It is also noticeable that majority of the women in practice occupy the lower cadre positions in the law firms as associates compared to the high number of male lawyers who occupy leadership and managerial positions as sole proprietors and partners. Statistics further reveal that very few women lawyers practice as sole proprietors and partners. Newly admitted Women lawyers tend to move from active practice after a few year in practice to join other sectors as in house lawyers e.g. as Company Secretaries, Judicial Officers. The governing Council of the LSK is a clear picture of gender disparities in the legal profession in Kenya. Traditionally the chairpersons of the Council of LSK elected from lawyers in private practice and it’s evident that since the society was established, we have only had one woman as Chairperson Ambassador Racheal Omamo who served between the years 2001-2003. It is against this background that the study endeavoured to investigate the gender-related challenges facing women legal practitioners in Kenya.

1.1 Problem statement

Globally legal practitioners both men and women face various challenges but women legal practitioner face more gender related challenges than men while pursuing their career in private practice, a majority of which arise from their customary roles in the

society, social cultural and economic and professional factors. The challenges that women legal practitioners include disparagement, sexual harassment, work family conflict, stereotype, double standards, negative attitude, and gender gap in earning, promotion and upward mobility as well as lack of role models. Lawyers often work long hours preparing for court cases ,those who practice on their own can schedule their own workload while those who work for law firms as associates are assigned cases to prepare for appearances in court or to prepare court documents and usually have to work overtime. Women face a challenge in balancing work and life issues, it is also noticeable that after a short practice in the Bar a sizeable number of women lawyers make a swift to the corporate sector as legal advisers and company secretaries or in the Judiciary since that part of the profession provide more consistent working hours and financial returns at all times.

The legal profession in Kenya structures power relations between groups and classes by shaping the rules and laws that open or limit opportunities without resort to force, making it the quintessential male power dominated. The profession has a clear legal framework that sets standards of practice from admission into the law school, admission into the bar and active practice standards as an advocate of the High Court of Kenya. The profession is further guided by a statutory body that among others seeks to maintain and improve the standards of conduct and learning of the legal profession in Kenya also referred to use the Law Society of Kenya (LSK) Irrespective of the regulated mechanisms set here above women legal practitioners still face gender related challenges in their practice as Court officers.

The East African Law Society study in 2008(unreported) on gender disparities in the legal profession within East African Community revealed that, women lawyers face discrimination from members of the bench and in some situations clients, in the workplace male partners make it difficult for female associates demanding sex as pre condition to employment in addition to the fact that they already dominant in the workplace i.e law firms

In Kenya there is a clear gender disparity in the legal profession. According to the LSK statistics available for the last four year indicates that we have few women lawyers in private practice in law firms. For the last four year the average number of women who took out practicing certificate was only 33.2 % whilst those of men were 66.8 % of the total number of active Advocates. It is also noticeable that majority of the women in practice occupy the lower cadre positions in the law firms as associates compared to the high number of male lawyers who occupy leadership and managerial positions as sole proprietors and partners. Statistics further reveal that very few women lawyers practice as sole proprietors and partners. Newly admitted Women lawyers tend to move from active practice after a few year in practice to join other sectors as in house lawyers e.g as Company Secretaries, Judicial Officers. We have little information on gender related challenges facing women legal practitioners in Kenya with no empirical study ever been done on the same in Kenya. It is within this context that the study seeks to identify the challenges facing women legal - practitioners in Kenya and to establish the causes of the identified challenges.

1.2 Research questions

The study attempted to answer the following questions:

- i. What are the social and cultural challenges that face women lawyers in the legal profession in Kenya?
- ii. What are the economic and professional related challenges that face women lawyers in the legal profession?

1.3 General objective

To explore challenges facing women legal practitioners in Kenya

1.4 Specific objectives

- i. To identify the social and cultural challenges facing women lawyers practicing in law firms in Kenya
- ii. To identify the economic and professional challenges facing women lawyers practicing in Law firms in Kenya

1.5 Significance and Justification of the study

This study provides crucial information on the challenges facing women legal practitioners in Kenya with primary focus to the social cultural, economic and professional challenges. The Study looked at women in private practice; the *associates* (employed) in law firms and do not have a stake in major decision making and sharing of profits, the *sole proprietors* as well as women in *partnerships*. It identified the social cultural and economic challenges facing women legal practitioners in law firms in Kenya as well as the professional challenges and seek to suggest remedies to the challenges, the recommendations derived from the study will provide a platform to other stakeholders in the legal profession for addressing gender issues and concerns.

The findings and recommendations derived from the study may be used to inform the legal sector and other stakeholders in the Justice System in Kenya, and across East African Community on policy development, towards realization of gender equity in the legal profession. The study is a resource to other researchers who may venture into a similar study.

1.6 Scope and Limitation of the study

The study focused on identifying the social and cultural, economic and professional related challenges facing women legal practitioners in Kenya. The study was conducted on women legal practitioners in private practice.

The researcher anticipated and experienced some challenges including difficulty in getting appointments with respondents and some respondents taking too long to respond to the questionnaire which prolonged the period of completing the study. Some respondents were ignorant of responding to some questionnaires due to fear of losing their jobs.

1.7 Definition of terms

Bar-The professional body of lawyers

Bench- The judges/magistrates of the court of law

Private legal Practice- that which pertains to the actual conduct of legal proceedings and is governed by rules, through a law firm

Active Practice- one who is licensed to conduct legal proceedings in a court of law or tribunal.

In-house lawyer- one who practices law in other sectors in the legal sector other than in law firms

Gender Equality-In this context defined as the equal treatment of women and men including equal pay for equal work ,promotion, equal access to decision making bodies, among other conditions, so that they can enjoy the benefits of development including equal access to or control of resources and opportunities

Gender- Social cultural variable that refers to the comparative, relational or deferential roles, responsibilities and activities of males and females. They are what a society or culture prescribes as proper roles, behaviours, personal identities and relationships.

Discrimination - any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. “The Constitution of Kenya under Article 27(5) states that “a person shall not discriminate directly or indirectly on grounds not limited to sex, marital status among others.

Lawyer - Refers to one who has been admitted to the Roll of Advocate and pleads to the cause of another in judicial proceedings also referred to as a lawyer.

Partnerships- A law firm run or managed by more than one lawyers referred to as partners could be having equal shares or unequal shares in the law firm, they share profits and losses.

Equity Partner- A partner who equally shares in management, profits and losses if any in a law firm

Sole proprietors-A Lawyer who runs a law firm alone as the only managers with or without the assistant of other lawyers (associates)

Associate- A Lawyer who is employed/salaried by sole proprietors or partners in law firm. They do not have decision making powers and do not share in profits and losses of the law firm.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This section contains a review of both print and electronic literature and the theoretical framework that guided the study.

2.1 Literature Review

The legal profession has formal and informal control mechanisms that limit social and political diversity of who gets admitted, who does what and who progresses to the next level. In this respect, women and minority or disadvantaged social groups face substantial hurdles in making progress in the profession.

A survey by National Association of Women Lawyers in Chicago (2013) on Retention and promotion of women in law firms released on 4th April 2013 indicates that although women graduate from law school at about the same rate as men (48-52%), over 70% of women lawyers have left the profession by their seventh year. For those who remain, only 16% move on to become equity partners in major law firms, the majority of leadership positions still being held by men. Female flight from big-firm practice starts early and accelerates over time; the only countervailing trend is in the lower-status staff attorney role, where women are an increasing majority. It also established that women are not advancing in private practice at the same rate as men. In 1970, women comprised 8% of the total law school enrolments in the United States. By 2006, women had achieved near parity with men in law school (Wilder 2007, p. 6). Similarly in Canada only 1 in 20 lawyers in 1970 was a woman. As of 2005, 1 of every 3 three lawyers was a woman, with the majority under 35 years old

(Canadian Bar Association 2005, p. 14). This dramatic influx of women to the legal profession was paralleled across many countries. Women currently represent approximately 30% of the legal profession in the United States (Carson 2004) and 36% in Canada (Law Society of Upper Canada 2006), and rates are higher in some other countries, including Finland (43%) and France (45%) (Boigeol 2003, Schultz 2003a, Silius 2003).

