

GENDER JUSTICE AND THE CAPABILITIES APPROACH: EXPLORING THE EXPERIENCES OF WOMEN LEGAL GRADUATES IN KENYA

By

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Declaration

I, **Elizabeth Ongera**, declare as follows:

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Abstract

Widening access to and participation in higher education, particularly for women, has become an urgent priority for the higher education sector across many countries. While this is important, we also need to consider whether widening women's access and participation in higher education will reduce inequalities by promoting equitable educational opportunities and freedoms for them to choose and lead reflexively valuable lives in and beyond higher education. We also need to consider the extent to which women are recognized, both subjectively and socially, as having equal claims on higher educational resources and outcomes. Using the capabilities approach as the analytical framework, and in-depth narrative interviews with selected ten women legal graduates in Kenya, this study examines women's experiences of accessing, participating and progressing through higher education. Located within feminist inquiry, the aim of the study is to understand what factors shape the construction of women's educational and professional aspirations and trajectories, as well as achievement of their well-being and agency. The study also seeks to understand how and to what extent processes, conditions and practices in and outside higher education reproduce or disrupt gender inequalities in women's lives.

Findings illustrate that while higher education is open to all, women's opportunities and freedoms to make decisions and choose higher education, particularly whether to attend university and what courses to pursue, are influenced by various factors such as their families, schooling environment, wider socio-cultural, economic and political contexts, as well as individual women's traits and abilities. During this phase, women's agency is constrained since they have little influence on their educational and career decision-making processes. For those who manage to access higher education (and in this case law school), evidence from this study shows that, compared to men, a disproportionate majority of women students experience alienation and marginalization as a result of socially-entrenched gendered norms, stereotypes and practices, which in turn have a negative impact on women's well-being both as students and as aspiring legal professionals. However, there are few who are able to negotiate these gendered structures and pave their way to success, demonstrating agency. Results of post-university professional experiences demonstrate that while higher education provides opportunities for women to achieve their educational, professional and life aspirations, their training does not equip them well with the practical aspects that are necessary for the discharge of their professional duties. Further, there are persistent gendered practices, such as sexual harassment, which compromise their capability sets to discharge their professional duties effectively. All these experiences show the relationship between higher education, society and women's lives marked

by gendered norms and stereotypes, and how women position themselves to act and make decisions about their lives. They illustrate how factors in and outside higher education intersect to influence women's choices, actions and opportunities in life.

Based on these empirical findings, the study makes recommendations about which capabilities need to be fostered, and what negative conversion factors should be eliminated, so as to promote more just and equitable higher education. The main suggestion being that higher educational policy planners (specifically law schools') should put in place interventions which promote and advance students', especially women, capabilities to (i) access equitable educational opportunities, (ii) actively participate in just, equitable and inclusive educational environment, and (iii) achieve their valued educational outcomes that enables them to choose and lead lives that are find meaningful and productive. This will not only promote individual women's well-being and agency, but also contribute to gender justice in law school and higher education in general, as well as social justice if higher education enhances graduates' capabilities to choose and contribute to public good and social transformation.

Key words: *Gender justice, capabilities approach, higher education, women legal graduates, Kenya*

Samevatting

Toegang tot en deelname aan hoër onderwys, spesifiek vir vrouens, het 'n dringende prioriteit vir die hoëronderwyssektor in verskeie lande geword. Alhoewel dit belangrik is, moet ons ook in gedagte hou of vrouens se toenemende toegang en deelname aan hoër onderwys ongelykhede sal verminder deur gelyke opvoedkundige geleenthede en vryhede vir hulle te skep wat hulle kan kies om refleksiewe, waardevolle lewens te lei in en na hoër onderwys. Ons moet ook die mate waarin vrouens subjektief en sosiaal herken word as mense met gelyke eise aan hoër onderwys hulpbronne en uitkomstes in ag neem. Deur die vermoënsbenadering as analitiese raamwerk te gebruik en vroulike gegradueerdes in regstudies vanaf Kenia as gevallestudie te gebruik, ondersoek hierdie studie vrouens se ervaringe van toegang, deelname en vordering deur hoër onderwys. Gebaseer in feministiese navorsing en deur gebruik te maak van in-diepte narratiewe onderhoude, beoog die studie om beter begrip te ontwikkel oor watter faktore die konstruksie van vrouens se opvoedkundige en professionele aspirasies en trajekte, sowel as bereiking van hul welstand en agentskap beïnvloed. Die studie poog ook om te verstaan hoe en tot watter mate prosesse, kondisies en praktyke in en buite hoër onderwys geslagsongelykhede in vrouens se lewens reproduseer of ontwig.

Die bevindinge wys dat terwyl hoër onderwys toeganklik is vir almal, vrouens se geleenthede en vryhede om besluite te neem, spesifiek rakende keuses om universiteit by te woon en watter kursusse om te volg, beïnvloed word deur verskeie faktore, insluitend hul families, skoolomgewing, die wyer sosio-ekonomiese en politiese konteks, sowel as individuele voorkeure en karaktereenskappe. Gedurende hierdie fase word vrouens se agentskap beperk omdat hulle min invloed het op hul opvoedkundige en beroep-besluitnemingsprosesse. Vir die wat wel toegang tot hoër onderwys kry (in hierdie gevallestudie om regte te studeer), bewys hierdie studie dat in vergelyking met mans, ervaar 'n oneweredige meerderheid van vrouens vervreemding en marginalisering as gevolg van sosiaal-gevestigde geslagnorme, stereotipes en gebruike, wat 'n negatiewe impak op vrouens se welstand as studente en toekomstige regslui veroorsaak. Alhoewel, daar is sekere vrouens wat hierdie geslagstrukture kan oorkom en hul paaie na sukses kan verseker deur agentskap te bewys. Resultate van post-universiteit professionele ervaringe wys dat alhoewel hoër onderwys geleenthede vir vrouens skep om hul opvoedings-, professionele en lewensaspirasies na te streef, berei hulle opleiding hulle nie goed voor vir die praktiese aspekte nodig om professionele verpligtinge na te kom nie. Verder is daar blywende geslagspraktyke soos seksuele teistering wat hul vermoëns om hul professionele verpligtinge uit te voer bemoeilik. Al hierdie ervaringe stel die verhouding tussen hoër onderwys, die samelewing en vrouens se

lewens, gemerk deur geslagnorme en stereotipes, asook hoe vrouens hulself posisioneer om besluite te neem ten toon. Dit illustreer ook hoe faktore binne en buite hoër onderwys deurkruis om vrouens se keuses, aksies en geleenthede in die lewe te beïnvloed.

Gebaseer op hierdie empiriese bevindinge maak die studie aanbevelings oor watter vermoëns bevorder moet word en watter negatiewe omskakelingsfaktore geëlimineer moet word om 'n meer gelyke en geregte hoër onderwys te bevorder. Die belangrikste voorstel is dat hoër onderwys beleidbeplanners (spesifiek ten opsigte van regsopleiding) intervensies in plek moet stel om studente en veral vrouens se vermoëns te ontwikkel en bevorder deur (i) gelyke opvoedingsgeleenthede te verseker, (ii) geleenthede te skep vir vrouens om aktief deel te neem in 'n gelyke en inklusiewe opvoedkundige omgewing, en (iii) geleenthede te skep waar vrouens hul gewaardeerde opvoedingsuitkomst kan bereik wat hul in staat sal stel om keuses te maak en lewens te lei wat betekenisvol en produktief is. Dit sal individuele welstand en agentskap van vrouens bevorder, bydra tot geslagsgelykheid in regsfakulteite en hoër onderwys oor die algemeen, asook sosiale geregtigheid, indien hoër onderwys studente se vermoëns om te kies en by te dra tot openbare belang en sosiale transformasie bevorder.

Sleutelwoorde: *Geslagsgelykheid, vermoënsbenadering, hoër onderwys, vroulike regslui, Kenia*

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Acronyms

ABA	American Bar of Association
AHES	African Higher Education Summit
CBA	Canadian Bar of Association
CC	County Commissioner (Nairobi-Kenya)
CDE	County Director of Education (Nairobi-Kenya)
CLE	Council of Legal Education (Kenya)
GCE	Global Campaign for Education
GER	Gender Enrollment Rate
ICC	International Criminal Court (Hague)
ILO	International Labour Organization
JAB	Joint University Admission Board (Kenya) (now known as KUCCPS).
KCPE	Kenya Certificate of Primary Education
KCSE	Kenya Certificate of Secondary Education
KSL	Kenya School of Law
KUCCPS	Kenya Universities and Colleges central Placement Service (Kenya)
LEA	Legal education Act (Kenya)
LSK	Law society of Kenya
NACOSTI	National Council for Science Technology and Information (Kenya)
NER	Net Enrolment Rate
RoK	Republic of Kenya
STEM	Science, Technology, Engineering and Mathematics
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Science and Cultural Organization
UNICEF	United Nations Children's Emergency Fund
UoN	University of Nairobi

CHAPTER 1: RESEARCHING GENDER JUSTICE AND HIGHER EDUCATION IN KENYA

Introduction

Women's education plays a critical role in promoting economic, social and human development (see for example, Hyde, 1999; Nussbaum, 2000; Sen, 1999). To reap the developmental benefits associated with women's education, many countries, especially those from sub-Saharan Africa, have implemented policies aimed at widening women's access to and participation in education, such as affirmative action, which have enabled more girls and women to access, participate and progress through education, particularly higher education (Chilisa, 2002; Onsongo, 2009). This increase in the number of girls and women gaining access to higher education has also seen more women gain admission to study and pursue careers that were historically regarded as a bastion of male privilege such as Medicine, Engineering, Law, among others (Mwiria, 2007; Sifuna, 2006). In this project, my position is that increasing the numbers of women in higher education is desirable but it does not comprehensively address gender inequities in and beyond higher education (see Morley, Leach, & Lugg, 2009; Onsongo, 2009). Informed by the capabilities approach, I argue for the need to recast the focus beyond numerical parity to critically examine whether women accessing higher education are able to equitably convert educational resources and opportunities into valued outcomes, and the extent to which these women are recognized both socially and subjectively as having equal claims on such resources, opportunities and outcomes (see Walker, 2006). This examination will identify complex and dynamic gender issues related to which women access higher education, where they are positioned in terms of discipline choices, how they progress in higher education in terms of their experiences and educational outcomes, the value they attach to their education beyond higher education, and whether higher education enables them to choose and lead reflexively valued lives.

I use women legal graduates in Kenya as a case study, and examine their experiences as they pursue legal education in an effort to understand the opportunities and freedoms they have in their pursuit of higher education, the challenges they face, factors that motivate them to achieve their educational and career aspirations, as well as the strategies these young women employ in their pursuit of legal education and career advancement. In other words, I unpack gender justice as equality of numbers or resources to investigate the conditions, opportunities, freedoms, processes, practices and outcomes that lie beneath the numbers. In doing so, I explore women's agency in terms of their educational and career decision-making, as well as the relationship of

agency and their biographies and gendered social and educational structures and relations to consider what real opportunities are available to women to be and do what they value as lawyers. The focus on women's lives and well-being in and through higher education is particularly important as it shifts our thinking beyond the economic and social benefits of higher education, to also consider how higher education contributes to women's own well-being and development.

1.1 Why gender justice in higher education matters

Promoting gender justice and empowering women is positioned internationally as an essential strategy to reduce poverty and boost economic and social development (UNDP, 1995; World Bank, 2001, 2012). There is a growing body of literature showing the link between gender justice in education and improved economic growth and human development, as well as enhanced social justice (Abu-Ghaida & Klasen, 2002; World Bank, 2012). As such, achieving gender justice in education has become a central theme in the development goals of many countries across the globe (Chisamya, Dejaeghere, Kendall, & Khan, 2011; Kabeer, 2005; Subrahmanian, 2005). Since education, and university education in particular, is regarded as an engine that drives national and regional development aspirations and goals (Mama; 2003, Morley et al., 2009), by implication it becomes imperative to promote and achieve gender justice in this sector. Yet, empirical evidence shows that, compared to men, a majority of women from many developing countries, especially in sub-Saharan Africa, continue to lag behind in terms of access to, participation in, and achievement through higher education (Kelly, 2005; UNESCO, 2015a). For instance, when the gender patterns of access, retention and completion of higher education are analyzed in most African countries, results reveal that although higher education institutions are admitting more women students through affirmative action programmes, a high percentage of these women are either placed in disciplines that have a lower premium in the labour market, are likely to drop out or take a longer period to complete their studies due to gendered factors (Chege & Sifuna, 2006; Oanda & Akudolu, 2010; UNESCO, 2015a). These studies suggest that besides increasing the numbers of women students in higher education, more is needed to address multiple forms of gender inequities that continue to constrain women's equal participation and achievement in higher education (Morley et al., 2009; Onsongo, 2009).

Law is one of the disciplines in higher education that have undergone a dramatic transformation in terms of the gender composition of its membership across many countries (Kay & Gorman, 2008). The number of women gaining admission to study law has significantly increased to equate that of men, while the percentage of women practicing the law has substantially increased (Cuyler, 2012; Huxley-Binns & Martin, 2014). However, literature from the United States illustrate that despite their increased numbers in law schools, a majority of women students

experience law school differently from men. For instance, compared to men, most women students participate less in law school activities, perform poorly in examinations, suffer alienation and experience sexual harassment (see Carroll & Brayfield, 2007; Cassman & Pruitt, 2005; Guinier, Balin, Bartow, & Stachel, 1994). Other studies have also found that women law students change their career choices after getting into law as opposed to men students who, in most cases, stick to their initial career goals and choices (see Carroll & Brayfield, 2007; Herden, 1994; Janoff, 1991). These studies demonstrate the existence of gender inequalities despite positive numerical statistics. They imply the need to look beyond the statistics to consider what actually happens when women students are in law school. Do they have opportunities and freedoms to fully participate and engage as students in all educational learning processes? Are the conditions or arrangements in and outside law school responsive to their educational and career needs and aspirations? There is a dearth of literature in Africa and Kenya specifically on the experiences of students in law school. To fill this lacuna, this study examines the experiences of women legal graduates in Kenya so as to understand what factors contribute to or hinder them from justly and equitably accessing, effectively participating in and achieving through legal education and profession generally.

Before outlining the aim of the study and the research questions, the following section presents a brief overview of gender justice in higher education and development in Kenya. It attempts to show how gender injustices in higher education are conceptualized and addressed in the Kenyan context. This forms a basis of interrogating and contextualizing women legal graduates' experiences and social realities across the three phases of their pre-university, university and post-university lives.

1.2 Situating gender, higher education and development in the Kenyan context

Kenya is a democratic state located in the African Great Lakes region of East Africa. It was colonized by the British but gained independence in 1963. Kenya has a total population of approximately 47 million people, drawn from diverse but distinct ethnic, racial and linguistic groups (UN, 2015a), a majority of whom (75%) reside in rural areas. The country has a devolved system of governance with 47 County governments (RoK, 2010). The official languages are English and Kiswahili, although people do speak their native languages as well. The economy is predominantly based on agriculture but with a strong industrial base. According to World Bank data, Kenya has an annual GDP growth rate of 5.4% (World Bank, 2015) with an unemployment rate of about 40% (RoK, 2013; World Bank, 2015). It is also estimated that almost half the Kenyan population live below the poverty line, with the arid and semi-arid lands (ASALs) being the most disadvantaged regions (Unterhalter & North, 2011).

Moving more specifically to the education sector, Kenya operates an 8-4-4 system of education: 8 years of compulsory primary schooling, 4 years of secondary schooling and (at least) 4 years of university education (Amutabi, 2003). Transition to university level depends on performance in the Kenya Certificate of Secondary Education (KCSE). A minimum aggregate of a C+ pass in KCSE is needed for university undergraduate admission, although some degree courses require specific cluster points (Edwards & Quinter, 2011).¹ In 2014, the university student population was estimated at 443,800 out of which, 184,200 were women (RoK, 2015). A closer analysis of these students and where they are positioned in higher education reveals that there are more women in private than public universities (Gudo & Olel, 2011; Oanda, Chege, & Wesonga, 2008). In addition, most women students come from privileged socio-economic backgrounds, are concentrated in undergraduate levels of study compared to post-graduate levels, are under-represented in science and technology-related courses, while over-represented in humanities and social sciences (Bunyi, 2008; Chege & Sifuna, 2006; Oanda & Jowi, 2012). This analysis demonstrates that despite the impressive growth in numbers, higher education in Kenya is still confronted with gendered inequalities. Thus, the following section explores how gender (in)justice is conceptualized and discussed in university education policy. This is important in understanding the extent to which existing policy practices and interventions challenge and address deep-seated gender inequalities, and in suggesting alternative ways to promote gender justice in higher education that go beyond achieving numerical parity.

1.2.1 Locating gender justice in university education policy and regulatory framework

The Constitution of Kenya guarantees everyone a right to education (RoK, 2010).² It mandates the government to ensure that the youth access quality and relevant education and training. In addition, the state is obligated under the Constitution to take deliberate affirmative action measures aimed at securing special opportunities in educational and economic fields for minority and marginalized groups.³ On university education, Article 53(1)(b) of the Constitution provides

¹ For instance, candidates aspiring to pursue science, mathematics and technology related courses must score A or A- in their KCSE, while those aspiring to pursue law must score B+ in K.C.S.E and B+ in English subject (see Edwards & Quinter, 2006; UoN, 2016).

² The current Constitution was enacted in August 2010 to replace the one that had been in force since Kenya's independence in 1963.