Irrespective of the various international Instruments including the United Nation Conventions on elimination of all forms of discrimination against Women 1919 that advocates against all forms of discrimination against women .Women legal practitioner not only in Kenya but across East Africa and globally faces various challenges majority of which arise from their customary roles in the society. They include disparagement, sexual harassment, work family conflict, stereotype, double standards, negative attitude, and gender gap in earning, promotion and upward mobility as well as lack of role models. Those in law firms are subjected to working long hours preparing for court cases whilst those who practice on their own can schedule their own workload.

Discrimination and exclusion in various forms persisted well into the twentieth century for women lawyers (Eastman 2004). Early studies of lawyers in the 1970s revealed that even women lawyers in private practice face significant hurdle in search for employment. Women lawyers with training at elite law schools faced employment discrimination that was openly practiced in America (Epstein 1983).Women who secured legal work were often offered opportunities in low-status specialties deemed suitable for women, such as probate law and family law. They

received lower pay, denied partnerships, and rarely served on the bench (Kanter 1978, Martin & Jurik 1996).

Women are basically excluded from decision making forums and are now challenged of trying to assert themselves as beings with equal capabilities as their male counterparts. This perception has also been embedded into the legal profession despite their vast knowledge and understanding of the law. Epstein (1981) also found that employers often hold assumptions about women, specifically regarding their motivation and commitment, that disadvantage women in their prospects for challenging work and career to offer women work assignments and career opportunities that are generally less challenging. Similarly Epstein (1992) observed that employer's assumptions regarding women's special personality traits lead employers to allocate cases or duties to women lawyers less challenging or lower profile than those of men. Promotion and upward mobility for women lawyers in law firm is also one of the other challenges that women face.

The critical transition in Law firm is promotion to partnership. Partners in law firm enjoy equity shares in the firm, enjoy job security and extensive job autonomy in their work and participate in governance of the firm. These are benefits that are not available for associates who only get salary. Women remain underrepresented in partnerships positions in law firms internationally. According to the National Association for Law Placement 2007, women represented 45 % of associates, but only 18.3 % of partners in large U.S law firms. According to survey carried out in Toronto, a sample of who began practice in firms, the probability of becoming a partner was 47 % for men and 34 % for women (Hagan & Kay 1995). Similarly according to a study

by conducted in New South Wales, by Ministry for the Status and Advancement of Women, *Gender Bias and the Law-Women Working in the Legal Profession in New South Wales* (Sydney: NSW Ministry for the Status and Advancement of Women, 1995).revealed, Promotion to partnership occurs at a significantly slower rate for women than for men. The disparity between the number of male and female partners is marked.

Studies have revealed that gender stereotype obstruct the availability of broad options and choices for men and women lawyers (coontz 1995). Thornton 1998 considers how women in law are constituted primarily in “corporeal terms” producing and reproducing dominant notions of masculinity and femininity. Women lawyers are not perceived as competent as their fellow male counterparts. Rhodes (1994) study revealed that women lawyers face a double standard and double bind. Epstein (1992) pp.244-245) remarks on this double bind; “women often found themselves in no-win situations, regarded as not tough enough to handle business law and the stress of the courtroom”. According to a national survey of career satisfaction administered in 1990 by the American Association’s (ABA) Young lawyers division (Hirsch 1992).their study revealed that women legal practitioners face sexual harassment as a challenge, 26 % of male lawyers in private practice reported observing sexual harassment of female lawyers ,while 66 % of female lawyers reported observing sexual harassment of female colleagues (laband & lentz 1998.p 597). Further Brockman 2001, observed that sexual harassment continues to undermine professional relations in the practice of law. The behaviour generally includes unwanted sexual advances; unwanted teasing, jokes or comments of a sexual nature (Brockman 1992 a, b; and even sexual touching by judges and other lawyers (Zapanskiy 1990).

In a Canadian study Brockman (1992a) found one-third of the women and 10 % of the men among British Columbian lawyers surveyed reported personally observing or experiencing unwanted sexual advances towards women lawyers by other lawyers in the previous two years. In addition over two thirds of the women and over one third of the men reported personally observing or experiencing unwanted teasing, jokes or comments of a sexual nature towards women lawyers by other lawyers. In Alberta ,Canada. Brockman (2006) found that 30 % of the women lawyers experienced unwanted sexual advances, from lawyers in the last five years and 55 % were subjected to unwanted teasing, jokes or comments of a sexual nature from lawyers.

Women account for approximately 90 % of reported complaints in sexual harassment cases and may suffer negative repercussions, such as low job satisfaction, loss of employment undesirable transfers, anxiety, anger, irritation, depression and other health related conditions (Brockman 2001) Sexual harassment causes organizations including law firms to pay a significant premium through diminished productivity, higher turnover, and risks of legal action (laband&lentz 1998).According to (Meier 1990) sexual harassment should be disciplined under professional codes of conduct, as in the case with Canada (Brockman 1997) Bar associations internationally have worked to establish model policies, and majority of the big law firms in Northern America have sexual harassment policies. A report by the CIVICUS (World Alliance for Citizen Participation) March 2011 indicate that Sexual harassment and assault can have a profound impact on a woman's ability to continue her work as Human Rights Defenders. The report indicates that threats to violate the boundaries of a woman's physical sanctity are used as an effective intimidation tool by perpetrators to make her feel helpless.

Women lawyers find a challenge in striking a balance between career and family. Children affect the carriers of women with reference to choice of jobs, specialties, cases and hours worked.(Brockman 2006,Wallace 2004).Richman & Sterling 2002 argue that law firms culture specifically defines time along two dimensions that constitute a gendered nature of time and that disproportionately affect women. The first is the valuation of continuous and full time work. The second is the expectation that lawyers will be available 24 hours a day and 7 days a week. The lack of accommodation for the exigencies of maternity and child care serves to generate a climate of non-success for women lawyers according Thornton 1998.Working mothers are held to higher standards than working fathers and are often criticized for being insufficiently committed, either as parents or professionals. Those who seem willing to sacrifice family needs to workplace demands may be thought lacking as mothers. Those who need extended leaves or reduced schedules may be thought lacking as lawyers. These mixed messages leave many women with the uncomfortable sense that whatever they are doing, they should be doing something else. Assumptions about the inadequate commitment of working mothers can influence performance evaluations, promotion decisions, and opportunities for the mentoring relationships and challenging assignments that are crucial for advancement. Bouchard 2006, Canadian Bar association, 1993 advocates for policies regarding workplace family accommodation e.g. Flex time, compressed work week, flexible place, part time hours, job sharing and parental leave.

The Nairobi Law Monthly November 2010 edition published a list of the 50 top influential lawyers in Kenya the editor noticed that it was the first time Kenya Lawyers being rated on the index of power, prestige and influence. What is not

surprising is that in the top 50 there are only 6 women. In 2008 (Unreported), the EALS conducted a study on Gender Equity in the Legal Profession. The study targeted a population of 319 respondents drawn from her membership from three out of five countries namely; Kenya, Uganda and Tanzania representing a total of 8,000 members both male and female lawyers who were participants of a number of EALS-CLE seminars. The female respondents were 140 against 173 males. The findings of the survey reflects that a big percentage of the respondents were in managerial position of their firms at partner level, most of whom run general practice firms 96, then cooperate at 115 and the least engaged in criminal law practice at 37. With regard to employment and advancement opportunities, the study indicates that of the 313 respondent, 193 did not feel that there was gender discrimination in the legal profession despite ongoing perception. For those that identified presence of gender discrimination, majority felt it was due to commitment to work due to family responsibilities, 89 out of 251 felt that women should only practice law in certain fields particularly family law.

Women lawyers not only face discrimination from members of the bench and in some situations clients but also in the workplace male partners make it difficult for female associates demanding sex as pre condition to employment in addition to the fact that they already dominant the workplace but also acknowledge that there is a gap in terms of earnings between the men and women (Bouchard 2006).

The literature review reveals that there are numerous gender related challenges that women legal practitioners face. The study by EALS failed to identify the challenges facing women legal practitioners and or establish the causes to the challenges that

inhibit gender equality in the legal profession, it however revealed that women legal practitioners within East Africa face numerous challenges. This study seeks to get in-depth analysis of the social cultural and economic and professional gender related challenges facing women legal practitioners.

2.2 Theoretical framework

Feminist Legal theoretical framework will be used in this study. Margaret Thornton in her book *Dissonance and Distrust: Women in the Legal Profession* (Thornton 1996), Provides a compelling theoretical account of the continuing resistance to the participation of women as legal professionals, despite their increased presence in law schools and in some areas of legal practice.

She suggests that women are still 'fringe-dwellers in the jurisprudential community and will remain so until it is recognised that the issue is not simply one of women being 'let in' to the profession in equal numbers to men, but also involves posing fundamental questions about the character and constitution of law as it is taught and practised.

Feminist's legal theory has pieced together a picture of the systemic albeit localised, discrimination which operates in all echelons of the legal profession. For Thornton, discrimination against women in the profession - including the 'micro-iniquities,' 'such as sexist jokes or comments on a woman's appearance, to which women are subjected on a daily basis - is an inevitable consequence of the fraternal bonds which have always sustained relations within the jurisprudential community. It is only members

of the metaphysical legal 'club,' who are ultimately suitable to obtain 'club goods': partnerships in law firms and success at the Bar.

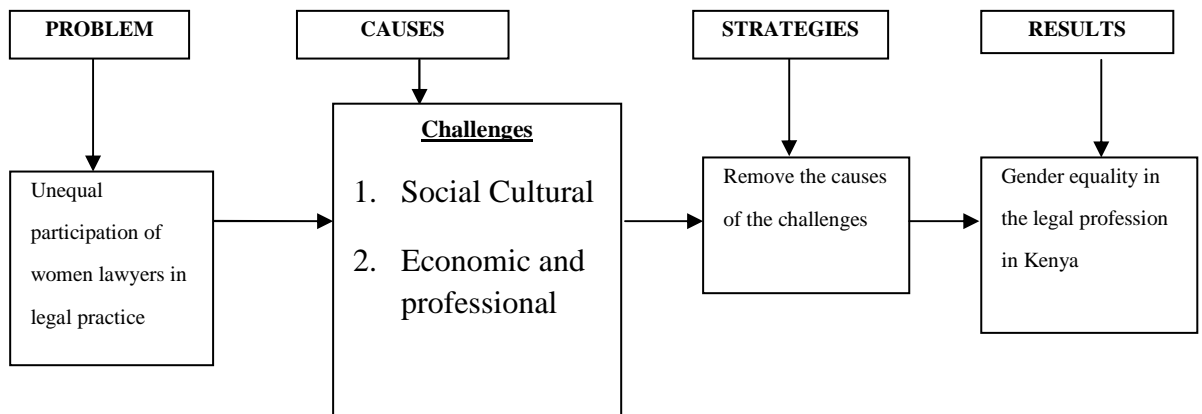


Figure 2.1 Conceptual model of the study

2.3 Relevance of the theory to the study

Legal feminism focus on women in the legal profession , the theory accounts for the continuing resistance to the participation of women as legal professionals, despite their increased presence in law schools and in some areas of legal practice.

The theory raises the need to find out how the character and constitution of law as it is taught and practised. Women have the capacity, in Thornton's words, 'to exercise a discursive power in resisting attempts at marginalization and creating new images of what it means to be a lawyer' (Thornton 1996: 286).

In this study sought to identify the challenges facing women lawyers in private practice in Kenya so as to bring out recommendations that will help in addressing gender disparities in the private practice within the legal profession.

2.4 Assumptions

The study was based on the following assumptions;

- That women legal practitioner in private practice face social and cultural challenges while performing their duties.
- That there are economic and professional related challenges facing women legal practitioners in private practice in Kenya

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This section includes, research design, target population, sample size, sampling technique, data collection methods, analysis and the ethical considerations.

3.2 Study Area

The study was conducted in Nairobi County. The choice of the target zone was informed by among others; the high number of women lawyers practising in law firms based in Nairobi, accessibility to the law firms and administration of the interviews/questionnaire, women within Nairobi have access to all systems of courts in Kenya, Supreme Court, Court of Appeal, High Courts, Specialised Courts as well as Magistrates Courts. The secretariat of the Law Society of Kenya which was an important source of information is also based in Nairobi.

The Sample size from Nairobi is significant to give adequate information for this study considering that legal practitioners in Kenya are licensed to practice law in all the 47 Counties, hence women legal practitioners based in Nairobi practice law are fair representative of women legal practitioners in the entire country .

3.3 Research Design

The study employed cross-sectional descriptive survey. Cross-sectional survey provided a “snapshot” of the frequency and characteristics of a population of a problem in a population at a particular point in time. Both quantitative and qualitative data was collected through the use of well structured questionnaire and interview.

3.4 Target Population

The target population for this study comprised of women lawyers in three main areas of practice in Kenya, namely, sole proprietors, partners and associates. The choice of the target population was informed by the study objectives and topic. The population choice provided an in-depth analysis of the gender related challenges facing women legal practitioners in private practice in Kenya.

3.5 Sample size and sampling procedure

Sampling will play a key role in the data collection process. In this regard, the researcher carried out a situational analysis in the Law Society of Kenya, and got , stratified data from the register of advocates, in regard to the number of women and men legal practitioners in the three categories of private practice in Kenya. Current population of women legal practitioners is estimated to be 3,600. The register was used and the names of female legal practitioners stratified according to the category of practice they fall under i.e. sole proprietor, partner and associate. The researcher then used simple random sampling to select the sample size for the study which can logically be assumed to be representative of the population.

Through simple random sampling the researcher selected 10 women legal practitioners for each of the three categories upon which the study was based targeting a total population of 30 respondents. Each female legal practitioner in each category was assigned a number (1, 2, 3, e.t.c) according to the reference numbers issued by the Law Society of Kenya and the researcher generated integers for the sample according to the total population in every category.

3.6 Data Collection Methods

3.6.1 Survey

The researcher used survey data collection method to collect both qualitative and quantitative data from the respondents through the use of both questionnaires and interview survey method.

3.6.2 Case Study

The researcher purposively sampled three women legal practitioners each in every category of women in legal private practice i.e. sole proprietor, associate and partner and interview them using an interview schedule. The objective was to document life stories from the interviewees and get in-depth in order to get in-depth understanding in relation to the various objectives of the study.

3.7 Data Analysis and Presentation

The researcher will used tally sheets to generate frequency counts out of which percentages were calculated for the quantitative data collected. The presentation of quantitative facts was displayed in form of pie-charts, diagrams, graphs. Qualitative data collected was examined for completeness and relevance in order to ascertain their usefulness, adequacy and credibility in answering the research questions. The data was presented in form of tables, charts and written narratives.