³ According to Article 260 of the Constitution, a "marginalised community" means - a) community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole; b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole; c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or d) pastoral persons and communities, whether they are—(i) nomadic; or (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole. A 'marginalised group' means a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4). These include race, sex,

for access to affordable tertiary education, training and skills development based on the principles of non-discrimination, equal opportunities and social justice which, as Otieno-Omutoko and Mwaura (2012) note, were emphasized in the 1965 Sessional Paper on African Socialism. In this regard, the Constitution calls upon national and county governments to govern higher education institutions based on the principles of equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the rights and freedoms of the marginalized (RoK, 2010).

It is argued that the government of Kenya has made tremendous progress towards promoting gender equality since the hosting of International Women Conference in 1985 (Muteshi, 2006). This was based on the recognition that achieving gender equality plays a critical role in promoting economic growth and sustainable development (Chen, 2004). Thus, the government launched the National Policy on Gender and Development in 2000 (RoK, 2000). The need for this policy arose from the government's realization that planning and programming of development strategies and processes can only be effective and productive if there is a broad and articulate framework for establishing and implementing gender mainstreaming policies and interventions. The policy aims to 'to facilitate the mainstreaming of the needs and concerns of men and women in all areas of the development process in the country' (Ibid., p. 5). This was influenced by the affirmation of international development donors such as the World Bank, that gender equality and women empowerment contributes to economic growth and development (See World Bank, 1995). In the education sector, the policy's goal is to enhance and sustain measures aimed at eliminating gender disparities in access, retention, transition and achievement in education for both men and women (Ibid). To achieve this goal, the government developed Sessional Paper no.1 of 2005 on *Education, Training and Research* (RoK, 2005a). This was based on the assumption that equitable access to quality and relevant education and training enhances employment opportunities and expands income-generating opportunities for citizens, which ultimately contribute to economic and social growth. The Paper was also influenced by the Millennium Development Goals (2000) and the Dakar framework for Education for All that gave prominence to gender equality and education. In higher education, the government's commitment to initiatives aimed at promoting equitable access include supporting affirmative action policies and availing scholarships, bursaries and loans to students who qualify but cannot afford to pay for their public university education (RoK, 2005b). This is in line with the social pillar of the Vision 2030 Plan which, among other things, calls upon the government to ensure

pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

gender equity in education by increasing educational opportunities among women, youth and disadvantaged groups. However, it is important to note that achieving gender equality is construed as reducing numerical disparities between men and women in higher education.

Besides the 2005 Sessional Paper, the Ministry of Education developed its Gender and Education policy in 2007 whose objective is to address gender disparities in access, retention, transition and completion of education (RoK, 2007). Specific attention is paid to the education of girls and women. The policy emphasizes inclusiveness, affirmative action and gender mainstreaming so as to achieve gender equity at all levels of education in line with the government's obligations under international covenants and conventions relevant to education. These covenants are applicable in Kenya by dint of Article 2 (5) and (6) of the Constitution of Kenya (RoK, 2010) and a number relate specifically to education and the rights of women and girls.⁴ As far as higher education is concerned, the Gender and Education policy acknowledges widespread gender disparities in enrollment and completion rates (RoK, 2007). To address these disparities, the policy aims at increasing women's access and participation at university level. To achieve this, it outlines affirmative action measures in admission where, for instance, women students are to be admitted to university with two points lower than the set university entry point. However, it is important to state here that, on the one hand, affirmative action measures are criticized as being discriminatory, while on the other, beneficiaries of these measures are construed as objects of charity, which in turn perpetuates gendered ideas about women's 'inferiority' and 'incompetence' (Morley et al., 2006; Onsongo, 2009). Nonetheless, affirmative action strategies are seen as effective tools for addressing gender disparities in higher education (Ibid).

In addition to the Gender and Education policy, the Ministries of Education and Higher Education, Science and Technology developed a Policy Framework for Education and Training in 2012 (RoK, 2012a). With regard to gender and higher education, the framework acknowledges existence of persistent social, geographic and gender inequities in university education, and recommends various strategies to attain national diversity in university education such as ensuring 40% female enrolment, and increasing the number of students with special needs and those from the marginalized areas among others (Ibid). Operationalization of these strategies

⁴ These include, Universal Declaration of Human Rights (1948), International Convention on Social and Economic Rights (1976), the Convention on the Elimination of all Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989), the African Charter on the Human and Peoples' Rights (1981), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003), the African Charter on the Rights and Welfare of the Child (1990), and the Jomtien Protocols (1990) and the Accra Accord (2002).

through affirmative action and the previous policies has led to an increase in the number of women pursuing and completing university education. According to national statistics, the number of students enrolled in universities (both private and public) increased from 218, 700 (127, 500 men and 91, 200 women) in 2011 to 443, 800 (259, 600 men and 184, 200 women) in 2014 (RoK, 2015). The expansion of university education and the privileging of a ‘diversity discourse’ have produced a student body differentiated along ethnic, gender, class and racial axes. This increase has also seen more women students gain entry to disciplines that were traditionally perceived as a preserve of men such as Medicine, Engineering and Law. For instance, available statistics indicate the percentage of women students enrolled in engineering increased from 3% in 1988 to 9.1% in 1995 (Chege & Sifuna, 2006), while the number of women enrolled in medicine increased from 44% in 2010 to 48% in 2014 (RoK, 2015). Gender transformation in law is discussed in sub-section 1.2.2 below.

Thus we can argue that Kenya is making substantive progress towards achieving gender parity in higher education. However, gender inequalities still persist across and at different levels of university education. For instance, women are still few in STEM-related courses, post-graduate level of study, as well as in leadership and management (Bunyi, 2008; Onsongo, 2009; Sifuna, 2006). These and more inequalities will be discussed in detail in section 2.3. Nonetheless, they demonstrate the need to shift the gender equality debate beyond formal parity to also consider what disciplines of study women choose, what informs their choices, how they experience and progress in those disciplines. This can inform policy on what interventions need to be put in place to ensure that women’s substantive opportunities and freedoms to achieve their well-being are promoted and expanded.

Since my study focusses on the specificity of the experiences of women in legal education, the following section gives a brief history of gender and legal education in Kenya.

1.2.2 Gender and Legal Education in Kenya

During the colonial era, there was no formal facility established in Kenya or anywhere in East Africa to train lawyers (Ojwang & Salter, 1990).⁵ As a result, the country relied on lawyers trained abroad to provide legal services (Odenyo, 1979). However, the demand for legal services in the country increased over time, and since there were a few lawyers trained abroad at this particular time, it became necessary to train local personnel to offer these services. Consequently, Kenya

⁵ This resulted from the colonial government’s prioritization of training of doctors and engineers as opposed to lawyers because experience from India had shown that most lawyers become politicians who then challenge the reign of the colonial government, something that the colonial administration jealously guarded (see Twining, 1966).

School of Law (KSL) was established in 1950 to train articled clerks in the theory and practice of law. Over the years, the demand for legal services increased (Ojwang & Salter, 1990). Consequently, the British government appointed the Denning Committee in 1960 to examine legal education in East Africa and recommend a suitable training system (Ibid). The Denning Committee recommended, *inter alia*, the establishment of a law faculty in East Africa to offer a law degree programme to all who aspired to be lawyers. This led to the establishment of the law faculty in Dar es Salaam in 1961. After intense lobbying, Kenya was also allowed to establish a Council of Legal Education in Nairobi with powers to create a parallel system of training lawyers - articled clerkship (Twining, 1966).⁶

When the Federal University of East Africa was dissolved in 1970 and its constituent colleges upgraded to fully-fledged universities in the respective countries, a faculty of law was established at the University of Nairobi (UoN) (Hatchard, 2003). KSL became a post-graduate institution offering practical training on Kenyan Law to all graduates who intended to practice law in Kenya irrespective of their previous legal education (Ghai & McAuslan, 1970). In the same year, articled clerkship was phased out (Hatchard, 2003) leaving university education as the only avenue for training lawyers in Kenya. By 1986, there were 389 students enrolled at the faculty of law out of which 158 were women (Kamau, 2013). Until 1994, UoN was the only institution training legal professionals in Kenya (Otike, 1997). However, with the increased demand for lawyers in the country, coupled with the need to provide access to university education for the increased number of secondary school leavers, a second law faculty was established at Moi University in 1995 (Ibid). Over time, more law schools/faculties were established in various universities. Currently, there are 11 universities accredited to offer law degree programmes in Kenya (CLE, 2016). The number of women students pursuing law degree has also grown over the years. For instance, the graduation statistics of the University of Nairobi School of Law shows the following gender transformation: 2 Ph.D (1 woman, 1 man), 42 LL.M (18 women, 24 men), 395 LL.B (184 women, 211 men) in 2013 compared to 3 LL.M (all men) and 55 LL.B (9 women, 46 men) in 1976 (UoN, 2014).

1.2.3 Regulation of legal education and profession in Kenya

While law schools/faculties operate within universities and are guided by the policies and regulatory frameworks of their respective universities, they are also guided by the Legal Education Act (LEA) (RoK, 2012b),⁷ which provides an overall framework for regulating legal

⁶ Thus, Kenya would train lawyers either at Dar es Salaam University followed by one year training at the Kenya School of Law or through articled clerkship.

⁷ The Legal Education Act No. 27 of 2012 repealed and replaced the Council for Legal Education Act of 1995.

education in Kenya. LEA re-establishes the Council of Legal Education (CLE) as a separate entity from KSL,⁸ and mandates it to regulate the provision of legal education and training in Kenya. This includes licensing and supervising legal education providers to ensure that they provide and maintain high quality and relevant legal education. In executing its mandate, CLE sets and enforces standards relating to the accreditation of law schools/faculties, curricula and mode of instruction, mode and quality of examinations, harmonization of legal education programmes, and monitoring and evaluating of legal education programmes and providers.

Besides establishing the CLE, LEA sets out a list of core courses that must be offered by legal education providers. At undergraduate level, the LEA mandates law schools/faculties to teach Legal Systems and Research, Law of Torts, Law of Contract, Criminal Law, Family Law and Succession, Law of Evidence, Commercial Law, Administrative Law, Constitutional Law, Jurisprudence, Law of Business Associations, Equity and the Law of Trusts, Property Law, Public International Law and Labour Law (RoK, 2012b). This seems to be a typical requirement across many law schools especially in the United Kingdom, United States and Canada (Sullivan, Colby, Bond, & Shulman, 2007). The rationale behind the core courses is to equip law graduates with the necessary knowledge and skills relevant to diverse careers in legal practice which they may choose to pursue after graduation (Wambua, 2013). These include private practice, public interest, government, corporate and commercial law, legal research and university teaching (Ibid). In addition to these courses, respective legal institutions are allowed to offer extra programmes in law taking into account changes in the development of the law and society generally (RoK, 2012b). Besides, students are offered opportunities to participate in extra-curricular activities such as legal aid clinics, moot court competitions and publishing articles in law school journals. All these enable students to develop requisite professional skills and abilities.

After successful completion of university training, law graduates aspiring to practice in Kenya are required to undergo a one-year post-graduate legal professional training programme at the KSL and pass pre-bar entry examinations (RoK, 2012c) after which, they undertake pupillage.⁹ Upon

⁸ In 2012, KSL was re-established under the Kenya school of Law Act (2012) as a government agency to provide post-graduate professional legal training in Kenya.

⁹ Pupillage is part of the 18-months post graduate Advocates' training programme in Kenya. It takes six months after successful completion of twelve months of training at the KSL. This period is a statutory requirement for any person intending to practice law in Kenya. During this period, the trainees (pupils) receive and undertake instructions from their pupil master (an advocate of not less than five years of professional experience) in the proper business, practice and employment of an advocate (see section 13 of the Advocates Act, Cap 16 of the laws of Kenya). These include client care, litigation, conveyancing and commercial practice, drafting, professional ethics and etiquette, and office practice and management. Pupils get first-hand experience of work both in the advocate's chambers and in the courts. Supervisors from the Kenya school of law usually visit the pupils at their place of work to assess their progress.

successful completion of the pupillage training and passing KSL examinations, they apply to be admitted to Roll of Advocates as Advocates of the High Court of Kenya (Ibid).¹⁰ If the Petition is allowed, the graduate qualifies as an advocate and is issued with a practicing certificate that enables her/him to practice law in Kenya. This certificate is renewable annually. Admission to the Roll of Advocates automatically makes one a member of, and is regulated by, the Law Society of Kenya (LSK). According to the LSK statistics, by June 2016, there were 12, 697 advocates in Kenya: 7, 106 men; 5, 365 women; and 226 undeclared gender (LSK, 2016).

From these statistics, we can argue that Kenya has made great strides towards achieving gender parity in legal education and profession. But the numbers do not tell us the whole story. As Loots and Walker (2015) argue, besides understanding women's numerical representation, we also need to examine whether higher education improves their well-being and agency. This is because while gender parity is almost achieved in higher education, and in some cases favours women, women's experiences in and through higher education are still marked with inequalities (Ibid). Thus, we need to interrogate the subjectivities, experiences and insights of women students as they access, participate and progress through higher education to ensure that their freedoms to use available opportunities to achieve their valued outcomes are promoted and fostered.

1.3 Aim and research questions

It is against this background that my study sought to examine the experiences of women legal graduates of accessing, participating and progressing through higher education so as to understand what supports or constrains the construction of their educational and career goals and aspirations, and achievement of their well-being and agency. Located within gender justice, higher education and capabilities and human development paradigm, I seek to understand how and to what extent processes, conditions, structures, practices and culture in and outside higher education reproduce and perpetuate gender inequalities. At the same time, I explore how higher education can become transformative by disrupting and redressing injustices in women's lives so that they can have substantive freedoms to choose and live their desired lives in and beyond higher education, and also contribute to broader social justice and development if they so choose.

¹⁰ According to section 13 and 15 of the Advocate's Act of Kenya, this application takes the form of a petition, addressed to the Chief Justice of the republic of Kenya. This petition is heard in the Chief Justice's chambers within ninety days of filing it. If the Chief Justice is satisfied as to the qualifications, service and moral fitness of the applicant, he or she adjourns the hearing to an open Court and orders that the applicant be admitted to the bar. After this Order is made, the applicant pays the prescribed fees to the Registrar and takes an oath or makes an affirmation as an officer of the court before the Chief Justice. Thereafter, the applicant signs the Roll of Advocates in the presence of the Registrar and he or she becomes an advocate of the High Court of Kenya.

To achieve this aim, I formulated the following questions:

1. How do diverse women come to choose to study law? What role, if any, do their family, schooling and social and political environments play in making this decision?
2. What are their experiences in law school?
3. How do these experiences contribute to or influence their educational and career aspirations, and achievement of their well-being and agency?
4. What valued capabilities for their early professional careers and lives do they say they aspired for and/or achieved in and through higher education?
5. Based on the findings, what can be done both to theorize and to promote a more just, equitable and inclusive higher education?

1.4 Rationale

My choice and focus on women in legal education, an apparently elite group with good enrolment rates, is justified for three reasons. First, most research on gender and higher education focuses on women's numerical under-representation in higher education institutions more generally, and in specific disciplines such as science, technology, engineering and mathematics (STEM), as well as in leadership and senior ranks of the academy (See Ceci & Williams, 2011; Hill, Corbett, & St. Rose, 2010; Jacobs, 1996). While these studies have been successful in raising awareness of the challenges women face in higher education institutions, particularly in male-dominated disciplines/areas, and in identifying possible redress, little is known of the educational experiences and perspectives of women in disciplines where women are numerically over-represented, such as education, nursing and law (Boughn & Lentini, 1999; Sifuna, 2006). Have these disciplines achieved gender justice by virtue of the increased numbers of women? I have indicated that law is among the few disciplines that were historically male-dominated but are now becoming 'feminized' by virtue of the increasing number of women gaining admission to study law. Nonetheless, Harrington (1993) warns that by entering and operating in a formerly predominantly male-established discipline, women in law are on dangerous ground: they are expected to conform to the traditionally ascribed roles and attributes of women by virtue of them being women, while at the same time their work requires them to portray professional attributes and values of men. In their dual identities, they are not fully part of either. This prompted me to critically examine, analyze and make visible the experiences of selected women legal graduates so as to understand what opportunities and freedoms they have to become and do what they reflexively value as legal professionals, and also to contribute to social justice should they choose to.

Secondly, law is a powerful tool for the ordering and re-ordering of society (Harrington, 1993), and as such plays a critical role in the functioning of any democratic society (Epstein, 1993). Whether at the macro-level where lawyers make, interpret and/or assist in the enforcement of laws, or at the meso and micro-levels where they guide institutions and individuals on matters of the law, lawyers engage in activities that affect, in one way or another, all aspects of a society. Performance of all these functions positions lawyers, both men and women, as a significant group of people because they wield power in society (Bourdieu, 1987) and can use this power for public good if they choose to. However, this begs the question as to whether women and men lawyers hold equal professional power and authority to make laws and influence the way the society functions. Since the legal profession prides itself on ideals of meritocracy and justice, we need to investigate whether women lawyers have the freedom and opportunities to use their professional authority and power to advance gender justice. This is important because the way women in legal education and profession are perceived and treated affects attitudes towards gender justice and equity in society (Canadian Bar of Association, 1993). Accordingly, securing gender justice within the legal profession, including law schools, then becomes a prerequisite for ensuring and promoting gender justice in the broader society.