3.8 Ethical considerations

The research obtained approval from the Ministry responsible for Higher Education through the Institute of Anthropology, Gender and African Studies, University of Nairobi before carrying out the research. Thereafter the researcher sought permission

to conduct the study from the Law Society for Kenya to interview her women members in the legal profession. The researcher administered the questionnaires by herself. The Information gathered therein was treated with all confidentiality and purposely limited for research study only. Any disclosure shall be consent with all parties. The respondents were informed about the objectives of the study, the manner in which the finding will be disseminated and used.

The respondents voluntarily choose to participate in this study .Anonymity of the individual's respondents was protected by use of codes on the questionnaire. Respondents voluntarily choose to participate in this study. The researcher ensured that the analysis of the research findings was done objectively, accurately, and credible. No fabrication, falsification or plagiarism was applied in this study.

The study results will be shared with legal professional bodies within East African Community, stakeholders in the Justice system and all interested respondents.

CHAPTER FOUR

DATA ANALYSIS, PRESENTATION AND INTERPRETATION

4.0 Introduction

This chapter presents the research findings generated from the questionnaires and case study interviews. The findings of the study are presented in form of narratives, tables, charts and graphs. Not all respondents answered all the questions and hence the results indicate the percentage of the actual respondents to a particular question. The data collected was analysed based on the sections. Personal information, Social and cultural challenges and finally economic challenges.

4.1 Profile of the respondents

This section sought to find out general information on the level of education, current position in the law firm and how long one has been an associate for those are associates. The section also sought to understand if the level of education affected the advocates work. The findings are illustrated in table 4.1 below;

Description	Alternatives	Percentages
Level of qualification	Degree in Law (LLB)	84
	Masters Degree in Law (LLM)	5
	PHD	1

Table 4.1 Training and level of education.

As observed in the table above eight four (84 %) of the respondents were holders of first degree in law with five percent (5 %) being holders of a masters degree in law

and a one percent (1 %) been holders of PHD. This shows that women legal practitioners in private practice have not advanced further in their education.

Fifty five percent (55%) of the respondents who are associates felt that their level of education did not affect their work since majority of all the advocates only hold LBB degree and that is what is required for admission to the Roll of Advocates and to be issued with a practicing certificate. Forty five percent (45 %) of the associates felt that their level of education affected their ability to get work in the cooperate sector as majority of the employers require someone to have a masters degree. Women who were studious or have high qualification are seen as a threat by the opposite gender and in other cases from women themselves. Some sample responses include:

“I have studied for almost ten years but still am viewed like a woman first before my substance, people in here view me as a threat and any chance of advancement I am always side stepped...”

“I have a high ranking position but my level of education is less than my juniors in here but they all look at me like I came or achieved all this through dubious means, it is frustrating”

These were just but the samples that show women being treated differently irrespective of their academic qualifications. The data collected from the Law Society of Kenya indicated that 37.9 % of the licensed advocates to practice were female while 52.1 % were male advocates.

This clearly shows that we have more male advocates in the practice than female advocates as shown through the table 4.2 below;

Category	Status	Count
Female	Active	2264
Male	Active	3708
TOTAL		5972

Table 4.2 Active Practicing Status Statistics: 2013

A survey by National Association of Women Lawyers in Chicago (2013) on Retention and promotion of women in law firms released on 4th April 2013 indicates that although women graduate from law school at about the same rate as men (48-52%), over 70% of women lawyers have left the profession by their seventh year. For those who remain, only 16% move on to become equity partners in major law firms, the majority of leadership positions still being held by men. The researcher sought also to find out from the Law Society of Kenya as to the nature of engagement of the active female advocates in the year 2013. The figure below shows the results;

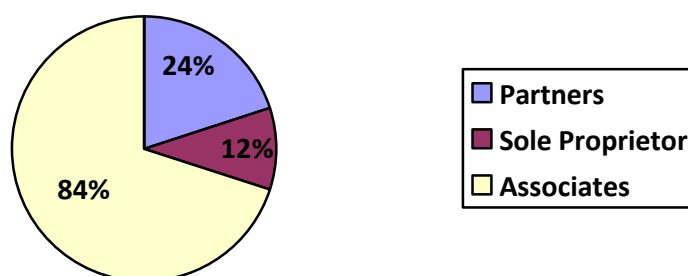
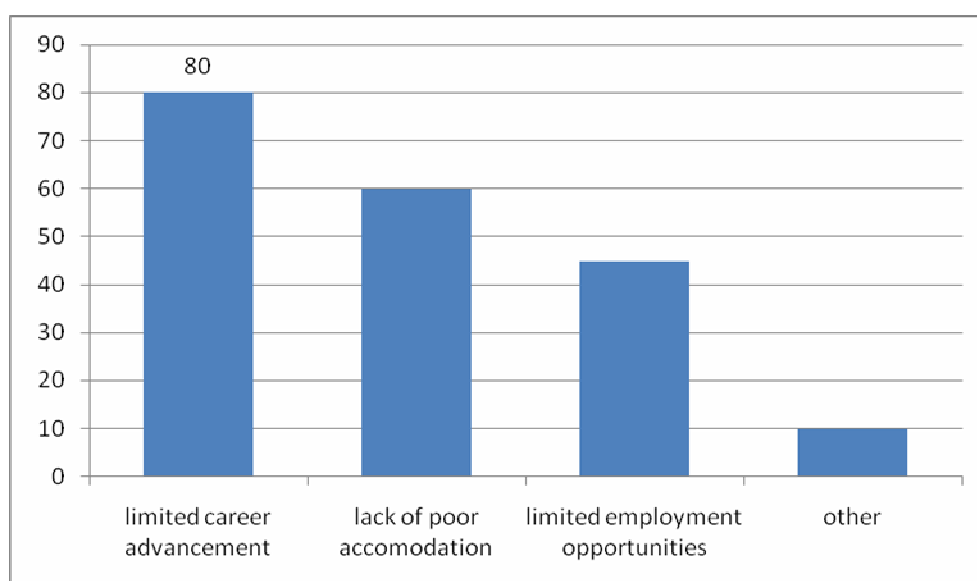


Figure 4.1. Category of engagement of female legal practitioners.

The study revealed that out of all the licensed female advocates in private practice 64 % are associates with a small percentage of 24 % been in partnerships in the year 2013. A survey conducted in 1997 in large U.S law firms by National Association for Law Placement revealed similar results that women remain underrepresented in partnerships positions in law firms internationally. The study revealed that, women represented 45 % of associates, but only 18.3 % of partners in large U.S law firms.

4.2 Social and cultural challenges

Under this section, the researcher investigated the social and cultural challenges facing women legal practitioners; if the advocates felt gender discrimination exists in the legal profession, if there is a prescribed criterion of promotion in the law firms, if they believe that there are fields women legal practitioners should predominantly practice and if they have ever been denied position due to gender parity. All the respondents felt that gender discrimination exists in the legal profession. With majority of the respondent indicating that women legal practitioners were discriminated more in career advancement as can be shown in the figure 4.2 below.



Figure; 4.2.Areas of gender discrimination

Limited career advancement was the main reason as to why women believed that there was gender discrimination. They cited that most of the time men would by pass them in promotion at their work with no clear reason being given. As to the respondents who cited lack of poor accommodation and familial responsibilities stated that, work in the law firms were reserved for men. Ladies advocates were allocated family related matters and less contentious matters while their male counterparts were allocated big commercial transaction litigation cases.

Eight five percent (85 %) of the respondents cited lack of clear policy for promotion in the law firms, they felt that promotions were arbitrarily awarded and most of the associates felt that men lawyers were more likely to be promoted unlike women legal practitioners in the law firm. Where there was promotion policy the promotions to partnerships was considered on the basis of who was able to bring in many high profile clientele as opposed to efficiency at work.

Women legal practitioners also are discriminated and denied positions and work due to gender parity with 28 % of the respondents citing discrimination in dealing with high profile cases as depicted in the figure 4.3 below. The other areas where women legal practitioners are discriminate due to gender parity include; during hiring process, during promotion, with cases of denial by clients to handle specific cases on the ground that they are female legal practitioners.

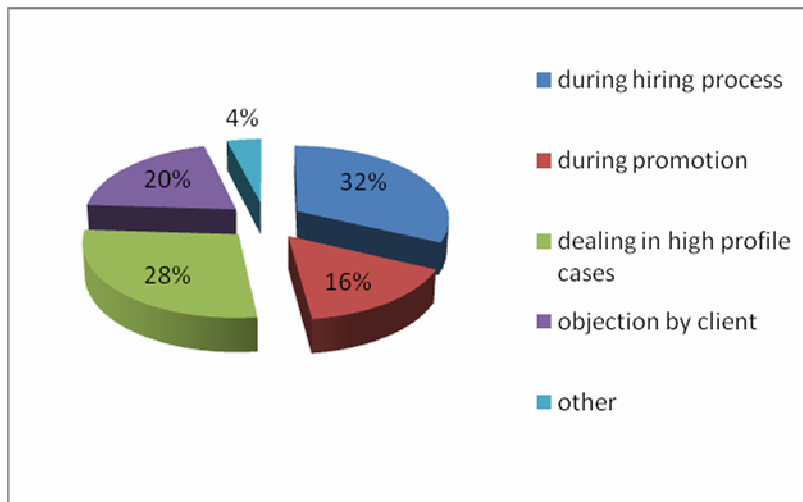


Figure 4.3 Denial of position due to gender parity.

Out of all the associates respondents interviewed Sixty seven percent (67 %) of them felt that there are no flexible arrangement in the law firms to attend to family matters. Only 85 % of the interviewed sole proprietors were of the view that they have flexible arrangements to attend to family matters since they were able to plan themselves been self employed a position shared by those in partnerships.

4.2.1: Leadership and decision making.

On frequency with which respondents were assigned leadership roles in the law firms 35 % of the respondents said they make decisions quite often while fifty five percent (55%) said they do not make decisions at all. The fact that majority of the women legal practitioners are not involved in decision making is a fundamental expression of the power divide experienced in the society where men are considered to be decision makers and women given little or no chance to make decisions.

4.2.2 Perceptions and stereotypes in the legal profession

To determine if women legal practitioners are faced with stereotypes in the legal profession; thirty five percent (35 %) of the respondents felt that women lawyers are less respected by men with 65 % stating that female lawyers are more respected by women than men. An overwhelming 60 % of the respondent felt that women lawyers are more competent than men which can basically be explained by the fact that all the respondents were female although it is surprising to see that 40 % of the women themselves felt that men lawyers are more competent than the female lawyers.

The table below shows the perceptions and stereotypes that undermine women legal practitioners' advancement.

Question	Agreed	Disagreed
a) Women Lawyers/ Advocates are more respected by women than men	65%	35%
b) Women lawyers are more competent than men lawyers	60%	40%
c) Women lawyers are accountable than men lawyers	60%	40%
d) Men lawyers are more aggressive than female lawyers	70%	30%
e) Female lawyers are fairly given audience at forums where men predominate	44%	56%
f) Challenges facing women are self-ignited	48%	52%
g) Men Lawyers are more committed to work than women Law	54%	46%
h) Do clients pay lesser legal fee to women lawyers compared to male lawyers	55%	45%

Table 4.3; perceptions on stereotypes in legal profession.

The finding above is supported by the finding by Epstein (1981) where it was found that employers often hold assumptions about women specifically regarding their motivation and commitment that disadvantaged women in their prospects for challenging work and career advancement.

4.2.3: Sexual harassment and gender disparagement

This section establishes if there exists sexual harassment and gender disparagement. The findings of the research were that Sixty five percent (65 %) of the respondents reported to have been sexually harassed at place of work with fifty percent (50 %) reporting that the sexual harassment occurred more than once. On inquiring as to who were the perpetrators of the sexual harassment fifty five (55 %) percent reported that the perpetrator were employers and twenty five percent reported sexual harassment by judicial officers including Magistrates and Judges. Fifteen percent (15 %) of the respondents indicating that they were sexually harassed by clients who would insist on sexual favours so as to continue giving the advocate work. Similar findings (Coontz 1995) had similar findings that women legal practitioners face sexual harassment and disparagement that include; repeated interruptions while speaking, degrading joke. In a Canadian study Brockman (1992a) found one-third of the women and 10 % of the men among British Columbian lawyers surveyed reported personally observing or experiencing unwanted sexual advances towards women lawyers by other lawyers in the previous two years.

In addition over two thirds of the women and over one third of the men reported personally observing or experiencing unwanted teasing, jokes or comments of a sexual nature towards women lawyers by other lawyers

Figure 4.4 below show the common nature of sexual harassment that woman legal practitioners face at their place of work.

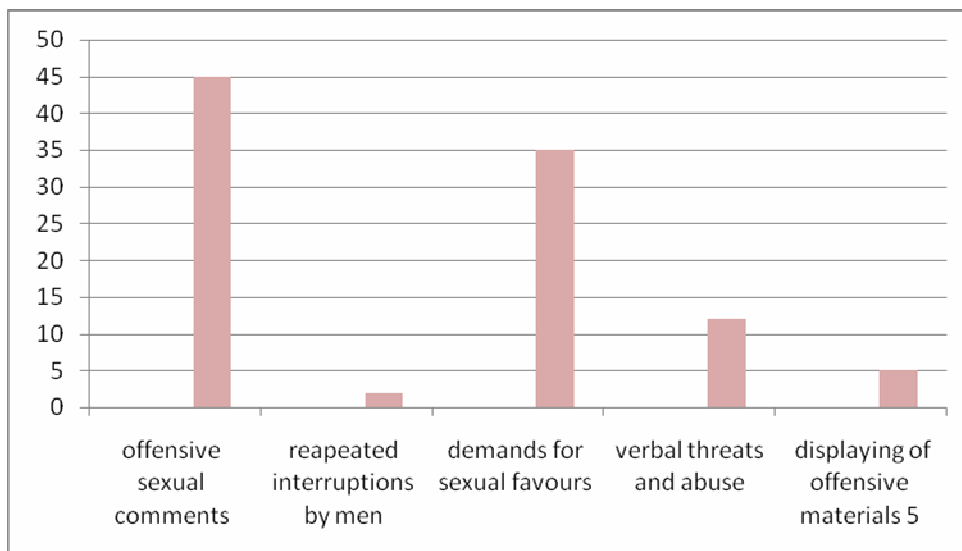


Figure 4.4 Common nature of sexual harassment.

The most common form of sexual harassment that the respondent reported to have experienced is the issuance of offensive sexual comments, jokes and degrading comments, with forty five percent (45 %) of the respondents reporting to have experienced it. Thirty five percent (35%) of the respondents indicated that they had experienced demand for sexual favours and or unwelcome sexual suggestive advances.

The effects of the rampant sexual harassment, was also assessed with forty five percent (45 %) of the respondent reporting that sexual harassment at work place leads to unlawful dismissal. The other consequences cited by the respondents included demolition and workplace , failure to get promotions, loss of clients , loss of income and poor performance.

4.3 Economic and professional challenges

The economic and professional challenges facing women legal practitioners was evaluated by first looking at the reasons as to why the associates have not been able to open up there law firms or joined partnerships, second the researcher sought to know if the associates earn the same salary with fellow male colloquies with similar work experience in the same law firm.