Finally, my interest in this study draws on my own experience as a woman legal professional in Kenya. At the age of seventeen, I left my family to attend an elite public law school in the capital city. I was excited since I had left home to acquire legal knowledge and skills that would enable me to advocate for social justice, an interest I had developed during my secondary school training. At the end of my first semester in law school, I returned home from university and spoke enthusiastically to my family about law and how I was looking forward to acquire my law degree so that I could fight for people's rights and address injustices. To my surprise, my grandmother mentioned that I had become 'too aggressive' and 'over-ambitious'. She reminded me that I was a woman and that I should endeavor to maintain the traditional feminine values and attributes as required of 'modest' women lest I risk not finding a 'suitable' husband. Yet, back at law school I was instructed that to be a successful lawyer, I had to 'think and act like a lawyer' (by being bold, assertive and authoritative). My experiences at law school of 'being trained to be a legal professional' clashed with my family's socialization of 'being a woman'. I found myself trying to balance my dual identity: a woman-legal professional. I was constantly struggling to adapt to professional ideals, while at the same time trying to maintain my socialized feminine values. I compromised several aspects of my 'being' a woman while adapting to different ways of legal practice. In my third year of law school, I was introduced to feminist jurisprudence. I began to question what options, opportunities and challenges I had as a woman

lawyer to become and do what I wanted in life given my patriarchal upbringing. Although I found no legal or formal barriers to what a woman lawyer could become or achieve, I became conscious and critical about the cultural practices, norms and structures both in and outside law school that intersected to shape women's opportunities and choices in life generally and the legal profession in particular. During my personal feminist inquiry and reflection, I realized that women lawyers in Africa, especially Kenya, are under-researched. This motivated me to pursue research on the status of women lawyers and the complexity of their experiences and lives so as to understand how women lawyers reproduce, contest and or negotiate gender norms and practices in the pursuit of their valued personal and professional goals and aspirations.

1.5 Significance of this study

Institutions of higher learning, and universities in particular, are regarded as 'spaces where relations of equality, respect for difference, and concerns for contributing to society are nurtured; and where original creative and life enhancing knowledge is produced' (Walker & McLean, 2013, p.16). Thus, it becomes crucial to understand how students experience university education and what university education enables them to achieve. By making the higher education experiences of young women legal graduates visible, the study provides crucial information on the factors (both personal, social, cultural, economic, political and environmental) that contribute to or hinder equitable access, participation and achievement of women in legal education and profession. In particular, the study identifies various opportunities and freedoms law school does or does not avail to women students to be and do what they desire in their personal, social and professional lives. Findings and recommendations from this study might equip relevant stakeholders in legal education and profession with valuable insights to recast their focus beyond numbers and identify and put in place relevant and contextualized interventions aimed at eliminating gender injustices in law schools so that all students, particularly women, have equitable opportunities and freedoms to choose and lead the kind of lives they value, both individually and collectively. In the long-run, this is more likely to promote gender justice in the legal profession and advance human development and social justice agenda if women legal graduates choose to contribute to the broader common good.

In addition, the study gives young women legal graduates a platform to voice their concerns, articulate their issues, express their demands and interests and speak against injustices in their lives both as students and as young legal professionals. Their voices (both individually and collectively), as captured in the findings, play a central role in creating a momentum that advocates for or shapes the discourse of gender justice in law school in Kenya and the legal profession more generally. Secondly, based on their successful stories, these women may become

role models for the upcoming and aspiring young women professionals so that they can rise above the gendered social, economic, cultural and structural constraints and pave their way through higher education to become the people they want to be and undertake activities they value in life.

Besides filling the lacunae identified, the study contributes to the growing body of literature on higher education, gender and capabilities and human development, with a particular focus on law school. It advances how we can theorize gender justice in relation to actual lives, with relevance well beyond legal education or higher education. The study might also prompt other researchers to carry out similar research in their contexts.

1.6 Analytical framework for the study

This study uses the capabilities approach to interrogate women's experiences from a feminist perspective. The capabilities approach commences from the perspective of the individual and inquires whether or not this individual has substantive opportunities and freedoms to achieve her well-being (Sen, 1992). I apply this approach in the context gender justice in higher education to examine what opportunities and freedoms students, especially women, have in and through higher education to achieve their well-being. In the process, it directs my attention to various conversion factors (personal, social, cultural, contextual, political structures and arrangements) that affect students' capability sets to choose and lead valued lives both in and beyond higher education. This analysis provided information on what capabilities need to be enhanced or fostered, as well as factors that need to be limited so that higher education can become more gender just and inclusive for sustainable equitable development. The allied notion of the freedom to choose or act brought out another important dimension to my assessment of gender justice: the concept of agency. This concept allowed me to interrogate how and to what extent women used their capacities and potentials to negotiate, challenge or reframe existing gender injustices in their lives. It brought out the complex nature of the relationship between structures and individual agency. Thus, a capabilities-informed approach to gender justice locates women's well-being and agency at the centre of its inquiry, and examines their real opportunities and freedoms to choose, do or become who they reflexively value both in and outside higher education.

A feminist perspective makes gender a central category of analysis in an effort to understand how it shapes, structures and informs the experiences, relationships, practices, treatment and lived realities of men and women (Bensimon & Marshal, 1997). In the context of higher education, a feminist perspective allowed me us to locate femininity and masculinity as relational and socially constructed concepts, and prompts us to inquire how and to what extent any given

educational opportunities, freedoms, decisions, processes, outcomes, actions or inactions differentially affect diverse men and women students (Ibid). This provides a nuanced understanding of the complexities that inform and shape gender issues (within and beyond higher education), which in turn allows us to think of possible ways of changing them to improve the situation of women (Weiner, 1994). A feminist perspective allowed me to integrate gender theory with the capabilities approach and examine how gender intersected with other complex inequalities to shape women's well-being and agency within and beyond higher education. This directed my mind to 'gender inequalities in conversion of resources into capabilities, gender inequalities in capability sets, and how gender interacts with choice and responsibility' (Robeyns, 2008, p. 96). This examination illuminated various intricate ways through which gender inequalities were being produced, reinforced or contested in and through higher education. Ultimately, it produced valuable information that enabled me to make possible suggestions for gender policies and interventions that might promote gender justice in higher education.

The difference between my study and other studies on gender and higher education in Kenya is that my study focuses on women's substantive opportunities, freedoms and agency to do or become who they have reason to value in and after higher education. Since it is anchored in the capabilities approach, my study places women's well-being at the centre of inquiry and examines what opportunities and freedoms need to be provided, and what hurdles need to be eliminated so that women students can achieve their well-being and exercise their agency, taking their diversity and contextual conditions into account. In this regard, a capabilities-informed framework offers a more powerful and multidimensional lens for evaluating gender (in)justice in higher education, one that goes beyond numerical parity, to consider how individual women students' capability sets to exercise agency and achieve well-being are either enhanced or constrained in and through higher education.

1.7 Methodology

This is a qualitative research conducted in Kenya. It involves ten women legal graduates, who had been in legal practice for a period not exceeding twelve months, after completing their law degree. These women came from diverse areas of legal practice (corporate, general private practice law firms, solo practice, government and non-governmental organizations). Further, they attended different law schools and came from diverse socio-economic and cultural backgrounds. I conducted in-depth narrative interviews with each of them following their life trajectories. The interviews focused more on their experiences of accessing higher education, during higher education and after higher education, particularly early professional lives. This

provided me with rich data about different stages of women's lives that informed my understanding of how various forces (social, familial, economic, cultural, environmental or political) interacted to shape and connect different aspects of their lives that were pertinent to the study.

1.8 Chapter outline

This thesis has nine chapters. In this introductory chapter, I have given a brief overview of the study by highlighting the research problem, rationale, significance of the study, as well as a summary of the research design and methodology.

Chapter 2 reviews literature on gender justice, (higher) education and development. Divided into three sections, the chapter commence by exploring the concepts of gender and justice and how these concepts are used to inform my conceptualization of gender justice used in this study. In particular, the section outlines different approaches to gender, highlighting their contribution to our understanding of gender justice issues in higher education. I note that the capabilities approach enriches these approaches and provides a robust framework for theorizing and analyzing gender justice in higher education. The chapter then moves to review literature, international and African/Kenyan, on the status of women in society, illustrating how gender is used to position men and women in society. This forms a basis for analyzing literature on gender and higher education, with specific attention to gender inequalities in higher education. Since the study focuses on legal education, the chapter concludes by reviewing available literature on the experiences of women students in law school and how these experiences shape their professional and career trajectories, as well as their development.

Chapter 3 builds on the argument made in section one of chapter two and presents a case for a capabilities-informed approach to gender justice in higher education. I begin the chapter by presenting the key concepts of the capabilities approach, its strengths as well as limitations. In the second section, I outline two approaches that are normally used to advocate for gender justice in education pointing to their successes and limitations, and showing how the capabilities-informed approach goes beyond to provide a robust and multi-dimensional framework for evaluating gender justice in higher education. I conclude the chapter by highlighting selected literature on gender justice, higher education and capabilities to illustrate how and to what extent this approach has been used to advance gender just and equitable education.

Chapter 4 presents the research methodology and design in detail. In the first section, I describe and justify the choice of the qualitative feminist research design employed in this study. Thereafter, I discuss the practical aspects of the study such as selection of and access to the

participants, data collection tools and procedures, the research process, and data analysis and presentation. Finally, I present a brief description of each participant so as to equip the reader with information, to enable her or him to contextualize participants' diverse lives, experiences and perspectives.

Chapters 5, 6 and 7 present the empirical findings of the study. I describe and analyze findings on the participants' experiences of accessing university education (law school) in chapter 5. In particular, I examine participants' lives prior to joining law school highlighting the opportunities and freedoms each participant had at different times of her life to decide on and choose law as their desired career in higher education. In doing so, I present various conversion factors that intersected at different times and contexts (family, school, society) to enable or constrain women from forming, sustaining, pursuing and realizing their educational and career goals and aspirations. The argument made in the chapter is that while there are no legal barriers for women to access higher education, women's opportunities and freedoms to choose what course to pursue in which university need to be promoted and enhanced. In chapter 6, I present participants' experiences while in law school, paying specific attention to women's level of participation in classroom and outside classroom activities. By interrogating these experiences, I demonstrate whether and to what extent law school environment as whole is 'chilly' for women students as illustrated in vast literature on gender and legal education. In chapter 7, I describe and analyze participants' experiences after law school (both as young women legal graduates in the legal profession and as women in the broader society). In particular, I explore the relationship between women's higher education and their valued capabilities and functionings for their personal, social and early career lives.

Chapter 8 is the penultimate chapter. Drawing on the capabilities approach, the chapter revisits and analyzes the experiences and perspectives of the participants presented in chapters 5, 6 and 7. In particular, the chapter uses the concepts of well-being, agency, freedom and achievements in an educational context to explore what opportunities and freedoms diverse women have to choose and acquire university education and once educated, to use that education to achieve their reflexively valuable outcomes taking into account their diversity. Transcending this analysis is a focus on women's valued capabilities at different stages of their lives (pre-university, during university and post-university) and how these capabilities were either expanded or contracted by various conversion factors. The aim of the chapter is to identify what capabilities matter for gender justice in higher education, and what conversion factors need to be addressed so as to foster these capabilities in and through higher education.

Chapter 9, being the conclusion chapter, gives an overview of the study and the findings. Based on the participants' accounts, the chapter makes recommendations on what higher education (in this case law school) and other relevant stakeholders can do differently to make women students' experiences positive and enriching. The main suggestion being to use the capabilities identified in chapter 8 to start and/or guide discussions on gender justice policies and interventions in higher education so that the capacities of women students to access, choose and convert available educational resources and opportunities into valued educational and life outcomes are enhanced, and that women (both as students and as professionals) are recognized both socially and subjectively as having equal claims to such opportunities and outcomes.

CHAPTER 2: GENDER JUSTICE, HIGHER EDUCATION AND HUMAN DEVELOPMENT

Introduction

My study investigates the experiences and perspectives of women legal graduates in accessing, participating and progressing through higher education so as to understand how gender and other socio-economic factors intersect to shape their educational and professional aspirations and pathways, and achievement of well-being and agency. By its nature, the study deals with issues of gender justice in higher education (and in this case law school) and in women's lives. Informed by the human development principle that the goal of development is to improve people's lives by expanding their capabilities to function, in this chapter I present and analyze relevant literature (both international and African/Kenyan) on gender justice, higher education and development. My starting point in contemplating this analysis was the recognition that law schools operate in universities, which are located in the broader society. In this respect, I cannot examine gender justice in law school without interrogating gender issues in higher education and society more generally. Thus, divided into three sections, I commence the chapter by exploring the concepts of gender and gender justice and show how these concepts are conceptualized in this study. In the second section, I explore wider literature on gender and society to give a snapshot of how gender is used to position women in various spheres of society more broadly and Kenya in particular. This sets the scene for the final section which explores literature on the status of women in higher education. There is a vast literature on gender and higher education covering diverse but related gender issues. While I attempt to touch on these areas in the last section, my focus is on the experiences of women students in higher education and particularly in law school.

2.1 Conceptualizing gender justice in higher education

Gender justice is a subset of justice issues in the world. However, the meaning of gender justice is contested (Goetz, 2007). It is used interchangeably with terms such as gender equality, women empowerment and inclusion, which makes it difficult to apply in understanding the complexities of women's experiences and lives in society and higher education in particular. Thus, to meaningfully engage with these complexities, it is essential to consider what is meant by gender and gender justice and how this can translate to policy and practice in the context of higher education (and for my study, legal education). Unterhalter (2005a, 2007a) has outlined different approaches to gender, highlighting their distinctions and influences on research and policy in education and development. In this section, I engage with these approaches and show how they can be enriched to conceptualize and promote gender justice in higher education.

2.1.1 Gender justice as (re)distribution of opportunities

According to Unterhalter (2005a, 2007a), gender can be described as a noun, in which case it refers to the male or female sex. From this perspective, gender justice is understood as having equal presence of men and women in social, economic and political spheres (Ibid). When applied in the context of higher education, gender justice is accordingly conceptualized as achieving numerical parity of women and men accessing and completing university education. Unterhalter (2006) terms this framework inclusion. Under this framework, gender injustices in higher education are understood as women's under-representation in various areas of higher education such as disciplines and levels of study (Dejaeghere, 2016; Unterhalter, 2006). This approach to gender justice is used to advocate for distributing more opportunities for women to access areas where they are under-represented, and has been successful in enabling more girls and women access and complete higher education (Schultz, 2002; Tembon & Fort, 2008). While increasing women's numerical representation in higher education is desirable, this approach to gender justice is blind to the conditions, practices, processes and power relations in schools, families and other spheres of society that continue to perpetuate gender inequalities in women's lives (Unterhalter, 2012a; Chisamya et al., 2011; Vavrus & Richy, 2003). Further, availing equal opportunities and resources to women does not take into account how different women convert these opportunities to their advantage (Gewirtz, 2006; Robeyns, 2009).

2.1.2 Gender justice as structural transformation

The second approach describes gender as an adjective that structures and positions men and women in particular ways - legally, politically, economically and socially (Unterhalter, 2005a; 2007a). From this perspective, gender justice is conceptualized as the removal of structural impediments in societal settings which continue to disadvantage members of historically excluded and marginalized groups such as women (Unterhalter, 2007a; Young 2009). In the context of higher education, this approach acknowledges and takes into consideration the fact that women and men start from different positions of (dis)advantage as a result of gendered power structures and relations (Unterhalter 2007a; Subrahmanian 2005). Unterhalter (2006) calls this framework contestation, as it is concerned with challenging gendered power relations and structures that constrain women's freedoms to achieve their well-being in and through higher education. Within this framework, gender justice is conceived as levelling the playing ground so that women who access higher education are able to participate in quality education and reap its benefits (Ibid). This entails reforming structures of power relations through laws and policies such as gender mainstreaming (Aikman, Halai, & Rubagiza, 2011) to redress historical, material and tacit forms of exclusion, marginalization, subordination and exploitation (Unterhalter, 2005a; Vaughan, 2010; Walby, 2005). This approach has been successful in shifting the focus of gender

justice beyond simple allocation or re-distribution of educational resources and opportunities to consider how women, as a group, experience and are treated in higher education. For instance, it illuminates how educational policies and institutionalized cultures and patterns such as devaluation of girls' education by some communities, and discriminatory practices and relations (such as sexual harassment) deprive women of equal opportunity to participate and benefit from higher education. Further, it helps to identify and question educational processes that oppress, marginalize and or exclude women students from active learning, which in turn hinders the building or fostering of relationships that are based on mutual recognition, care and respect (Gewirtz, 2006). In essence, the approach has informed institutional and structural changes in educational institutions to accommodate women and their experiences so as to realize their full educational potential and outcomes (Unterhalter, 2005a). Yet, Bradley (2000) contends that although desirable, taken alone, structural or institutional transformation is insufficient to address gender inequalities in higher education. For instance, it homogenizes women as a group and thus polarizes unique individual women's differences and experiences (Leibowitz, 2009). It also underplays the role individual women can play in transforming inequalities in their lives (McNay, 2008). As Bell (2007) points out, any commitment to social (and gender) justice must acknowledge and believe in people's capacity as agents who can act and transform the oppressive 'worlds' in which they live in.

2.1.3 Gender justice as discourse deconstruction

Lastly, Unterhalter (2007a, 2012a) observe that gender can be understood as a verb. This understanding signals actions or behaviours in accordance to particular forms of masculinity and femininity. It entails the process of 'being' or 'becoming' a woman or a man that is, forming an identity and acting along the rules of that identity (Connell, 2002; Unterhalter, 2007a). This process entails many tensions and contestations and might follow diverse pathways depending on the context it is being performed (Connell, 2002; Unterhalter, 2007a). Unterhalter (2006) calls this framework critique. As its name suggests, this framework critiques, troubles and unpacks dominant and hegemonic discourses on gender and identity so as to unearth subjective experiences of the 'perpetrators' and 'victims' of gender inequalities (Lykke, 2010; Shefer, 2001; 2016). In the context of higher education, the approach examines how diverse students experience dominant discourses and discursive practices that construct masculinity and femininity (Lapping, 2005). It is concerned with 'effecting changes in ideas, the substance of what is taught, the boundaries between disciplines, and the subject positions of learners and teachers within a discursive field that connects disciplinary knowledge within higher education institutions and forms of identification outside' (Unterhalter, 2006, p. 623). This approach to gender justice calls for the creation of conditions and processes that allow students to critically

explore, discuss and construct concepts such as gender, sexuality and identity, as well as act in ways that are meaningful and relevant to their own well-being (Shefer, Kruger, & Schepers, 2015; Unterhalter, 2012a). It has been successful in deconstructing and analyzing gender and identity discourses in education, and advocating for the recognition and valuing of multiple, subordinated and often shifting identities (Unterhalter, 2009). For instance, it has contributed to the disruption of hegemonic discourses that construct women as passive victims of gender inequalities in education to consider interventions that enhance women's capacity to exercise their agency to live in ways they value (Shefer & Clowes, 2014). It has also encouraged research within post-structural methodologies and thus generated new kinds of knowledge that make visible subordinated identities, languages and cultural practices (Unterhalter, 2006). Its focus on multiple and fluid identities has also directed research into ways in which gender intersects with other complex differences and inequalities such as race, class, sexuality, among others (Shefer, 2010).

2.1.4 Re-conceptualizing gender justice: A capabilities perspective

All the above conceptualizations gender justice are useful when thinking about gender justice issues in the context of higher education. However, each is limited if applied independently to inform gender justice policy and gender justice practices in higher education (Unterhalter 2007a; 2012a). This is because gender is not only a multi-faceted social construct, but is also relational since it is an active and continuous process which is accomplished through the lived experiences of men and women in the spheres of social interactions and institutions (Davies, 1996). It produces and establishes socially accepted patterns of behaviour, attitudes, expectations and emotions, and influences what opportunities are available to different people and how they make choices from and utilize these opportunities (Connell, 2002; Nussbaum, 2000; Robeyns, 2010; Subrahmanian, 2005). In other words, gender cuts across class, race, ethnic group, and is embedded in social and institutional arrangements and practices (Kabeer, 2003; Robeyns, 2010). Thus, any assessment of gender justice must analyze social structures, cultural meanings, practices and material relations that influence people's behaviours, choices and actions (Ferree, Lorber, & Hess, 1999).

In this regard, Unterhalter (2006, 2012a), calls for a multi-dimensional framework that connects and incorporates gender as a noun, a verb and an adjective in our understanding and assessment of gender justice, noting that the capabilities approach is promising in this respect. This study builds on this idea and argues that the capabilities approach connects and draws on the contributions of each of the above-mentioned frameworks, and thus provides a robust framework for assessing gender justice in higher education, as well as informing strategies aimed at promoting gender justice policy in practice. The capabilities approach is a normative

framework that analyzes social reality from the perspective of individual well-being but also in relation to others in diverse social arrangements and contexts. It sees people as the ends of development and thus advocates for the expansion of their opportunities and freedoms to do and achieve what they have reason to value (Sen, 1992). When applied in the context of gender justice in higher education, like the supporters of the contestation framework, the capabilities approach criticizes the construction of gender justice as equal distribution of opportunities and resources, arguing that people differ in many ways and these differences may affect the extent to which they convert available resources and opportunities into valued outcomes (Sen 1992, 2009; Nussbaum, 2000; Robeyns, 2005). It calls for an in-depth examination of diverse students' personal, social, cultural and economic conditions, as well as institutional structures and processes through which students are educated to assess whether they provide equitable and substantive opportunities and freedoms for all students to actively participate and successfully achieve their valued educational aspirations and outcomes (Deneulin, 2014; Okkolin, 2013; Walker, 2006). This approach, Unterhalter (2006) argues, not only associates gender with social norms, structures, relations and dispositions in higher education that foster or constrain students capabilities to function, but also connects these to power relations and social conditions in the wider society. This is important because practices and conditions in higher education institutions shape and are shaped by social, economic, cultural and political practices, relations and conditions outside these institutions (Ibid). Paying attention to student diversity, as well as factors within and without higher education institutions allows us to examine what substantive opportunities and freedoms different students, especially women, need and how these can be expanded so that they are able pursue and achieve their valued educational and life outcomes. From this standpoint, the capabilities approach provides a robust multi-dimensional framework within which gender justice in higher education can be assessed, one that advocates for expansion of students' capabilities to choose and lead flourishing lives in and beyond higher education. This will be elaborated further in chapter 3.

In this section, I have presented three different ways of conceptualizing gender justice and applied these conceptualizations in the context of higher education. In doing so, I have highlighted the strengths and limitations of each conceptualization, and pointed that the capabilities approach (which is the analytical framework for my study) connects these conceptualizations to provide a more comprehensive and multi-dimensional framework for conceptualizing and evaluating gender justice in higher education. In the following section, I turn to literature on gender and society relevant to my study to examine how gender (in its

multifaceted forms) differentially positions men and women in society, which then leads to a discussion on the status of women in higher education and in law school more specifically.

2.2 The status of women in society

Nussbaum (2000) asserts that most women world-wide lack the essential support to lead fully human and dignified lives. She argues that even in constitutionally democratic nations, a majority of women are treated as second-class citizens by virtue of them being women (p. 4). Buttressing this point, Cin and Walker (2013) observe that being a woman exposes one to various forms of discreet [sometimes overt] discrimination, which in turn limits opportunities and freedoms to make valued choices that could enable her to lead a meaningful and productive life. Consequently, regardless of region and regional cultures, a disproportionate majority of women continue to suffer oppression and discrimination (Nussbaum, 2000). In most traditional societies, women's primary place was in the domestic sphere where they performed reproductive and caring duties such as bearing children, caring for the elderly, cooking, cleaning, maintaining the home and tending to their husbands (Armstrong & Armstrong, 2004; Corrigan & Konrad, 2007). As Nussbaum (2002) observes, women were treated as tools for the ends of others. However, this picture is changing in many contemporary societies since more women are getting into formal employment, others have accessed and achieved higher education, while others have gained access to leadership and decision-making positions in society, albeit in small numbers (Carli & Eagly, 2001). As a result, more women are engaged outside the home and now have a certain amount of power. In addition, men have also started carrying out duties that were traditionally perceived as women's such as nursing and child care (Corrigan & Konrad, 2007; Simpson, 2004). However, the question that remains is: what do the numbers tell us about the well-being of women in contemporary societies? Does the increased presence of women in education and public life automatically translate to gender justice? To explore these questions, this part examines literature on women's participation in education and the labour market, and what impact this participation has on their personal and social well-being.

2.2.1 Women in education

Education contributes to human and social development by empowering people to make choices, promoting equity and social cohesion, as well as creating well-functioning democratic institutions (see Gould, 2014; McMahon, 2009; Nussbaum, 2010; Sifuna, 2006). For women, Nussbaum (2000) argues that education enables them to lead lives worthy of human dignity. For instance, education provides better employment opportunities, increases women's choices and participation in the labour market and thus raises their income and status in society (Cameron, Dowling, & Worswick, 2001; UNESCO, 2015b). It also has incidental benefits like reducing

fertility and population growth rates, improving the health and life expectancy of children, and reducing environmental degradation (UNESCO, 2016; Isen & Stevenson, 2010; Sharma, 2015). While this is true, some authors have criticized this argument as being capitalistic for it perceives women's education as a magic key that unlocks fortunes and benefits to others as opposed to the women themselves (Nussbaum 2000; Unterhalter, 2000). This critique will be explored in sub-section 3.2.1. Suffice it to say here that women's education is critical in promoting human and economic development, as well as enhancing social justice and stability (Schultz, 2002; Sen, 1999).

These developmental benefits of women's education are used by the international community and various countries to advocate for widening women's access to and participation in education. Despite intensified global and national efforts to ensure equitable and quality education for all, girls' and women's access to, participation in and achievement through all levels of education is still limited (Kelly, 2005). This is because global statistics reveal that more girls than boys continue to experience disadvantage and exclusion in education across many countries (UNESCO, 2014, 2015b, 2016; UNICEF, 2015). Whereas many countries have made progress towards reducing gender disparity gap in primary and secondary education, gender equality is yet to be achieved. For instance, it is estimated that 32.1 million girls and 28.9 million boys of primary school-age were out of school worldwide in 2014 (UNESCO; 2016). At the lower secondary level, the number of girls out of school was 29.1million compared to 31.1 million boys (Ibid). This shows that, globally, more girls than boys face a disadvantage in primary education while more boys than girls are at a disadvantage in lower-secondary education. This notwithstanding, there are disparities across regions and countries whereby more girls than boys from Sub-Saharan Africa, Asia and Latin America continue to be excluded from primary and secondary education. For example, of the 32.1 million girls of primary school-age that are out of school, 18.6 million come from sub-Saharan Africa. Also, of the 29.1 million girls of lower secondary school-age that are out of school, 12.8 million are from sub-Saharan Africa (UNESCO, 2016). These gender disparities continue to tertiary level of education. Although global statistics indicate that women comprise of 50.5% of all students enrolled in higher education world-wide, there are regional disparities (UNESCO, 2015a, 2016). For example, women comprise 37.7% of students in higher education in sub-Saharan Africa (although there are certain countries like Botswana and South Africa where women comprise more than half of the student population enrolled in higher education) (AHES, 2015).¹¹ Although it can be argued that women have the advantage globally, a closer analysis of regional and national statistics and

¹¹This is explained more in note 13 below.

participation rates shows that women remain effectively excluded from higher education (UNESCO, 2016). I will return to this point in section 2.3 below.

Moving on to Kenya, education enrolment rates reflect the wider picture in Sub-Saharan Africa. According to an economic survey report, the number of students enrolled in primary school increased from 9,561,000 (4,673,700 girls and 4,887,300 boys) in 2012 to 9,950,800 (4,898,400 girls and 5,052,400 boys) in 2014 (RoK, 2015). In the same year, number of students enrolled in secondary school increased from 1,767,700 (819, 000 girls and 948,700 boys) to 2,310,800 (1,107,600 girls and 1,203, 200 boys) in 2014 (Ibid). This increase is associated with free primary education that was introduced in 2003, as well as subsidized secondary education that was implemented in 2008. However, an examination of these statistics indicates that the number of boys accessing primary and secondary education is slightly higher than that of girls. Furthermore, although the 2015 report does not break down this data according to regions, previous statistics show regional gender disparities with poor counties in arid and semi-arid areas such as Turkana and Garissa recording low primary education net enrolment rates of 3.1% for girls (RoK, 2013). This implies that most affected girls are those who fall within more than one disadvantaged group such as those from poor and rural backgrounds, demonstrating the role intersectional disadvantages play in perpetuating inequalities. Moreover, compared to boys, most girls continue to experience low secondary school completion rates. For instance, available statistics show that in 2014, the retention rate for girls was 87.5% compared to 89.3% for boys for the same cohort (RoK, 2015). These percentages indicate that survival rate in secondary education is lower for girls compared to boys, and this has an effect on the number of girls who actually complete secondary education and transit to university level of education.

Tinklin, Croxford, Ducklin and Frame (2005) have argued that women's educational and career opportunities, aspirations and achievement are affected by societal expectations and perceptions of what is 'good' or 'appropriate' for women. For instance, Kabeer (2005) observes that in societies where women's main role is sexual reproduction, education is seen as a tool that prepares them for this and associated roles. In such societies, educational expectations and aspirations of most women are attuned to these roles, which in turn limit their opportunities to develop critical thinking to, for example, question their subordination to men (Ibid). In Kenya, some of the negative societal attitudes that favour boys' education include the patrilineal nature of inheritance, the belief that educating a girl is like 'watering a neighbour's tree', and the perception that 'too much' education will render a girl 'unmarriageable' (Abuya & Onsomu, 2014; Chege & Sifuna, 2006). These beliefs intersect with other factors such as sexual harassment

in schools, pregnancies, early marriages and poverty to limit girls' equal participation and achievement in primary and secondary education (Kibugi, et al., 2013; Colclough, et al., 2000; Oruko et al., 2015) which, in the long run, limits their chances of equal participation in university, as well as the labour market and leadership and decision-making in their societies at large.

Thus, the statistics and literature presented in this sub-section demonstrate that achieving gender justice in education requires not only that women and men (including girls and boys) have equal opportunities to access education, but also that their freedoms to participate and achieve through education are not constrained.

2.2.2 Women in the labour market

Women's participation in the labour market has increased in the recent past (ILO, 2016; Thevenon, 2013; World Bank, 2016). This is attributed to women's increased participation in education, organizational changes in gender relations, as well as structural changes in the labour market (Thevenon, 2013; Walby, 1997; World Bank, 2012). However, women's overall participation in employment is lower compared to men (ILO, 2016; UN, 2015b; World Bank, 2012). In 2015, the global female employment-to-population ratio was 46%, while the male ratio was 72% (ILO, 2016). In Sub-Saharan Africa as a whole, the employment ratio averaged 72% for men compared to 58% for women (Ibid). In Kenya, while the female employment-to-population ratio is 56% (ILO, 2016), there are only 29% of women in the formal employment sector out of which, 70% are in low income jobs (Atieno, 2010). This is a similar trend across many African countries where more men than women are engaged in regular wage and salaried employment (Anyanwu & Augustine, 2013; ILO, 2016; UN, 2015b). On the one hand, gender inequalities in Kenyan labour market, as elsewhere, are attributed to gender inequalities in fields of study in higher education (Bradley, 2000; Chege & Sifuna, 2006; ILO, 2016). For instance, women tend to choose arts and social science-related subjects, which in turn limit and restrict their options in the formal labour market to 'feminine' areas (Chege & Sifuna, 2016). On the other hand, Acker (2006) observes that labour market institutions are inherently designed and controlled by men whose interests they endeavour to protect, resulting in gender inequalities. From this perspective, it becomes crucial to analyze the culture and structure of the labour market and how these affect women's opportunities and freedoms to participate and advance.

Using women working as civil engineers in United Kingdom Construction industry, Watts (2009) uses the concept of 'long-hours culture' to illustrate how occupational and professional commitments marginalize women's participation and progression in the labour market. She

argues that an ideal worker is perceived as one who has unlimited time so as to commit long hours to the organization he or she works for. Since most women bear a substantial amount of other responsibilities such as family, they are unable to commit to these long hours, especially if they have children (Boca, Pasqua, & Pronzato, 2009; Bosch, 2011; Thevenon, 2013). While there have been significant developments in terms of improved working patterns and cultures that enable or promote work-life balance, there is evidence that career promotion and advancement is still based on how long one commits to work in terms of working hours, extensive training, networking after work and cultivating sustainable client relations (Brink & De la Rey, 2001; Crompton & Lyonette, 2011; Smithson & Stokoe, 2005; Whitehead & Kotze, 2003). Those who utilize the work-life balance policies (usually women) are perceived negatively as being 'unproductive' and 'lacking' professional commitment, and thus not eligible for promotions (Crompton & Lyonette, 2011; Smithson & Stokoe, 2005). This shows how 'hidden' informal and inert internal criteria and processes of performance appraisal and promotion are utilized to limit women's opportunities of equal participation and advancement in the labour market.

This situation is further complicated by the persistence of gender stereotypes at work (Heilman, 2012; Rollero & Tartaglia, 2013). For instance, pervasive stereotypes which prescribe women as less competent than men are used to also justify the placement of women in positions that attract lower prestige and remuneration (Heilman, 2012). Emphasizing this point, Mednick and Thomas (2008) state that although women in the United States have made remarkable progress in education and the labour force in terms of increased participation, they continue to earn less than men, even when they have similar qualifications and working experience. In sub-Saharan Africa, a study in South Africa on women in the work place found that most women occupy lower paid and lower skilled jobs in the economy (Bosch, 2011). In Kenya, most women continue to experience marginalization in the labour market. For instance, Suda (2002) observes that 'most women are concentrated in low-paying, low-status occupations with poor fringe benefits...and therefore, hold very little prospect for poverty reduction and upward mobility' (p. 302). Writing on women's career progression in Kenya, Kirai and Kobia (2012) argue that women's progression and advancement in formal employment is curtailed by socio-cultural values and norms that relegate women's responsibilities to reproduction and domestic work within the home.

Other studies have shown that women experience sexual harassment in the workplace. For instance, a study on women workers in export industry in Kenya by Karega (2002), found that 90% of women workers had suffered sexual harassment although 95% never reported these

cases. Similarly, a study of women workers in the cut-flower sector in East Africa found that 40% of women workers in Kenya had experienced offensive sexual jokes and comments, 24% experienced unwanted touching and 18% had had threats of reprisal for not conceding to sexual advances (Jacobs, Brahic, & Olaiya, 2015). Whereas there is no official data on the prevalence of sexual harassment at work place in Kenya, these studies demonstrate that sexual harassment is a widespread phenomenon in the work place in Kenya, although it seems to be under-researched. Thus, based on the evidence from these studies, one can argue that labour market institutions reinforce gender inequalities which, as Hersch and Stratton (2002) assert, negatively affect women's full participation, progression and success.

While division of labour by gender is experienced everywhere, I acknowledge that this division (can and) changes over time and across contexts. As Connell (2002) observes, what is often defined as men's or women's work also differs across cultures. Equally, I recognize that women are diverse in terms of class, race, age, marital status, sexual orientation and spatial locations. All these factors have an impact on how gender is performed or experienced in different spaces and contexts.