Seventy percent 70 % of the associates respondents cited lack of start –up capital as the major factor as to why they have not opened their own law firm or joined partnerships. Sixty five percent (65 %) cited lack of collaterals to be able to secure loan from financial institution as a challenge, Sixty five percent (65%) of the respondent felt that no one had approached them to form a partnership because of their gender. Ninety percent (90%) of the respondents indicated that they feared incurring looses and hence the reason why they never opened a law firm. Other reasons cited by the respondents as to why they have not advanced from associates was lack of support by their husbands who feel threatened by imagining that the wives will be more advanced and earning more than the.

The findings are summarised in the table 4.5 below.

REASON	AGREED	DISAGREED
Lack of start-up capital	70%	30%
Lack of collateral to be able to secure loan from financial institution.	65%	35%
I am not interested in starting up my own law firm.	20%	80%
No one is interested in engaging me as a partner because I am a woman.	65%	35%
Fear of incurring losses.	90%	10%

Table 4.4 Reasons hindering women legal practitioners from advancing

The study also sought to find if there are fields that women legal practitioners prefer to practice more as opposed to others by requesting them to choose the field in law that they majorly practice. Thirty five percent (35 %) indicated that they majorly practice in family law, with only five percent (5 %) percent of them indicating that they practice in property and 5 % in cooperate law. This is very clear indication that we have fewer women engaged in the

Lucrative fields, during interview it was revealed that the reason why majority of the women do not take up some challenging work is because of perception by both employers and clients who perceive them not to be competent enough to handle such cases.

Table 4.5 below depicts the results.

Field of Practice	Percentage (%)
General practitioner	20
Corporate law	5
Civil litigation	15
Labour law	10
Family law	35
Criminal law	8
Property law	5
Others	2

Table 4.5; field in law that one majorly practices.

These findings are in agreement with the findings by Epstein (1992) who observed that “Employers assumptions regarding women special personality traits lead to employers to offer women work assignments and career opportunities that are generally less challenging or of lower profile than those of men.”

Fifty five percent (55%) of the respondents indicated that they lacked sufficient female role models in the legal practice with majority of them citing the fact that most of the female legal practitioners have moved to other sectors and taken up jobs with the Judiciary and in the government department leaving the young advocates in practice with no role models or in the profession.

4.4 Policies and practices in addressing the challenges

The study further sought to find out the policies and practices that the respondents felt needed to be put in place to address the challenges above. The findings revealed that the need for Law Society of Kenya to have in place and implement sexual harassment was highly recommended best practice, at eighty percent (80 %) so as to curb the vice within the profession and have protection to victims who report such harassment. Sixty six percent of the respondent indicated the need to have child care policy and facilities both at the law firms and at the courts, this was said to be necessary to ensure that women lawyers are able attend to their young ones during breaks and attend to their daily work so as to improve productivity at work and reduce the rate of women lawyers dropping of work to look after children.

The findings of this study are as shown in table 4.3.5 below.

Solution Preferred	Percentage (%)
a) Affirmative action policy	45
b) Written flexi-time	52
c) Child care policy and facilities	65
d) Law firm Sexual harassment policy	48
e) LSK to have a sexual harassment policy	80
f) Champion networks of women engaged in the legal private practice.	66
g) Profile and support women lawyer's role models.	55

Table 4.6 policies and practices in addressing the challenges

Affirmative action policy by the profession was also recommended. A respondent in an interview carried out during the study suggesting that this will be necessary to attaining of gender equality in the legal practice and the policy needs to be adopted and implemented by every law firm. Fifty two percent (52 %) were supportive of written flexi time policy while fifty five percent (55 %) supported the need for the Law Society of Kenya to profile and support women lawyer's role models for the younger growing women legal practitioners.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of findings

This study had broad objective of exploring the challenges facing women legal practitioners with two specific objectives: to identify social and cultural challenges and to identify the economic and professional challenges facing women legal practitioners

The study established that;

1. Men have dominated the legal practice profession.

A survey conducted at the Law Society of Kenya revealed that out of the licensed advocates fifty two point one percent (52.1%) of them are male ,female lawyers forming only 37.9 %.This shows that despite the increased number of admission of female advocates to the Roll of Advocates majority of them have opted not to engage in active legal practice.

2. Women remain underrepresented in partnerships positions in law firms

Majority of women legal practitioners hold lower cadre associate positions in the law firms. The study revealed that out of the female advocates in practice only 24 % are in partnerships, 12 % are sole proprietors and the larger proportion of 64 % been associates.

3. Women legal practitioners face various social and cultural challenges;

- i. Women legal practitioners experience gender discrimination at the place of their work , 17 % of the respondents reported to have faced the challenge of limited employment opportunities and because they are women, and 53 % having faced the challenge in career advancement despite having the

relevant academic and professional qualification simply because they are women.

4. Law firms do not have a prescribed promotion policy.

Lack of prescribed promotion policy by the firms coupled with the fact that majority of the decision makers are men has resulted to women legal practitioners been discriminated and or passed during promotions in law firms. Eight five percent (85 %) of the respondent indicated that their law firms did not have a prescribed promotion policy in place, this has undermined progress of women in law firms in terms of equity shares ownership in the law firm.

5. Lack of flexible arrangements to attend to family matters.

The study revealed that women legal practitioners especially the associates and the salaried partners face the challenge of balancing family duties and work. Those interviewed said they have at one point in their career left law practice to become actively involved in rearing of children or have experienced low concentration at work as a result of familial responsibilities.

6. Women legal practitioners are basically excluded from decision making.

The study revealed that women legal practitioners are never involved in decision making process in the law firm especially in the management of the law firm. Fifty five percent (55%) of respondents confirmed that they were never involved in decision making with a small proportion of the respondent confirming that they were often involved in decision making processes in the law firm ,apparently majority of this happened to be the sole proprietors and a few partners. As a result of these women legal practitioners are now challenged of trying to assert themselves as beings with equal capabilities as their male counterparts.

7. Women legal practitioners are victims of cultural perceptions and gender stereotypes.

Employer's as well as the general public perceive female lawyers to be less competent than their male counterparts, the assumptions regarding women's special personality traits lead employers to allocate cases or duties to women lawyers less challenging or lower profile than those of men. The perceptions include that male legal practitioners are more committed to their work than the female legal practitioners; female lawyers are less aggressive than male counterparts. These perceptions and stereotypes have been embedded into the legal profession despite their vast knowledge and understanding of the law.

8. Sexual harassment and disparagement in law firms is rampant.

Sexual harassment continues to undermine professional relations in the practice of law. The behaviour generally includes unwanted sexual advances unwanted teasing, jokes or comments of a sexual nature, verbal threats as well as displaying of offensive phonographic materials.

The study revealed that the perpetrators of sexual harassment and gender disparagement were found to include clients, colleague, and judicial officers. The respondents cited some of the consequences of sexual harassment and gender disparagement to include demotion, ridicule by staff, poor performance loss of income as well as loss of cases and client.

- ii. Women lawyers find a challenge in striking a balance between career and family. With reported lack of flexible time programme for the associate advocates and lack of back up child care facilities provided by the law firm and the judiciary. The respondents interviewed stated that children affect the

carriers of women with reference to choice of jobs, specialties, cases and hours worked.

9. Women legal practitioners face economic and professional challenges

i. Women occupy lower cadre jobs in law firm

There are economic reasons why women occupy lower cadre positions in law firms, some of the reasons include; lack of start up capital is the major reason why the female legal practitioners have not opened their own law firm or join in partnerships. ninety percent of the respondents indicated that they were afraid of incurring losses and hence were comfortable working as associates as they were assured of salary no matter how little it was at the end of the month.

ii. **Lack of female role models;** was cited as a professional challenge facing women legal practitioners. This affects the performance of the female legal practitioners who said that they don't seem to find sufficient female advocates who have made it in the legal practice successfully for them to emulate which in turn affects their ambition.

iii. Women legal practitioners are often offered opportunities in low-status specialties deemed suitable for women, such as probate law and family law. They received lower pay and denied partnerships. Thirty five percent (35 %) of the respondent reported to major in family law , with only five percent (5%) reporting to major in property law and corporate law respectively which are considered to be more lucrative sectors in the legal profession.