Since this study focuses on the experiences of women legal graduates, the following sub-section focuses more specifically on gender and the legal profession.

2.2.3 Open access, limited opportunities: Women in the legal profession:

As I indicated in the section 1.1, women's access to the legal profession (both as students and lawyers) has significantly increased over the years (Cuyler, 2012; Huxley-Binns & Martin, 2014). This can be termed, on the surface, as a success story. However, when we scrutinize the type of work, career trajectories and remuneration of lawyers, a worrying trend of unequal participation, progression and pay emerges. For example, a historical analysis of the Law Society Data of England and Wales between 1983 and 2003 found that more women than men are concentrated in areas of practice which are stereotyped as 'feminine specialisms' such as Family Law, Probate, Personal Injury and Employment (Bolton & Muzio, 2007). Analysis of the income generated by different areas of legal practice reveals that most areas dominated by women generate lower income, while those dominated by men generate higher income (Ibid). For instance, Corporate and Commercial Law combined generate 45% of the profession's revenues while Family, Housing and Employment Law generate 6%, 1% and 5% of the profession's revenue respectively. MacMillan et al. (2005) conducted a survey among 2,300 lawyers in Scotland to explore the position of women in the legal profession. Their findings revealed that men dominate areas of practice which are perceived to be well-paid such as Corporate Law while

women were found in areas that are regarded as being poorly paid such as Family and Employment Law. A similar pattern is seen in surveys carried out in Australia and American Bar of Associations, where more women than men are in Family Law, while more men than women lawyers are found in Business, Banking, Tax, and Criminal Law (see Hunter, 2003; Rhode, 2001). Further, Rhode (2011) analyzed studies on diversity and gender equity in law firms in the United States and found that men lawyers earn more than women lawyers even if their qualifications, experience, and positions are similar. Since career progression and advancement in the legal profession is pegged on one's ability to bring new clients and to generate more revenue for the firm (Hanlon, 1997), a majority of women are locked out of promotions because their specific areas of practice generate less income. In addition, there is an assumption that most women 'lack' traits of a lawyer such as being rational, objective aggressive, committed, detached, among others (Bolton & Muzio, 2007; Sommerlad, 1994). These stereotypes are also used to limit most women lawyers' progression to higher ranks in the profession (Bolton & Muzio, 2007; Patton, 2004; Rhode, 2011).

In addition to gender segregation, other studies indicate that women lawyers experience sexual harassment (see Brockman, 2006; Laband & Lentz, 1998; Rhode 2001; Wilder 2007). Laband and Lentz (1998) utilized data from the American Bar Association's *National Survey of Career Satisfaction/Dissatisfaction* (1990) to explore the incidence and impact of sexual harassment in the American legal profession. Their findings revealed that 66% of women lawyers in private practice and 50% of those in corporate or public agencies had experienced or witnessed sexual harassment. These category of women lawyers reported that incidences of sexual harassment triggered lower job satisfaction, feelings of anxiety, as well as a greater intentions to quit. Similarly, Brockman (2006) undertook a survey of lawyers in Alberta, Canada to explore gender and diversity in the Canadian legal profession. Her analysis revealed that 30% and 37% of women lawyers had reported having experienced sexual harassment from male lawyers and clients respectively, while 55% and 47% of women lawyers reported having been subjected to teasing, jokes and comments of sexual nature from male lawyers and clients respectively. Like Laband and Lentz (1998), Brockman (2006) found that sexual harassment had negative effects such as lower job satisfaction, irritation, depression, quitting from employment or undesirable transfers.

In 2014, the Centre for Applied Legal Studies (CALS) (2015) conducted a study in South Africa's legal profession. The aim was to examine gender and racial transformation in the legal profession. Results revealed that the legal profession in South Africa is dominated by white and

male. Consequently, black women experience difficulties progressing in the profession. Further evidence revealed widespread incidences of sexual harassment against women lawyers, especially black women lawyers, although most of these cases were not reported. Non-reporting of cases of sexual harassment, particularly by the junior women lawyers, was attributed to fear of being victimized. From the findings, it was apparent that there was no policy on sexual harassment in the legal profession in South Africa. Consequently, there was poor understanding of what amounts to sexual harassment; lack of proper mechanisms to deal with sexual harassment cases within the profession; as well as its poor understanding on the impact of sexual harassment on career progression of the victims. In Kenya, a study on the challenges facing women in the legal profession found that women lawyers experience sexual harassment (Wambua, 2013). In particular, 65% of the female participants in this study stated that they had been sexually harassed at work either by fellow lawyers, judges and magistrates, as well as clients. According to these participants, incidents of sexual harassment often led to unlawful dismissal from work, failure to get promotions, loss of clients, as well as poor performance. This illustrated the impact of sexual harassment on women lawyers' well-being.

Besides sexual harassment, there is evidence that the structure of the legal profession does not adequately accommodate women with family responsibilities (see Brockman, 2001; Hagan & Kay, 2007; Rhode, 2000). In a systematic study of the structural problems confronting the American legal system, Rhode (2000) observes that although work-life flexible policies have been put in place, there is a disjuncture between policy and practice. For instance, while 90% of surveyed law firms reported to have policies permitting part-time schedules in place, only 3% of lawyers actually used them. Most women respondents believed that using the flexible working hours came at a prize. Often they had to negotiate their way out. Similarly, in Ireland, Bacik and Drew's (2006) survey of solicitors and barristers found that most women solicitors and barristers who are keen on their career development opt to delay childbearing until they are established in the profession. This is because women lawyers with children have limited options on the type of jobs they can do; the amount of hours they can work in a day; and chances of upward mobility (Hagan & Kay, 2007). Similar findings emanated from the CALS' (2015) study referred to above. In particular, most participants stated that there was tension among many women lawyers when it comes to deciding on whether to start family or try to become a partner or a director in the firm. This resonates with the findings from Kenya which illustrate that most law firms have not put in place arrangements or facilities that enable women to balance between family and work duties (Wambua, 2013). From this perspective, we can argue that whereas the representation of

women in certain areas of legal practice may reflect their free choices, persistent evidence of exclusion precludes acceptance of these choices as unconstrained (Bashi & Iskander, 2006).

Thus, in as much as women are allowed to study law and gain admission into legal practice, the male-dominated culture and structures of authority remain intact and the 'masculinist vision' of the legal profession remains central (Davies, 1996, p. 669). All these intertwine with social perceptions of gender and limit women's opportunities and freedoms to genuinely participate and progress in the profession (Muzio & Tomlinson, 2012; Sommerlad, 1994). Accordingly, and as observed by Kuhlmann and Bourgeault (2008), changing sex ratios and gender arrangements in professions do not automatically translate to equal and just relationships within professional groups.

It is important to note that some authors from the United States and Canada have argued that the increased presence of women in the legal profession makes a difference (Hill, 1989; Menkel-Meadow, 1987; 1992; 1994). They observe that women lawyers have a stronger feminist consciousness or that they approach legal issues using a different moral voice (Kay & Gorman, 2008). For instance, Menkel-Meadow (1987; 1989) has argued that having been initially excluded from the profession in the United States, women lawyers have developed critical perceptions of oppression, which engenders greater empathy for subordinated groups. These experiences, unlike the experiences of those who framed the law (men), help women to recognize and accept divergent points of view thus embracing substantive justice for all (Kay & Gorman, 2008). In addition, women's different approach to practice is rooted in their orientation to greater social justice (Menkel-Meadow, 1992). Although she does not present empirical evidence to back up her claim, she suggests that women possess certain transformative contributions to make to the practice of law, which can result in 'an alternative professional culture' (p.313). In this respect, the difference approach argues that as more women get into the profession, the law will adapt and incorporate their experiences and ways of practice which ultimately will transform the nature and structure of the law (Menkel-Meadow, 1994).

Whereas this 'difference' approach assigns considerable agency to women entering the legal profession, Anleu (1992) argues that it reinforces the traditional gender-stereotyped feminine character of women, which is often utilized to keep women at the periphery and continues to perpetuate inequalities. Furthermore, the approach places too much value on the feminine characteristics and values of women to transform legal culture and practice, without considering that not all women possess the so-called feminine attributes. Even if they do, some women

lawyers may decline to exercise their agency for the social good partly because they may not view themselves as marginalized or excluded (Sturm, 1997), especially if they come from economically and socially well-off backgrounds. Evidence from Australia shows that some of the women lawyers may also be constrained from exercising their agency by the institutional and organizational structures within the legal profession (Anleu, 1992). There is empirical evidence from the United States indicating that women's feminine way of practice is not welcome into the practice of law, and women have to conform to the prevailing 'masculine' mode of legal practice (Jack & Jack, 1989). Those women who attempt to practice in a 'care' mode suffer from emotional exhaustion and burnout and resort to adopting the 'male' way of practice (Ibid). Although this study was conducted among American lawyers in Civil and Criminal areas of practice, it paints a bleak picture of how the legal profession uses the professional project to 'exclude' women from the profession: you either conform or you quit. Thus, to provide women lawyers with equal opportunities to participate and progress in the legal profession, there is a need to not only open access, but also restructure and reform the culture, practice and ethos of the profession (Cownie et al., 2007).

It should also be noted that much research on gender, (women) and the legal profession took place in the 1980s and 1990s, and in the global north, when more women were seeking entry into law schools and legal profession. There is little research on this issue in current literature on women and the legal profession, particularly in Africa. It seems that this debate was part of the equality movement that sought inclusion of women in public life, especially in education and all areas of labour market (including professions). This could be attributed to the initial narrow conception of gender equality as closing the numerical disparity gap. However, being a traditionally male-dominated profession (both in its culture and structures), there is a need to look beyond the numbers and examine the experiences of women lawyers as they discharge their duties within the profession.

Two such studies were conducted in Kenya and South Africa (Chitapi, 2015; Wambua, 2013). Chitapi (2015) used mixed methods (survey of 50 respondents and 12 in-depth interviews) to collect data from women who had been in the legal practice for more than ten years in South Africa. The aim was to examine the challenges women in the Bar in Cape Town and Johannesburg face as they progress in the profession. Results revealed that gender biases and stereotypes subtly augment male-dominance in the profession. Such dominance is asserted through social and cultural capital about modes and codes of behaviour and knowledge that men lawyers have access to as a result of historical networks, relationships and connections. As a

result, women lawyers are perceived as less confidence and less competent to handle complex areas of the law such as Corporate and Commercial Law, and are in turn relegated to Family Law and Matrimonial Issues, as well as Public Law. In addition to work segregation, results revealed that women with children and other family responsibilities experienced difficulties in juggling between motherhood and practice. Further, respondents indicated that there was prevalence of sexual harassment cases especially from senior male advocates against young women advocates. The author concludes that all these factors limit the freedoms and opportunities women lawyers have to navigate work place tensions and advance in the profession. It is important to note that the study does not examine women's agency in terms of how women navigate or negotiate or challenge the male-dominated culture of the profession to pave their way to success. This is one of the things my study will explore.

Wambua (2013) focused on women lawyers in private law firm practice in Kenya. This was a cross sectional descriptive survey that sought to examine the challenges facing women legal practitioners in Kenya. It used survey of lawyers and interviews with 30 women who were in private law firm practice. Evidence presented in this study shows that women are fewer in number than men in private law firm practice. Further, a majority of these women lawyers occupy lower positions as associates, compared to men who are either partners or lead associates in the same private law firms. In addition, most of these women (35%) are concentrated in Family Law, while only 5% are in the lucrative areas of legal practice such as Corporate and Property Law. Her findings also reveal that most women lawyers in private legal practice experience discrimination at work in terms of career advancement based on their gender. For example, 53% of her respondents report having been denied promotions because they are women even though they have the relevant academic and professional qualification. In addition, 65 % of the respondents reported to have been sexually harassed at work, most of them (55%) noting that they were harassed by judges and magistrates while others (15%) stated that they were harassed by clients. An interesting finding of this study concerns the tendency of women lawyers to leave active private practice for other sectors (like in-house counsels or government) after a few years of practice, compared to their men counterparts. However, the study does not explore how pervasive this 'flight' is and/or its causes. Further, although the study reveals gender segregation, the researcher never explores whether women had actually chosen those areas and, what factors influenced their choices. The latter is one of the lacunae that my study intends to fill. Unlike Wambua's study, my study is broad in two ways. First, it covers women lawyers from different areas of legal practice, and secondly, it explores their experiences of accessing law

school, participating and progressing through law school, as well as their experiences in the legal profession.

Evidence from the above-cited two studies offers constructive insights into the experiences of women in the legal profession in African contexts. It is critical to note that while these studies are recent, they seem to mirror the experiences of women in the legal professions in United States, United Kingdom, Australia and Canada, which were conducted almost 10-20 years ago. It is possible that the situation in the later countries may have changed, but it is difficult to make such a conclusion since, as I explained in page 47 above, there is little research on women and the legal profession in the recent past. Nonetheless, these studies highlight how women experience the legal profession more generally, and are used to explore whether these experiences are universal or context-specific.

Having said that, the preceding section has explored the status of women in society and highlighted how various social, economic and cultural structures and conditions in the wider society militate against women's full participation and achievement in education and formal employment. Literature confirms that expanding the opportunities for girls and women to access education and the labour market is desirable but not sufficient to address underlying gender inequities. For instance, while there is a significant growth in the numbers of women accessing the legal profession, the culture, practices and structures of the legal profession have not been changed to fully accommodate women lawyers. Therefore, more needs to be done to address gender inequities in the legal profession. A starting point can be identifying and addressing gender issues in law school for this is where legal professionals are trained.

Law schools operate within universities. Thus, the following section engages with literature on gender and higher education to examine whether higher education institutions disrupt or perpetuate gender inequities portrayed in the larger society. It focuses on women students' experiences of accessing and participating in higher education generally, and law school in particular. This is because the experiences and choices of students while in higher education (law school) determine how they will benefit from higher (legal) education, and how they will impact the society (Walker & McLean, 2013).

2.3 The status of women in higher education

The international community has positioned higher education as a central site where essential skills, knowledge and expertise necessary for economic, social and human development are produced and developed (McMahon, 2009; Morley et al., 2009; Sifuna, 2006). Writing on the

private and social benefits of higher education, McMahon (2009) observes that university education enhances one's chances to get better job opportunities, higher earnings and better health. Similarly, Morley et al. (2009) state that higher education contributes to creation and spread of wealth, which is crucial for sustainable economic growth; improves participation in democratic processes, which is necessary for the development of civil societies; and contributes to reduction of poverty and incidences of crime, which is pertinent in enhancing social security and peace. On her part, Nussbaum argues that besides these benefits, (higher) education develops constructively critical citizens 'who can think for themselves, criticize [negative] traditions, and understand the significance of another person's sufferings and achievements' (Nussbaum, 2010, p. 2). Other authors argue that higher education is both an equalizer and a liberator for it empowers individuals to make choices, and lift themselves from disadvantaged positions (see Sifuna, 2006).

The positive outcomes associated with higher education, both at the individual and society level, form a social justice justification for widening participation and investing more in higher education. From a gender justice perspective, one wonders whether this investment in higher education will accrue equitable benefits to all individuals regardless of class, gender, race, age etc. A central question to this concern is whether widening access and participation in higher education will reduce inequalities by providing equitable opportunities to all individuals, especially women, to lead valuable lives or augment inequalities by disproportionately expanding the opportunities of the already advantaged individuals. This is based on Hall's (2012) argument that universities should enable fairer distribution of higher education benefits by creating environments of equal opportunities in access, participation and achievement. In this regard, the following section examines how girls and women in Kenya are invited to the higher education dinner-party (Angela Carter's generative metaphor quoted in Unterhalter, 2006) and their experiences while at the party.

2.3.1 Participation of women in higher education

As I mentioned in sub-section 2.2.1, women students now comprise more than half of the student population in higher education world-wide (UNESCO, 2015a). This is attributed to gender equality and mainstreaming legislation and policies, changes in socio-economic gender relations and the expansion of educational opportunities for women across many countries (Morley, 2013). However, a closer analysis of these statistics reveals widespread gender disparities across regions and nations, as well as disciplines and levels of study (UNESCO, 2015a). For instance, the percentage of women in the higher education population in many African countries,

Kenya included, is lower than men (Assie-Lumumba, 2006; UNESCO 2015a). Even in countries like Botswana, Lesotho, Namibia, South Africa and Swaziland, where the number of women in higher education surpasses that of men,¹² Burke et al. (2013) observe that a closer examination reveals over-representation of women from privileged class and ethnic backgrounds, and under-representation of women pursuing science and technology related courses, as well as those enrolled at post-graduate level of study. There is also evidence showing that women in higher education across the world are concentrated in disciplines that attract lower income in the labour market (Bradley, 2000; UNESCO, 2015a). In this regard, Morley (2011a) construes women's presence in higher education (especially in sub-Saharan Africa) as a win and lose situation because although they are visible numerically, they are invisible in prestigious disciplines of study, as well as in management and decision-making positions.