As a result of the scope and limitations of this study which limited the researcher only to challenges facing women legal practitioners in Kenya, the researcher

recommends from the research findings that other scholars conduct further study on gender inequalities between both male and female legal practitioners in Kenya.

5.2 Conclusion

Women legal practitioners face gender related challenges in their career; the challenges can be categorised as social and cultural as well as economic and professional. We have more men legal practitioners in private practice than women, although we have a near equal number of men and women admitted to the Roll of Advocates in Kenya these numbers are not reflected in private practice especially at the management levels. The acme of the private practice is still male dominated.

The social and cultural challenges that women legal practitioner's face arise from their customary roles in the society, these challenges include, gender discrimination with limited career advancement ,limited employment opportunities. Women are by passed during promotions in the law firms as a result of lack of clear promotion policies as well as because of perceptions and cultural and societal believes on the role of women in leadership. The society believes that women are not good leaders and that they cannot perform leadership roles effectively.

Sexual harassment and gender disparagement is another challenge that women legal practitioners face .Sexual harassment continues to under mine professional relations in the private practice the behaviour includes; offensive sexual comments, jokes and degrading comments, repeated interruptions by men while speaking, demand for sexual favours and or unwelcome sexual suggestive advances, verbal threats and abuse as well as displaying of offensive materials.

Lack of female role models has also been cited as one of the challenges that women legal practitioners face. Persistent gender stereotypes obstruct the availability of broad options and choices for female lawyers

The economic and professional challenges that women face include lack of start up capital to open up sole proprietorship law firms or join in or partnership, lack of collaterals to be able to secure loan from financial institution. Some respondents cited fear of incurring losses as reason why they have not been able to open up law firms or join partnerships. Poor or lack of child care support facilities affects women's professional performance. Women's choice of field to practice is a professional challenge. Women lawyers prefer to handle less contentious matters and are hence inclined towards handling family and succession matters which are perceived not to be lucrative enough while avoiding commercial and property law which is more lucrative in terms of fees and profits.

The bar association as well as the law firms have not put in place gender policies and strategies to increase gender equity and implement concrete steps to assist their women lawyers in advancing their career.

Women comprise 50 % of the Kenyan population and hence a relative good percentage of the female population will be consumers of legal services which is a veritable market to be tapped. Clients like their legal advisors to mirror them, dealing with male dominated law firms can be seen to be chauvinistic. Ensuring that we have women retained in legal practice is important as it will provide more diverse legal services, law firms will be able to attract more female clients to their law firms

5.3 Recommendations

The following recommendations were made based on the findings and conclusions of the study.

To achieve gender parity in the legal profession it is important for the stakeholders in the legal profession to acknowledge that the problem of gender inequality does exist and create awareness about the challenges facing women legal practitioners and work together towards ensuring that gender inequality in the legal profession is bridged. The recommendations are addressed both the profession body as well as to the individual law firms.

- i. Law Society of Kenya to develop gender model gender policies necessary to enhance women welfare in the legal practice and provide equal opportunities for the advancement of women in the legal field.
- ii. Law firm needs to put in place strategies to increase gender equality and implement concrete steps to assist their women lawyers in advancing their career.
- iii. Law firms need to develop and implement reduced hour policies, written full time- flex policies, this is necessary to ensure women legal practitioners are able to balance family and work responsibilities. The implementation of flexible working hours and technology within law firms will ensure that women legal practitioners can stay within private practice while also fulfilling family roles.
- iv. Law firms and Courts need to provide child care facilities or child support measures to allow women lawyers go to work with their babies this will allow female legal practitioners to work and maintain their career at the same time

- v. The Law Society of Kenya and law firms to champion and support networks of women engaged in the legal practice and profile and support Female lawyer's role models as well as establish formal mentoring programmes.
- vi. Establish a clear structure for recognising gender diversity within the profession for the benefits of addressing gender issues in private legal practice.
- vii. Promote and establish suitable working conditions that take into account the cultural burden which women bear to yield positive results for private legal practitioners.
- viii. Law Society of Kenya to establish a body that would check and receive complaints relating to sexual harassment and discrimination that women lawyers may face within the law firm and the courts, including ensuring that sexual harassment is disciplined under professional code of conduct.
- ix. Law firms need to have sexual harassment policies; this will ensure that women legal practitioners are cushioned against victimisation where never a case of sexual harassment is reported.
- x. Law firms need to develop and implement promotion policies in the law firm, this will ensure equity and equality among both male and female lawyers
- xi. Law firms to put in place strategies to increase gender equity and implement concrete steps to assist their women lawyers in advancing their career.
- xii. Equip women lawyers with skills required to better navigate through the profession including law firm management skills, marketing skills.

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<http://www.tls.or.tz/otherpages/cle.asp>[http://www1.umn.edu/humanrts/instree/bejingm](http://www1.umn.edu/humanrts/instree/bejingmnu.htm)

[nu.htm](http://www1.umn.edu/humanrts/instree/bejingmnu.htm)<http://www1.umn.edu/humanrts/instree/bejingmnu.htm>

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APPENDICES

APPENDIX 1: QUESTIONNAIRE FOR WOMEN LEGAL PRACTITIONERS IN KENYA

Dear respondent,

I thank you for accepting to answer these questions. This questionnaire is to help the researcher gather some information on your experience as a female legal practitioner in Kenya. You do not need to write your name on this sheet. The information you give will herein be treated as confidential and solely for the purpose of this research. Please answer all questions in the space provided.

PART 1: PERSONAL INFORMATION

i. Kindly indicate the following;

a) Gender (Male/Female)

b) Marital status (married/single/divorced/separated)

c) Age

1. Below 30 years ()

2. 30-35 years ()

3. 35-40 years ()

4. 40 and above ()

ii. Level of education

(LLB)

(LLM)

(PHD)

iii. Does your level of education/professional training affect your work as a women legal practitioner? YES/NO

- If yes, briefly explain how

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iv. Are you a member of the Law Society of Kenya? **YES NO**

v. Which year were you admitted to the Bar?.....

vi. Kindly choose the position that best represents your current position.

- a) Partner
- b) Associate
- c) Sole proprietor

vii. For how many years have you been in the current position

- a) Less than 1 year
- b) Between 1-5 years
- c) Between 6- 10 years

- d) More than 10 years but less than 30 years
 - e) Above 30 years of practice
- viii. If you are currently in a partnership or sole proprietorship have you ever been an associate YES NO
- ix. If yes to viii above, for how long were you an associate ?
- a) Less than 1 year
 - b) Between 1-5 years
 - c) Between 6- 10 years
 - d) More than 10 years

PART 2: SOCIAL AND CULTURAL CHALLENGES

SECTION A: EMPLOYMENT, ADVANCEMENT OPPORTUNITIES AND ENVIROMENTAL CONDITIONS

- x. Do you believe that gender discrimination exists in the legal profession?

YES/NO

- If yes, which among the following is true ?
 - a) Limited career advancement
 - b) Lack of or poor accommodation of familiar responsibilities
 - c) Limited employment opportunities

d) Others

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xi. Is there a prescribed criteria of promotion in your law firm? **YES/NO**

xii. Do you believe that there are fields' women legal practitioners should predominantly practice? **YES/NO**

- If yes, which one?