There is a prevalent fallacy explaining women's underrepresentation in higher education and certain disciplines of study as lack of aspirations on the part of women (Morley et al., 2006). Those who make this argument assert that since formal barriers to women's access to and participation in higher education have been eliminated, it is women who choose not to utilize educational opportunities for their benefit (Ibid). This fallacy underplays the negative impact gender-biased institutionalized power and social relations play in undermining women's ability to exercise their agency to make real choices from available opportunities. According to Morley et al. (2006), women's low participation in higher education arises from and is enhanced by gender-biased institutionalized structures and cultures within the wider society, which find their way to higher education systems and processes in the form of gender norms, stereotypes and practices. For instance, Morley et al.'s (2009) work in Tanzania and Ghana illustrates how gendered division of labour, together with prevalent social perceptions that women belong in the private sphere, limits women's opportunities for higher education, and undermines their confidence in their abilities to effectively participate in and achieve through higher education. Their evidence indicates that women who bend gender norms and pursue their education jeopardize certain aspects of their social life such as the ability to find a marriage partner. Further, gender stereotypes, especially those impinging on women's abilities (such as women are 'incompetent' or 'shy'), influence the way women are treated in higher education institutions (Morley et al., 2006), which in turn affects what they can or cannot participate in. For instance, notions of

¹² It should be noted that countries like Botswana, Lesotho, Namibia, South Africa and Swaziland have achieved gender parity in higher education. For example, according to the Commission for Higher Education report (2013), women comprise of 58% of student population in South Africa's higher education. However, they account for only 49% and 44% of masters and doctoral students respectively. Further, when the statistics are analyzed by race, findings reveal that black South Africans comprise of 16% of the student population in higher education compared to 54.7% of white South Africans.

masculinity are used to allocate 'complex' or duties to men students, while women carry out 'lighter' duties based on the notion of their femininity (Chisholm et al., 2007). Furthermore, lecturers appear to be directing most of their questions to men students who they perceive to be more confident, aggressive and strong-willed than women students (Ibid). This, often discriminatory, gender-biased treatment not only impedes women's effective participation and achievement in the learning processes, but also undermines their self-confidence and lowers their career aspirations (Morley et al., 2006).

Mama (2003) uses a historical perspective to explain women's under-representation in African higher education institutions. She states that African universities were established to nurture the African elite man to 'inherit the exclusively masculine mantle of colonial leadership and further the existing imperial interests' (p. 106). For instance, universities in former colonies, such as Kenya, were founded to train 'manpower' to replace the departing male colonial servants and as such are male-oriented, and continue to favour men over women (Odhiambo, 2011; Sifuna, 2006). Although interventions such as affirmative action have improved women's access to public universities in Kenya, gender equality is yet to be achieved as women constitute of 41.5% of the total university student population (RoK, 2015). Interestingly, a majority of these women are enrolled in private universities or in the parallel programme (Oanda, 2005). Since access to the latter is pegged on ability to pay, this suggests that most of the women in higher education in Kenya come from middle and high income families that can afford to meet high tuition fees in private universities or parallel programme (Chege & Sifuna, 2006; Oanda, 2005). This implies that access to higher education in Kenya is open to women, but to a majority of those that are already advantaged. This shows the need and importance of intersectional analysis and understandings.

Other studies have observed that women's low enrolment and participation rates in higher education partly results from their low achievement rates at secondary level of education (see Ajayi et al., 1996; Chege & Sifuna, 2006). Elaborating this point, Kinyanjui (1978) notes that 'as girls ascend from one level of education to another, their proportion of the total enrolment, decreases by 10%' (p. 23). For instance, in 2014 there were 4,898,400 girls enrolled in primary schools. This number drops to 1,107, 620 in secondary school, and drops further to 184,164 in university (RoK, 2015). Other factors that limit women's access and participation in higher education in Kenya include negative socio-cultural values, beliefs and practices such as early marriages, tendency to lean towards women's conventional roles and misplaced perception of women's 'incompetence' (Odhiambo, 2011; Sifuna, 2006). For instance, when it comes to

marriage, many men tend to shy away from highly-educated women because these women are perceived to be 'rude', 'uncooperative' or 'unwilling' to perform household chores (Kanake, 1998). Internalization of these perceptions by women discourages most of them from aspiring to higher levels of education (Sifuna, 2006), especially those women who are socialized to believe that women are only 'complete' and 'respected' once they get married and settle in their husbands' homes.

In addition to these gendered perceptions, women's effective participation in higher education is curtailed by sexual harassment (Bunyi, 2004; Muasya, 2014; Omale, 2000). Empirical evidence indicates that pervasive sexual harassment and discrimination makes the university environment insecure and hostile to women students which, prevents most women students from fully participating and benefiting from their university learning experience, particularly for those women enrolled in traditionally male-dominated disciplines (Muasya, 2014). Further, sexual harassment creates an atmosphere of mistrust, fear and intimidation, which restricts women students' freedom of movement in higher education and to fieldtrips (Morley et al., 2006). There is evidence that most women students lack institutional power to challenge sexual harassment as a result of hierarchical gendered power structures and relations in higher education (Gordon & Collins, 2013; Mlama, 2001). Often, this is compounded by fear of being labelled 'loose' and mistrust of the complaint procedures in place as most women fear of being re-victimized if they report cases of sexual harassment (Chege & Sifuna, 2006; Morley, 2011b). For instance, research shows that most women students who do not yield to sexual advances by lecturers are victimized and failed in exams (Chege & Sifuna, 2006). In some instances, sexual harassment is naturalized as a 'transaction' between women students and men lecturers in exchange of better grades (Morley, 2011b). Nonetheless, whether subtle or overt, sexual harassment negatively affects women students' educational well-being and achievement.

2.3.2 Gender and discipline choice in higher education

Another area that reflects inequalities is discipline choice in higher education. Research shows that even though women's participation in higher education has increased over the years, women students tend to concentrate in particular disciplines, such as health, welfare and education, while men dominate disciplines such as engineering, mathematics and computer science (Bradley, 2000; UNESCO, 2015a).

This picture is repeated in most African countries and Kenya in particular, where women are under-represented in science, technology, engineering and mathematics (STEM) related fields of study and over-represented in arts, humanities, education and social science related fields (Bunyi,

2008; Sifuna 2006). According to Sifuna (2006), this is partly caused by the low numbers of women students who choose science and technology-related subjects in secondary school education, based on the perception that science is 'hard' and thus for boys. Since fewer women than men students pursue science subjects at the secondary level, their future educational choices and trajectories in science-related fields are limited (Bradley, 2000). Further, gender segregation in discipline choice is influenced by cultural scripts which tend to socialize women into caring fields, and gendered segregation of the labour market, which (to some extent also) influences students' career expectations and choices (Davies & Guppy, 1997). Thus, more efforts are needed to encourage girls to pursue STEM-related courses at the lower levels of education.

While we can assume that all is well in women-dominated disciplines, Ngome (2003) warns that in-depth examination of these disciplines reveals a clustering of women in the 'softer' areas of these disciplines. For instance, most women in education tend to specialize in basic education as opposed to higher education where more men are concentrated (Chege & Sifuna, 2006). Since discipline choice and location often constructs one's academic and professional identity, as well as the nature of subsequent employment (Sifuna, 2006), gendered discipline choices in higher education track women into certain types of occupations and social hierarchies, and thus contribute to and maintain gender inequalities in society (Morley & Lugg, 2009). Therefore, there is a need to shift the gender equality debate beyond numbers to also focus on in-depth examination of the fields of study women choose, what informs their choices, how they experience and progress in these fields and what they achieve, in an effort to enhance their opportunities and freedoms to choose and lead meaningful lives in and beyond higher education.

So far, this section has reviewed literature on the status of women in higher education to show that although women are increasingly accessing higher education, gender norms and stereotypes, as well as gendered power and social relations in and outside higher educational institutions affect their genuine participation and achievement through higher education. Since the study focuses on the specificity of gender issues in the discipline of law, the following section reviews literature on gender and legal education, paying specific attention to the experiences of women students.

2.3.3 Lives behind the numbers: women students' experiences in law school

Owsley (1996) observes that as the gates of law schools open to a diverse student body, one can hear many different voices within. With these voices come different experiences and stories, which need to be heard in order to understand the different perspectives and insights each voice brings. Herden (1994) underscores the importance of paying attention to student diversity and

voices in law school as follows: 'just because women and men sit in the same classrooms, hear the same lectures, and read the same books, does not necessarily mean they receive an equal education' (p. 554). Thus, it becomes imperative to interrogate how different students experience law school, and how these experiences affect their learning and outcomes, as well as how they approach their legal careers after law school (Owsley, 1996). But first there is a need to understand what drives students to study law, as well as their career aspirations and expectations when they join law school. This analysis will identify what conditions and circumstances need to be addressed or improved, so that all students accessing law school are able to use available educational opportunities to achieve their educational aspirations and well-being.

An outsider looking at law students would assume that they all have a keen interest to study law. However, like any other discipline, there are many different reasons why individuals choose to pursue a career in law. In her study of 100 lawyers from across British Columbia, Brockman (2001) sought to understand why lawyers chose law in the first place. She found that most lawyers had a keen interest to study law (66%), while others (34%) chose law by default. Those who were enthusiastic about law said that they had developed their interest in law as a result of either being exposed to lawyers early in their lives, or being inspired by a course they studied in high school. For those who had come to law school by default, this author found that some of them were not sure of what career to pursue, and so they came to law to see if they would like it. Others were pressurized by their parents to study law because of their indecisiveness on career options. Some shifted to law because they were not satisfied in their former jobs, while others tossed a coin and law 'won' so they went to law school. Some of the 'defaulters' stated that they went to law school because they were not accepted to study their preferred courses. There was another group of lawyers (10% of women and 24% of men) who recalled that they had gone to law school to broaden their knowledge and perspectives on society, which in turn would open doors to more opportunities to work in society, for instance in business, politics or any other career.

Having gained access to law school in one way or another, how do law students experience law school? What impact, if any, do their experiences have on their career and life aspirations and goals? Guinier and her colleagues conducted a qualitative study to examine the experiences of students at the University of Pennsylvania Law School in the USA (Guinier et al., 1994). These authors investigated gender-related differences in students' academic performance, law students' attitudes toward career goals and general satisfaction with law school. They found that while men and women students enter law school with similar grades, men perform significantly better than

women during the first year of law school and continue to do so until graduation. Further, men students participated more in law school activities than women students. Women students largely attributed their lower participation and performance to the teaching culture of law school which emphasized aggressiveness, competitiveness and emotional detachment, and thus silenced and alienated them from learning because women were oriented to building and preserving relationships. Since performance in examinations influenced one's relative ranking in law school and the type of educational and employment opportunities one can pursue after law school (Sullivan et al., 2007), we can argue that women students' poor performance might have led to lower rankings, and consequently could have affected their future career options and trajectories.

Four years later after the Penn study, Mertz and her colleagues conducted a comparative survey in nine law schools across the USA (Mertz et al., 1998). Like Guinier, they found low classroom-participation rates among women students compared to men students. However, their findings revealed that when a class was taught by a woman professor, women students' participation rates tended to increase. This is partly because women students were more at ease interacting with their gender, and also because women professors often picked on women students to respond. Similar findings emerged from a 2004 student survey in Harvard law school (Neufeld, 2005) where evidence showed that more men than women students volunteered to speak in class. This gender disparity in participation levels was attributed to low levels of confidence among most women students.

Another factor that affected law students' wellbeing and agency was the law school pedagogy. A two-year comprehensive study by the Carnegie Foundation on the training of legal professionals in American and Canadian law schools found that law schools use Socratic method to impart on their students a distinctive habit of thinking, writing and feeling, which these students embrace and use in their understanding and application of legal process and arguments (Sullivan et al., 2007). This method of teaching projects the image of a lawyer as an assertive, argumentative, logical, and unemotional person, who values the application of legal rules and procedures to dissect any given situation so as to establish and protect a client's legal interests. It emphasizes analytical thinking, which often frames the legal mind along rational and objective lines. Often, Socratic method creates and fosters adversarial learning environment in the classroom as students are warned not to let moral or compassionate judgement 'cloud' their minds from 'proper' legal analyses. Bowers (2000) observes that this type of teaching and learning environment is masculine. She asserts that concepts such as 'think like a lawyer,' 'act like a lawyer' or 'write like a lawyer' construct law as a masculine discipline which does not condone

feminist or liberal ideas, or recognize and value feminine emotions. For instance, a study of contract classes across eight law schools in the United States found that the required legal traits and attributes conflict with women students' socialized values (which are non-combative, inclined to the preservation of social relationships, and sensitive to context and emotions of others) (Mertz, 2007). As a result, most women students experienced difficulties in trying to adapt to this individualized style of learning. These findings resonate with the findings of an earlier study involving interviews with 37 students (13 women 34 men) (Schleef, 2001). Most women in this study described law school's instruction method as 'frustrating, terrifying, demeaning and stressful' (p. 80). While a majority of men students seemed to experience no or little difficulties with this competitive and individualized style of learning, few men disliked it, demonstrating the importance of paying attention to students' diversity and subjective experiences to ensure that the teaching and learning environment is all inclusive.

Other factors that affect women students' experiences of law school include sexual harassment and use of sexist remarks. Carroll and Brayfield (2007) assert that women students are susceptible to gender-based discrimination and harassment as a result of male-dominance in law school staff and student body. This is confirmed by a cross sectional study of 9 Ohio Law schools, which reveals that 31% of women students experience gender-based discrimination, while 19% are actually sexually-harassed by their male lecturers and/or colleagues (Krauskopf, 1994). In addition to sexual harassment, results of a survey of the experiences of women students in the classroom in Northern Illinois University shows that the treatment and attitudes of professors towards women students is based on gender stereotypes (Wilson & Taylor, 2001). 43% of the women students who took part in this survey stated that professors use derogatory remarks that devalue women's abilities in class. Another 39% of women compared to 9% of men students stated that some professors use offensive and demeaning humour concerning gender in their courses. For example, 24% of women students stated that some professors and men students tease women students that they came to law school not to study but to look for husbands. This sexism is damaging to a majority of women students. For example, in their comprehensive study of Yale law school involving in-depth interviews with lecturers, narrative and quantitative responses from a student survey and class participation data, Bashi and Iskander (2006) found that sexist comments not only devalued and humiliated women students, but also marginalized them from active learning and participation in law school activities. This marginalization often led to most women students developing negative attitudes towards law school, and thus eroded their confidence to succeed professionally.

Moving on to the effect of law school experience on students' career aspirations, research has found that compared to men, most women students tend to change their career aspirations as they progress in law school. In their interviews with 29 first year law students in one University in the United States, Carroll and Brayfield (2007) analyzed participant's career trajectories at the beginning of their legal education and after one semester in law school. Their results revealed that more women than men enter law school with the motivation to serve others and/or contribute to greater social good. They usually project themselves as working in government or public setting rather than a private law firms. However, their interest in the public sector or public-interest work diminishes during their period in law school. This is because the law school experience re-aligns their values and identities to competitiveness and individuality. This findings are similar to Guinier et al.'s (1994) findings that whereas women, more often than men, are committed to public interest law when they get into law school, a majority of them finish law school with corporate ambitions just like men. An earlier study of first-year law students in USA showed that when making choices, first-year women students emphasize care and maintenance of relationships, as opposed to men who emphasize individual rights (Janoff, 1991). However, as the years progress, most women students' choices and emphasis shift towards individual rights as well. This author links this change to the mode of training and instruction in law school which is justice-rights oriented. She notes that this training alters the moral reasoning and decision-making processes among most women students, who are forced to re-align their thoughts and aspirations along the justice-oriented processes in order for them to succeed both as students and future legal professionals. However, she observes that this re-alignment not only affects their choices, but also identities as legal professionals.

The above-cited studies were conducted 10-20 years ago when the number of women across many law schools was lower than men. Currently, there are limited studies on the experiences of students in law school. However, in 2012, Yale law school conducted a follow up study on women students' experiences (Yale Law Women, 2012). Based on interviews, observation of classroom participation and online student survey, this study found persistence of gendered experiences in Yale law school. For instance, 42% of women participated in class compared to 58% of men students. They attributed this disparity to men students raising their hands faster than women and thus increasing their chances of being picked to comment, ask or respond to questions. Further, although all students seemed comfortable approaching lecturers outside the classroom, there was evidence that more men than women students were comfortable approaching and physically interacting with lecturers outside the classroom, and this had an influence on the formation of mentoring relationships and creation of professional networks.

While I cannot generalize these findings to other law schools in the United States or elsewhere, at the very least, Yale's study demonstrates that gender has an influence on students' experiences in law school. However, bearing in mind that in the contemporary law schools the percentage of women population almost equals, and in other contexts surpasses, that of men, the question that needs to be addressed is whether these gendered experiences still persist or not. If they persist, we need to understand their causes and what can be done to address them in order to make law schools and profession more just, inclusive and equitable. If they have changed, we also need to account for the change. It is also important to state that I am not assuming that all women students are the same or that their experiences of law school will be the same. In fact, women law students are diverse and their motivations and aspirations of pursuing a career in law could differ from one to another. All these have a bearing on their experiences in law school and in the legal profession, and all these are taken into account in my study.

Secondly, much literature on the experiences of students in law school comes from United States, Canada, Australia and United Kingdom. There is a dearth of literature in this area from the global South and Kenya in particular. International literature cited herein is used to highlight how men and women students experience law school and profession more generally, and to use it to explore whether these experiences are universal or context-specific. I have also noted that most of these studies tend to homogenize men and women students, and also reify feminine and masculine notions as they do not examine whether and to what extent different women and men students challenge or transform the gendered law school practices and/or environment. This is one of the areas I will be investigating in my study.

Conclusion

In this chapter, I have reviewed and presented literature relevant to my research problem. The chapter has shown that the increased number of women accessing and participating in education, and paid employment has been successful, at least, in challenging the traditional position of a woman as primarily belonging to the domestic sphere. However, this participation has not transformed the deep-rooted gendered attitudes, perceptions, stereotypes and practices which exist in the larger society, and which continue to be reproduced at educational and work settings. For instance, whereas universities (and law schools in particular) thrive and pride themselves in values of equality and meritocracy, this chapter has shown that they bear and reinforce gender inequalities portrayed in the society at large. Nevertheless, we should note that law schools differ across many countries depending on their institutional contexts, academic standing and broader function within the distinctive communities in which they exist (Collier, 2002). Although the

literature reviewed seem to assume all post school law training happens at universities, I do acknowledge that this is not the case everywhere in the world. This calls for context-based analysis of students' experiences and perspectives so as to come up with localized mechanisms and interventions that promote gender justice in law schools, and higher education institutions more generally. In the next chapter, I show how the capabilities-based approach can help us achieve this end.

CHAPTER 3: A CAPABILITIES-APPROACH TO GENDER JUSTICE AND HIGHER EDUCATION

Introduction

In the previous chapter, I highlighted three different ways through which gender justice in education is understood and conceptualized, and argued that the capabilities approach can connect and enrich these conceptualizations to provide a comprehensive analytical space for conceptualizing and evaluating gender justice in higher education (see section 2.1). I return to this argument in this chapter, and present the capabilities approach as the theoretical lens through which women's experiences in and through higher education are analyzed and interpreted in my study. I commence the chapter by introducing the key concepts of the capabilities approach, its strengths, as well as limitations. In the second section, I outline two major approaches that are commonly used to advance gender justice in higher education and their restrictions, and show how a capabilities-informed approach can be used as a metric of gender justice in higher education for sustainable and equitable development. Thereafter, I conclude the chapter by highlighting some selected literature on gender, higher education and capabilities to illustrate how this approach has been used to advance gender justice in higher education.

3.1 An overview of the capabilities approach

In section 2.1, I stated that the capabilities approach is not a theory but a normative framework that can be utilized to evaluate and assess individual well-being, arrangements within particular societies, as well as policy designs and proposals for social change in any given society (Robeyns, 2005, p. 94). The approach focuses on what individuals are effectively able to do and or be, and advocates for the expansion of their opportunities and freedoms to achieve and enjoy these 'valuable beings and doings' (Sen, 1999, p. 75). It criticizes purely resource-based approaches to equality and development, arguing that a focus on access to resources, while important, does not take into account differences in real opportunities, abilities and freedoms different individuals have to convert those resources into valuable functionings (Kabeer, 1999), and also to enhance the choices they have. Grounded in the ideals of justice and human development, the aim of the capabilities approach is to guarantee individuals the substantive freedoms and opportunities to choose and lead lives worthy of the dignity of human beings (Nussbaum, 2000).

3.1.1 Capabilities, functionings and well-being

The capabilities approach was developed by Amartya Sen (1985, 1999) and later advanced by Martha Nussbaum (1995, 2000), with Ingrid Robeyns (2003) applying it specifically in relation to gender, while Melanie Walker (2005) and Elaine Unterhalter (2007b) apply it in the field of

higher education and gender and education respectively, among other scholars. According to Sen (1999), the approach has two core components: *capabilities* and *functionings*. Capabilities are the real opportunities (potentials or freedoms) people have to engage in actions and activities which they reflectively value to become who they want to be (Sen, 1999). Functionings, on the other hand, are ‘*beings*’ and ‘*doings*’ (Ibid., p.75) or as Robeyns (2006) puts it, they are the outcomes or achievements people derive from being or doing what they value at a specific time, or over an accumulated period. Such functionings include, but are not limited to, being healthy, literate, politically active, socially recognized and respected, working and enjoying positive states of being (ibid). To amount to a functioning, the concerned individual must have reason to value the achieved outcome (Alkire & Deneulin, 2009). In this regard, the concept of functionings clearly encompasses choice (agency). For example, a young woman who is passionate and desires to pursue a degree in social work does not do so because her father instructs her to pursue and graduate with a medicine degree. In this case, although the medicine qualification is an outcome, it does not amount to a functioning for this particular young woman because she does not have reason to value it. From this example, the notions of *freedom* and *achievement* are connected and are important to our understanding of the relationship between capabilities and functionings.

Thus, the capabilities approach conceptualizes well-being in terms of people’s capabilities to function, where the difference between achieved functionings and capabilities lies in what is realized and what is effectively possible (Robeyns, 2005). This distinction allows us to make interpersonal and intrapersonal comparisons, and interrogate whether individuals have real opportunities and freedoms to be and do what they value in life. That is, we examine whether they have genuine freedoms to choose and convert available resources into valued functionings. Thus, having a wider capability set and more functionings to choose from, amounts to more well-being. This shows that although capabilities and functionings are independent concepts, they are intimately connected. The notions of freedoms (capabilities) and achievements (functionings) make important contributions to our understanding of well-being. *Well-being freedoms* are the opportunities one has to choose and achieve valued functionings, whereas *well-being achievements* are the realized valued functionings (Sen, 1992). As such, the capabilities approach seeks to expand people’s substantive freedoms and opportunities to make real choices and achieve their valued outcomes.

To illustrate why this is important in the context of gender justice in higher education, let’s consider two women in Kenya who graduate from university with second-class lower division honors. The first one (Amy) comes from a wealthy family. She is the only child. She lives on

campus and has all the resources and support she needs to excel in higher education. However, she spends most of her time with her friends partying and travelling, and thus has little time to study. This affects her studies and eventually she performs poorly in her final year. The second one (Viola) comes from a low-income single-parent family. She is the first born in a family of five children. Although she receives financial aid for her university education, she uses part of it to contribute to the financial needs of her family. Her mother is terminally ill and this forces Viola to live at home to take care of her younger siblings. She often misses classes as a result of attending to her sick mother, her siblings or to house-chores. This affects her performance and like Amy, she graduates with a lower grade. This illustrates that although these women had the same outcome (graduated with a lower grade); their capability sets were substantially different. If we consider their outcomes only, then we will eclipse the inequalities that need to be addressed (in this case their capability sets) (Wolff & De-Shalit, 2007). Thus, as Walker and Unterhalter (2007) argue, the capabilities approach evaluates both the outcomes and the real freedoms or opportunities available to individuals to choose from and to achieve what they value. This evaluation will identify which impediments need to be eliminated so that students have the freedom to choose and use available opportunities to lead the kind of lives they consider valuable (Robeyns, 2005). However, this does not mean that the capabilities approach dismisses the role resources play in promoting well-being. It acknowledges that resources are important as a *means* of achieving well-being and equality (Sen, 1999), but not as an *end*. In other words, resources are important capability inputs that people need to foster or expand their valued capabilities and support achievement of their valued functionings (Walker, 2006). Thus, in addition to equitable resources, we need to consider what real and valued freedoms different people have to utilize these resources and contribute to the achievement of their well-being and social standing. A focus on people's valued capabilities ensures that those who need more help to achieve the basic threshold should receive it (Nussbaum, 2011). For my study, the capabilities approach enables me to map out inequalities in educational capabilities and functionings, as well as inequalities in educational resources that cause or contribute to gender inequalities in and through higher education (Robeyns, 2003). That is, it enables me to bring forth disadvantage, marginalization and exclusion in and through higher education (Walker & Unterhalter, 2007).

3.1.2 Agency

Central to the analysis of individual capabilities to function (well-being) is the concept of *agency* (Sen, 1992). Walker (2005) argues that at the boundary of capabilities and functionings is a matter of choice, where individuals exercise their agency, having the requisite set of capabilities, to make choices from a given set of options to pursue their valuable goals. Therefore, agency is the ability individuals have to set and pursue goals which are important to the kind of lives they

wish to lead (Alkire, 2002). Nussbaum (1999) asserts that all human beings have the capacity to make choices, and regardless of their circumstances or conditions, they should be treated in a manner that recognizes, respects and promotes their capacity to direct the course of their lives based on their moral judgments. In this regard, the capabilities approach understands people not as passive spectators, but as active participants in their lives, as well as development (Nussbaum, 1999; Sen, 1999). This is important because people are different and their conceptualization of what a good and valued life is may differ from one another (Robeyns, 2005).

Like well-being, agency can be understood either as a *freedom* or an *achievement* (Sen, 1992, p. 56-57). *Agency freedom* is an individual's freedom to choose and turn any bundle of capabilities into valued functionings. That is, freedom to achieve one's valued goals, whether or not these goals are assessed using some external criteria (Sen, 1992). *Agency achievement* is the realization of pursued goals (which need not be guided by one's well-being). From this perspective, agency becomes an important catalyst for social change and development because it enables individuals to reflect upon, and be actively involved in shaping their lives. It is not only intrinsically important for individual freedom, but also instrumental in democratic participation and collective action (Sen, 1999). For instance, agency will enable oppressed women to think and reflect upon their oppressed state and be actively involved in devising ways to negotiate or overcome the power dynamics in their societies that lead to their subjugation. Thus, the concept of agency encompasses both the capacity to choose and the freedom to actually do what one chooses. This understanding of agency is useful in my study for exploring the extent to which women legal graduates reflexively make choices regarding their well-being and become actively involved in its realization. It is important in my analysis of women's choices and actions before, in and after higher education so as to understand how unjust structures constrain their agency freedom, as well as how individual women use their agency to resist or navigate these structures to pave their way to success.

3.1.3 Conversion factors

While the capabilities approach primarily focuses on individual well-being and agency, it acknowledges that conversion factors (personal, social, economic, political and environmental conditions and circumstances) play a critical role in shaping people's well-being and agency (Crocker & Robeyns, 2010; Robeyns, 2005; Sen, 1992, 2009). In other words, people's abilities to choose from and convert available resources or opportunities into valued functionings can be constrained or enhanced by these factors (Nussbaum, 2000; Sen, 1999) which, as Nussbaum notes 'affect the inner lives of people: what they hope for, what they love, what they fear, as well as what they are able to do' (Nussbaum, 2000, p. 31). By implication, this suggests that in as

much as people might seem free and able to pursue certain valued functionings, they might end up making decisions or choices which are not compatible with their personal well-being because of their social, cultural, economic, political and environmental settings (Robeyns, 2005). As such, the capabilities approach requires an assessment of various conversion factors to ascertain how they enhance or limit different people's choices and development of capabilities to function (Ibid).

Let's consider Robeyns' example of a bicycle (Robeyns, 2005) and Kemmy, a second-year law student who lives ten kilometres away from her school. Although Kemmy has a bicycle, she cannot use it to take her to school because she does not know how to cycle. Even if she did, the terrain between her home and school is so terrible that she cannot ride on it. Even if the government fixed this road, her community bans girls from cycling in public and this will constrain her choice of using the bicycle to enhance her mobility to school. So, despite having a bicycle (resource), Kemmy is unable to choose or utilize it into a valuable functioning (mobility to school) because of her inability to cycle (personal), hazardous road (environmental) and the ban on girls from cycling in public (social norm/practice). In analyzing Kemmy's situation, the capabilities approach not only takes into account the resources available (bicycle), but also the state of an individual (in this case being a woman, unable to cycle), as well as the contextual or social circumstances/conditions (gender-biased society, location/rugged terrain) under which the individual operates to evaluate her well-being and agency. In this case, and as Nussbaum (2000) argues, unequal social and political circumstances (both in redistribution and recognition) lead to unequal chances and capacities to choose and function.

Thus, and important for my study, a focus on conversion factors allows me to examine whether women have real opportunities to function in ways they have reason to value by taking into account both material and non-material circumstances or conditions that shape their capability sets, and influence the choices they make from any given set of opportunities (Robeyns, 2005). In other words, I am able to scrutinize the contextual spaces in which economic production and social interactions take place to ascertain how and to what extent they are just and enabling for women to act and make their valued choices from the available resources or opportunity sets (ibid) in order to lead desired lives. Furthermore, analysis of conversion factors brings out individual heterogeneity and provides a space for analyzing the connection between individual lives and collective and social arrangements (Walker & Unterhalter, 2007; Sen, 1999), alerting us to the intersectionality of complex disadvantages. In doing so, it brings out the relationship between agency and social structures, which in turn enables me to discern whether women's

actions, choices or preferences are free or ‘adapted’ (Nussbaum, 2000). This is important for my study as I am concerned with issues of gender justice beyond formal access resources to consider how conditions and arrangements in and beyond higher education constrain or enable women students’ opportunities and freedoms to achieve well-being and exercise their agency. This analysis will bring to fore the various conversion factors such as gendered forms of power relations and resource distribution that intersect to perpetuate inequalities to, in and through education, and calls for their transformation (Deneulin, 2014; Unterhalter, 2005a) so that all students, especially women, are able to choose actions, develop and sustain aspirations, and pursue and achieve outcomes that they have reason to value.

3.1.4 Which capabilities? The role of democratic public deliberations

I have argued in the preceding sections that the capabilities approach is concerned with expanding people’s freedoms (capabilities) to choose and lead reflexively valued lives. When deciding on which capabilities are to be fostered or expanded so that all people have the freedoms and opportunities to do and be what they value, Sen (2009) advocates for inclusive public debate, reasoning and reflection where diverse voices are recognized and taken into account. However, Nussbaum (2000) disagrees with Sen on the issue of allocating judgment of necessary capabilities to public reasoning processes in each context, arguing that these processes are subject to power imbalances and abuse. Instead, she develops and endorses a list of ten central capabilities which, she argues, every individual should be entitled to and, governments should guarantee as constitutional entitlements.¹³ While I agree with Nussbaum about a having a specific set of capabilities, this set should nonetheless act as basic guideline on which capabilities a socially (and gender) just society should strive to achieve. Given that people are diverse in terms of personality, social, cultural, political and environmental contexts and change over time, there is a need to employ Sen’s approach of also leaving the construction of relevant capabilities and conditions to the agents themselves. In fact, in her later work, Nussbaum (2003) agrees that her set can be modified to give it specificity and relevancy to the contexts in which it is applied.

Guided by Sen’s proposition of engaging people in democratic processes and Nussbaum’s claimed flexibility on her set, Robeyns (2003) sets a five-step criterion for selecting relevant capabilities,¹⁴ and uses this to generate a set of capabilities for assessing gender inequalities in

¹³ The central capabilities are life; bodily health; bodily integrity; senses, imagination, and thought; emotions; practical reason; affiliation; other species; play; and control over one’s environment (Nussbaum 2000, pp. 78-80).

¹⁴ The five steps are (i) the list should be explicit, discussed and defended; (ii) the method used should be clear; (iii) the level of abstraction of the list should be appropriate and sensitive to context; (iv) formulating the list should comprises two stages: first drawing an ideal list and then a more pragmatic list that is sensitive to contextual factors; and (v) the listed capabilities should important and not reducible to each other (Robeyns, 2003, pp. 70-71).

western societies.¹⁵ Her important contribution lies in her emphasis on the process or method used to select capabilities that are specific to contexts and relevant for particular purposes. Using Robeyns' method, Walker (2006) has generated a provisional set of 8 capabilities that can foster gender equity education in a South African context.¹⁶ She underscores the critical role democratic participation plays in deciding what valued capabilities are for a gender just education policy, as well as subsequent scrutiny of policy implementation, its success and failures (Ibid, p.169). Using public debate and deliberations with university students in South Africa, Loots and Walker (2015) have identified four multi-dimensional set of capabilities to inform the development of gender equality policy in higher education.¹⁷ In my study, I use public deliberation, although limited to the contextual experiences and perspectives of my participants, to identify which capabilities matter for gender justice in higher (legal) education in the Kenyan context. After generating my set from my data, I shall compare it with the sets of the above-mentioned authors to examine any similarities and differences, as well as understand what can be learnt in an effort to promote a more equitable, inclusive and gender just higher education for sustainable development.

3.1.5 Critique of the capabilities approach

It should be noted that the capabilities approach is not without its critics. First, it is criticized for being too individualistic (Crocker & Robeyns, 2010) for it focuses exclusively on evaluating individual capabilities and pays little attention to social structures or group/collective capabilities that form, shape and sustain individual capabilities (See for example Dean, 2009; Deneulin, 2011; Ibrahim, 2006; Stewart, 2005). For instance, Dean (2009) contends that the approach distances an individual from the social and power relations, which constitute her/his identity and options in life, and thus provides insufficient information on which to base prospective recommendations for human development and well-being. From this perspective, critics suggest that the capabilities approach should include both the instrumental and intrinsic value of collective capabilities and/or social structures in its evaluative analysis. Their argument is that there are certain capabilities individuals would not be able to enjoy, except through their belonging or participation in social groups.

¹⁵ These capabilities are life and physical health; mental well-being; bodily integrity and safety; social relations; political empowerment; education and knowledge; domestic work and nonmarket care; paid work and other projects; shelter and environment; mobility; leisure activities; time-autonomy; respect; and religion (Robeyns, 2003, pp. 71-72).

¹⁶ These capabilities include autonomy, knowledge, social relations, respect and recognition, aspirations, voice, bodily integrity and health, and emotional integrity and emotions (Walker, 2006, pp. 179-180).

¹⁷ These are bodily integrity and safety; dignity and respect; voice; and knowledge and information (Loots & Walker, 2015, pp. 366-370).