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xiii. Have you ever been denied position due to gender disparity? **YES/NO**

- If yes which among the following?

a) During hiring process

b) During promotion

c) Dealing in high profile cases

d) Objection by a client to take up their cases despite being qualified

e) Others.....

.....

xiv. Do you believe that men and women have equal opportunities to advance in the legal profession? **YES/NO**

xv. Is the legal profession supportive towards women lawyers' advancement?

YES/NO

xvi. Do you think that there is gap in earnings between men and women in the legal profession? **YES/NO**

xvii. Is there flexible arrangement in your organization/law firm to attend family matters? **YES/NO**

- Briefly explain your answer above

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SECTION B: LEADERSHIP AND DECISION- MAKING

xviii. How often are you assigned leadership roles in your organization?

- a) Quite often b) Rarely c) Not at all

xix. What do you consider to be the factors for your answer above?

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.....

xx. How often do you make decisions in your organization?

- a) Quite often
- b) Rarely
- c) Not at all

What do you consider to be the factors for your answer above?

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.....

xxi. Have you noticed gender disparities in relation to leadership and decision making in your organization/Law firm? **YES/NO**

If yes, briefly explain

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.....

xxii. How many partners are in your law firm?

- a) 2
- b) 3
- c) 4
- d) 5 and above

xxiii. How many women lawyers are partners in your Law firm?

- a) None
- b) 1
- c) 2
- d) 3
- e) 4

f) 5 above

SECTION C: PERCEPTIONS AND STEREOTYPES IN LEGAL PRACTICE

xxiv. What are your response to the following statements to how male and female legal practitioners are regarded in the legal profession;

Question	Agree	Disagree
i) Women Lawyers/ Advocates are more respected by women than men		
j) Women lawyers are more competent than men lawyers		
k) Women lawyers are accountable than men lawyers		
l) Men lawyers are more aggressive than female lawyers		
m) Female lawyers are fairly given audience at forums where men predominate		
n) Challenges facing women are self-ignited		
o) Men Lawyers are more committed to work than women Law		
p) Do clients pay lesser legal fee to women lawyers compared to male lawyers		

SECTION D: SEXUAL HARASSMENT AND GENDER DISPARAGEMENT

xxv. Have you ever been a victim of sexual harassment at place of work?

YES/NO

If yes, how many times has it occurred?

- a) 1
- b) 2
- c) 3
- d) 4
- e) 5
- f) More than 5 times

Who were the perpetrators? Please select those which apply.

- a) Client
- b) Colleague
- c) employer
- d) Judges/Magistrates
- e) LSK Council Officials

xxvi. Please indicate the type of sexual harassment/disparagement you have experienced.

- a) Offensive sexual comments, Jokes and degrading comments
- b) Repeated interruption by men while speaking
- c) Demands for sexual favors and or unwelcome sexual suggestive advances
- d) Verbal threats and abuse
- e) Displaying of offensive materials eg. Phonographic materials
- f) Others.....
.....

xxvii. Have you observed any women lawyer who has suffered sexual harassment?

YES/NO

If yes, who were the perpetrators?

- a) Client
- b) Colleague
- c) employer
- d) Judges/Magistrates
- e) LSK Council Officials

xxviii. What are the consequences of sexual harassment/disparagement above for the victim?

- a) Demotions
- b) Ridicule by staff

c) Unlawful dismissal

d) Poor performance

e) Low self esteem

f) Loss of income

Others.....

.....

SECTION E: BALANCE BETWEEN FAMILY AND WORK

xxix. Have ever failed to perform your legal duties to attend to a family related matter(s)?

YES/NO

xxx. Would you resign from your work as a result of family result of family responsibilities eg. Pregnancy, child rearing, etc? **YES/NO**

xxxi. Do you have family responsibilities? **YES/NO**

If yes, have you ever suffered financially or professionally due to familial responsibilities? **YES/NO**

xxxii. Does your organization/Law firm provide the following facilities/services;

a) Paid maternity leave (**YES/NO**)

b) Unpaid maternity leave (**YES/NO**)

c) Time flexibility (**YES/NO**)

d) Part time work, job sharing and /or alternate working arrangement
(YES /NO)

e) Back up Child Care (YES/NO)

PART 2: ECONOMIC AND PROFFESIONAL CHALLENGE

SECTION A: TO BE ANSWERED BY LAWYERS WHO ARE ASSOCIATES

xxxiii. Why have you not been able to open up you own law firm or joined a partnership? Kindly tick relevant reasons

- a) Lack of start up capital.
- b) Lack of collateral to be able to secure loan from financial institution.
- c) I am not interested in starting up my own law firm.
- d) Fear of incurring losses.
- e) No one is interested in engaging me as a partner because I am a woman.
- f) Any other reason (kindly explain).....

xxxiv. Do you earn equal salary like the male associates (with similar work experience) in the same law firm ?

YES ()

NO ()

PART 3 : TO BE ANSWERED BY ALL

xxxv. Please circle the field in law that you majorly practice.

a) General practitioner

b) Corporate law

c) Civil litigation

d) Labour law

e) Family law

f) Criminal law

g) Property law

Others

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.....

xxxvi. Have ever been denied to handle a high profile case that you felt you were competent to handle and the same given to a male Lawyer in the office simply

because you are a women ?

YES () NO ()

xxxvii. Do you have sufficient female role models in the private legal practice ?

YES ()

NO ()

xxxviii. Do you have a have a structure work place (office and court) with the following facilities ?

a) Sanitation facilities YES ()

NO ().

b) Child support centres (Cyche) YES ()

NO ()

xxxix. Does your law firm have a transition from maternity to work policy? YES ()

NO ()

xl. Are you accorded the same presumption of competence as your male colleagues at your work place ?

YES() NO()

xli. Are you more inclined to perusing alternative dispute resolution mechanisms as opposed to litigation in solving your client's disputes? YES(

) NO()

SECTION C: GENERAL

xlii. In your own assessment/experience/believe, what do you think are the possible factors contributing to the challenges facing women legal practitioners in Kenya?

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xliii. What policies and practices need to be put in place to mitigate the challenges here above?

Affirmative action policy	YES/NO
Written flexi-time	YES/NO
Child care policy and facilities	YES/NO
Law firm Sexual harassment policy	YES/NO
LSK to have a sexual harassment policy	YES/NO
Champion networks of women engaged in the legal private practice.	YES/NO
Profile and support women lawyer's role models.	YES/NO

APPENDIX 2: CASE STUDY INTERVIEW SCHEDULE

Researcher records the following information;

- Date of Interview

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.....

- Category of interviewee (associate/partners/sole proprietor).....

The interviewee records the following information;

- Level of education
- Professional training in law
- Your duties/role in the law firm
- Current position(management/middle level/ general staff)

Interview questions

1. Briefly tell me about your professional background.
2. What have been some of the key challenges that you have faced as a woman legal practitioner in Kenya in the following areas;

Challenges	YES	NO
Condition of work and work environment		
Access to leadership and decision making roles at partnership		

level		
Career advancement upward mobility & promotions.		
Gender disparagement		
Gender gap in earnings.		
Gender stereotypes.		
Family and Work balance		

3. What do you think are the factors contributing to the above challenges?
4. Are there any forms of gender discrimination at your work place?
5. In your own assessment what are some of the economic challenges that you have faced or other women lawyers face in the legal profession?
6. What are the specific professional challenges that women legal practitioners face?
7. Do women and men in the legal profession treat you differently?
8. Do women and men in the legal profession get equal opportunities to develop their career?
9. Does the Law Society of Kenya address some of these challenges?
10. Does your organization have a structure that provides for confidential reports and protection against victimization?
11. Does your Law Firm have a gender policy?

12. How have you tried to make your law firm more gender sensitive?

13. What measures do you think can best help solve the challenges that women legal practitioners face ?