In response to this criticism, Robeyns (2005) argues that the capabilities approach is not ontologically individualistic but ethically individualistic for it acknowledges that individuals live in societies where they interact with other people, and social structures. These interactions affect their choices and the ways in which they convert their capability sets into valued outcomes. Secondly, and in my view, advocating for group capabilities as an evaluative space assumes that the collective capabilities in question are equally valued by all members, and that they expand each and every member's capabilities uniformly. In reality, different individuals attach different value to their group belonging, participation or capabilities, and some individuals' capabilities might be affected differently by group capabilities. Further, Alkire (2008) observes that by blindly ascribing intrinsic importance to collective capabilities without first consulting those implicated in those collectivities, the *group-approach* fails to provide a comprehensive and differential account of the extent to which social structures and power relations (like family, ethnic group, community) affect the choices and well-being of its diverse members. In other words, it has the potential to systematically mask and sustain certain inequalities existing within the group. Sen (2002) rejects the term collective capabilities and replaces it with 'socially-dependent individual capabilities', arguing that collective capabilities form part of the social conversion factors that enhance or constrain individual well-being and agency. As Unterhalter (2007b) notes, 'the capability approach...entails a critical engagement with all social, cultural and other factors that shape people's preferences, expectations and perceptions, and thus influence which choices are made from the freedoms that we have' (p. 100). Thus, evaluating social conversion factors, and how they affect individual well-being, will identify what cultural and social structural changes need to be undertaken so as to expand people's capabilities to function, both individually and collectively. What I need to point out here, as Alkire (2008) does, is that there are different applications of the capabilities approach, some that are more instrumental and individualistic, and others more collective and future-oriented. What is needed is the 'development of plural methodologies, across disciplines and institutions and levels of analysis that are consistent with the capabilities approach' (Ibid., p.46), and which achieve the different goals of the inquiry.

Secondly, the capabilities approach is criticized for its failure to identify an *index* of verifiable capabilities and functionings (Roemer, 1998; Walby, 2012), and a *formula* for interpersonal comparison of well-being (Crocker & Robeyns, 2010), making its operationalization difficult if not impossible. Sugden (1993) observes that 'given the rich array of functionings that Sen takes to be relevant, given the extent of disagreement among reasonable people about the nature of the good life, and given the unresolved problem of how to value sets, it is natural to ask how far Sen's framework is operational' (p. 1953). In his later work, Sugden (2003) asserts that the problem is how to assess the opportunities a given range of options avails to people in any given

context, and comparing these with those that are available to other people in the same context. Although the capabilities approach has been operationalized in the human development index (HDI) albeit with continuous refinement process, Srinivasan (1994) argues that HDI is 'conceptually weak and empirically unsound, involving serious problems of non-comparability over time and space, measurement and biases' (p. 241). For instance, Walby (2012) observes that whereas the capabilities are selected based on their basic and universal character, the human development approach leaves this selection open-ended, which leads to the flexibility of the capabilities depending on space and time. She contends that a capability cannot be universal and vary at the same time. While this critique may be valid, it is essential to note that universal does not mean rigid. It denotes something that is universally accepted, that is something any nation in the world would accept. For instance, if a nation accepts that violence against women based on their sex is unjust, process and measures to be put in place to eliminate violence against women should be determined by that nation (through public debate and dialogue) taking into account its social, economic, cultural and political contexts. Further, as I have noted above, the capabilities approach has different applications and operationalizing it depends on the paradigm within which one is using it (Alkire, 2008). Given its multi-dimensionality, operationalization will need to occur not only in many countries, but also at different levels and in respect to different issues (poverty, injustices, gender, education, environment et.c (Alkire, 2001). As such, operationalizing the capabilities approach will look like a community enterprise with many hands working on different projects at the same time (Ibid). Often this may entail inviting other additional and/or complementary theories or approaches to achieve these outcomes, and Sen (1992) does concede this.

Finally, the capabilities approach is criticized for failing to provide a sufficiently rich context in which questions concerning morality and difference can be considered. For example, Quillen, (2001) argues that there is a need to understand what differences are morally significant to warrant either recognition or dehumanization. She observes that the capabilities approach labels individuals as autonomous moral agents without understanding how they achieve their autonomy/morality in the first place. In her view, this failure undermines the approach's capacity to evaluate the existing mechanisms of domination and differentiation. She suggests that what is needed is to view a human person not in isolation but recognize the conditions of her emergence and existence. I do not find this criticism persuasive. First, as I have argued above, the approach recognizes human diversity and acknowledges that individuals live with other people and within certain structures and institutions, and this affects the way they utilize their opportunities and make their choices. Secondly, the capabilities approach is not a theory but a normative

framework of evaluating individual well-being. As such it cannot explain difference. How can we argue that difference based on sex is more significant than say, difference based on class or age or ethnic group for purposes of recognition? According to the capabilities approach, the dignity and worth of each and every individual should be recognized and respected their differences notwithstanding (Nussbaum, 2000). It merely provides a tool and framework within which difference and the inequalities and exclusions based on these differences can be conceptualized and evaluated so that interventions to redress them can be implemented. And since it is an open ended approach, it allows using other theories to complement its framework.

Having explored the strengths and limitations of the capabilities approach, I am of the view that it provides a comprehensive framework for exploring and evaluating gender justice in higher education for equitable development. The following section illustrates how the capabilities approach does this.

3.2 Capabilities as a metric of gender justice in higher education

This section presents the main approaches that have been used to advocate for social (and gender) justice in and through (higher) education so as to illustrate how and the extent to which they have or not addressed the issue of gender justice in higher education, and makes a case for a capabilities-informed approach to promote gender justice in higher education.

3.2.1 Human capital approach

Human capital refers to the ‘knowledge, attitudes, and skills that are developed by individuals and valued primarily for their economically productive potential’ (Baptiste, 2001, p. 185). Accordingly, a human capital approach is concerned with ‘the productive capacities of human beings as income-producing agents in an economy’ (Hornbeck & Salamon, 1991, p. 3). In the context of education, this approach views education as an investment with direct instrumental gains for the educated individual and benefits the society as a whole in terms of its contribution to economic growth and development. For women, these benefits are many. Research shows that women who have completed secondary school education, their returns to education are 4% more than those of men with an equal level of education (Psacharopoulos & Patrinos, 2004). These returns are reflected in the lives of educated women such as better employment opportunities and increased participation in the labour market, which boost their income; low infant, child and maternal mortality rates (Cameron et al., 2001); and reduced fertility rates whereby educated women give birth to fewer, healthy and better educated children (Drèze & Murthi, 2001; Sen, 1999).

These socio-economic benefits of women's education have been used to advocate for gender justice in education (Unterhalter, 2007a). Since women's returns to education are greater than men's, the human capital approach to gender justice calls for the inclusion of women in education (Ibid). This approach is premised on the notion of sameness, which assumes that women are capable of making similar choices and achieving the same levels of success as men provided that all impediments to access are eliminated (Bradley, 2000). From this perspective, gender inequality is dominantly conceived as a numerical under-representation of women in education. When applied in the context of higher education, achieving gender justice is conceived as simple (re)distribution: increasing/creating more access opportunities and resources for women, from learning to employment to leadership and decision-making positions (Unterhalter, 2005a). This approach has been instrumental in providing a case for investing in women's higher education. For instance, it has made an impact on the numbers of women accessing and completing higher education.

There is no objection that access to educational and related resources is important as it provides the means, and enhances individual women's capacities to achieve in and through education (Walker, 2006). However, increasing women's access to educational resources only does not translate to substantive equality (Saito, 2003) because it does not consider how differences in contexts, cultures, gender and power relations and structures intersect to constrain women from utilizing these resources (Unterhalter, 2005b; Subrahmanian, 2005). Arguing this point, Marginson observes that 'purifying the mechanism of fair competition, especially at the point of entry...neglects the fact that individual agents have an unequal capacity to compete' (Marginson, 2011, p. 30). Accordingly, not all students benefit equally from educational processes and experiences (Hart, 2009; Unterhalter, 2003). Secondly, human capital approach values women's education to the extent that it supports societal or other people's development (Nussbaum, 2000). That is, it positions women as means to the ends of others. It pays little attention to the impact of education on women's cultural and non-material dimensions of life (Robeyns, 2006). For instance, it does not tell us the actual benefits women gain from education in terms of achieving their own aspirations, and securing a quality of life for themselves as opposed to others (Subrahmanian, 2002). Whereas it acknowledges that women's education increases their ability to make choices, it pays little attention to the norms and condition under which those choices are made (Arends-Kuenning & Amin, 2001). Furthermore, the approach ignores women's participation in non-market activities, implying that these activities do not have any social or developmental benefits (Unterhalter, 2007a). Lastly, women are not homogenous. They are diverse with unique experiences and capitals, all of which affect how they access and utilize

educational resources, and the value they attach to their education. For these reasons, there is a need for a broader framework of assessing gender justice in education beyond (re)distributive paradigm advocated by the human capital theorists.

3.2.2 Human rights approach

Another approach that is commonly used to advance gender justice in education and development is the human rights approach. Whereas the human capital approach emphasizes the instrumental benefits of education in terms of economic growth, a rights-based approach conceptualizes education as a fundamental human right that should be guaranteed to everyone (Robeyns, 2006). It asserts that education is ‘so intimately connected with what is of vital importance for human life that it is essential that it be granted to all “as of right”’ (Snook and Lankshear, 1979, p. 34). As such, the rights-approach states that all people should have access to and participate in quality and relevant education which respects their individual identity and participation rights (Manion & Menashy, 2013). Conceptualizing education as a right compels states to provide education to all citizens as any other basic human right (Bunyi, 2008). The right to education is embedded in Tomasevski's (2003) 4A's framework which calls upon government to ensure that education is easily *available*, *accessible*, *affordable* and *adaptable* for all people as a right, irrespective of its economic outcomes. This way, a rights-based approach underscores the intrinsic value of education (Robeyns, 2006) regardless of whether there are other extrinsic benefits. Sen (2004) argues that the idea of freedom is strongly embedded in the normative foundations of human rights. In this regard, rights are seen as rights to specific freedoms (Sen, 2005). Thus, the importance of human rights lies on the significance of the freedoms (both opportunity and process) that form the subject matter of these rights (Sen, 2004). They motivate people to act and promote or safeguard these freedoms. For instance, if Country X guarantees a right to education to its citizens, there is an underlying justification for people in this country to demand for the realization of this right. This is because the rights language emphasizes people's choices and autonomy, and thus provides a rationale for making claims in any given circumstance (Nussbaum, 2003). In this regard, Robeyns (2006) notes that rights offer a strategic tool through which capabilities (for instance educational opportunities and freedoms) are enhanced. Articulating education as a right sets a vision of what ought to be done, thus providing a normative framework for the provision of education for all. Since it is enshrined in international and national laws, it provides a stronger basis for citizens to claim this right and hold their states accountable for their duties to realize their right to education (Cornwall & Nyamu-Musembi, 2004).

Whereas this approach is (and has been) critical in advocating for education for all, it has its own weaknesses. First, Robeyns (2006) faults the approach as being overtly rhetorical. Consequently, it fails to foster sustainable change and address contextual realities and complexities facing a majority of women because it is centered on legalistic solutions to inequalities (Unterhalter, 2009) without taking into account the social, economic and/or cultural conditions under which the right to education is guaranteed (Unterhalter, 2003). As a result, many school-aged children continue to be out of school despite the fact that many governments have made access possible (UNESCO, 2016). This is because the rights-based approach does not say who is responsible in ensuring that the intended outcomes are achieved (Robeyns, 2006). Unterhalter (2007a) has shown that even when the duty-bearers are known, the prevailing social and political conditions might prevent the right-holders from claiming their right to education. For instance, if a government builds a school in a community which does not value girl's education, few girls will be sent to school because the community prefers marrying off their girls as opposed to educating them. Unless these practices are addressed, the right to education for all will remain abstract for most girls from this community.

Secondly, Robeyns (2006) warns that the right to education is limited in its interpretation and it might induce policy makers to complacency. For example, she argues that some governments might construe the right narrowly and equate it to access. Once access is achieved, these governments will claim that they have achieved the right to education without actually paying attention to what goes on beyond access, particularly the processes, quality and outcomes of education (Robeyns, 2006; Unterhalter, 2007a). As McCowan (2011) argues, educational institutions can be sites for infringing the same right they are supposed to protect and enhance 'through indoctrination, corporal punishment, humiliating treatment or exposure to sexual violence' (p. 286). Lastly, McCowan (Ibid) observes that individuals can only claim their rights if they know that they have rights and what those rights are. To enact their claims, he asserts, these individuals need critical thinking, practical reasoning and agency. From this view, Nussbaum (2003) argues that the capabilities approach gives human rights language precision by elaborating on the opportunity aspect of freedom and human rights. She asserts that the capabilities approach clarifies that securing human rights requires both state action and inaction. In doing so, the capabilities approach goes beyond securing rights to consider opportunities and freedoms people have to activate and enact those rights in ways that enhance their human flourishing (Hart, 2014). This implies that the capabilities approach supplements the rights-based approach to education.

3.2.3 Capabilities-informed approach

As I stated before, the capabilities approach is concerned with the expansion of people's capabilities to function. It conceptualizes education both as a functioning (being educated) and also as a capability that promotes the development and expansion of other capabilities that are essential for individual and societal well-being (Nussbaum, 2000; Sen, 1999). Like the human capital approach, the capabilities approach recognizes the instrumental role education plays in an individual's life such as getting a job or utilizing an economic opportunity (Robeyns, 2006). But, it goes beyond human-capital acquisition arguments and asserts that education has intrinsic worth in its own right so that being educated is a valuable achievement in itself. Drèze and Sen (1995) argue that having the opportunity for education and the development of an education capability expands human freedoms so that people are able to choose to be and do what they have reason to value. That is, education allows people to flourish by widening their opportunities and freedoms (Robeyns, 2006) particularly for women and girls. In other words, education enhances people's substantive choices to achieve well-being and agency (Saito, 2003). In this sense, Sen (1999) states that education plays a role not only in accumulating human capital, but also in broadening human capabilities. These capabilities include the capability of people to live long lives, enjoy bodily health and integrity, develop their senses, imagination and thought, develop practical reason and improve their relationship and concern for others (Murphy-Graham, 2012; Nussbaum, 2000). In addition, education has social benefits such as fostering public debate and dialogue on social and political matters, as well as broadening people's horizons by widening their interaction spaces to diverse others. These interactions are essential in forming social networks and securing mobility outside the home, particularly for women (Nussbaum, 2000, 2004). Lastly, Drèze and Sen (1995) assert that education has empowering and redistributive effects. It is empowering in the sense that it enables marginalized and disadvantaged groups to organize themselves politically and claim recognition or, as Nussbaum (2000) observes, it can offer an exit option for women from disadvantages such as violence and abusive marriages. Further, it narrows the gender inequality gap by enabling more women to undertake social, economic and political activities besides their domestic roles, which in turn unlocks other sources of power and opportunities, and thus enables them to take control of their environments (Nussbaum, 2004). This confirms Maclure and Denov's (2009) argument that education is a transformative process that can address social inequalities and injustices. Thus, within the capabilities spectrum, education is (or can be) a substantive freedom.

This understanding of education demands the expansion of people's educational capabilities and functionings (Walker, 2006). It advocates for not only the right to equal educational opportunities

and resources for all students, but also the expansion of students' capabilities to choose and participate in equal-opportunity educational processes, and achievement of valued educational outcomes (Walker & Unterhalter, 2007). From a gender perspective, the capabilities approach conceptualizes equality in education beyond equal resources or outcomes. It deeply interrogates and analyzes the processes, conditions and contexts within which students operate and how these constrain or enhance the development of education as a capability, and also as an enhancer of other capabilities. Explaining this point, Unterhalter states that the capabilities approach assesses the 'condition of being educated, the negative and positive freedoms that sustain this condition and the ways in which being educated supports what each and every person has reason to value' (Unterhalter 2007a, p. 75).

The focus on both capabilities, functionings, well-being and agency, as well as the underlying conversion factors, provides a broad spectrum for analyzing gender justice in education by considering issues such as educational and labour market institutions, pedagogies, as well as non-market settings (Walker & Unterhalter, 2007), and examining the extent to which they affect individual's educational opportunities, choices and achievements. In this regard, the capabilities approach is multi-dimensional as it links educational resources, processes (including structures and conditions) and outcomes, while taking individual agency into account. It invites us to question what educational choices women (and men) make from available educational opportunities and whether these choices are free or adapted to their circumstances. Furthermore, it recognizes, values and respects the diversity of students (and their respective capitals or lack of them), and explores different ways of enhancing their capabilities to choose and live flourishing lives in and beyond higher education. Further, by advocating for public deliberations, the approach democratizes power relations in higher education (Lynch & Baker, 2005) akin to Fraser's (2013) representation of all those who are affected by educational policies and decisions. Public debate and reasoning allows all stakeholders to be involved in discussing and connecting universal discourses on gender justice with different local realities and perspectives about gender justice (Dejaeghere, 2016; Nnaemeka, 2004) so as to come up with localized interventions for promoting gender justice in higher education in specific contexts. Since gender justice in higher education is essential in the distribution of personal, social, economic, cultural and political goods in society (Walker, 2007), addressing gender injustices in educational opportunities, processes and practices promotes justice in other aspects of life (Unterhalter & Brighouse, 2007). In this respect, the capabilities approach allows us to connect gender justice to social justice issues both as an inward and outward looking process (Unterhalter, 2005b).

Thus, there are five aspects that make the capabilities approach a better metric of gender justice in higher education. First, as Robeyns (2005) states, the capabilities approach is ethically individualistic. It evaluates an individual and her contextual circumstances and conditions both in market and non-market settings to determine what she is able to do and become. Inclusion of these factors is crucial for this study because they bring forth relevant information about what enhances or constrains women from achieving their well-being and exercising agency in and through higher education. Secondly, the capabilities approach embraces human diversity (gender, race, class, age, sexual-orientations etc.). As Sen (1999) argues, people's differences affect how they convert their capability sets into valuable functionings. This aspect is significant for my study as it recognizes, respects and values the variety of experiences and capitals diverse women bring to higher education (Walker, 2003), and explores ways through which various conditions in and outside higher education enhance or constrain their capabilities to participate and succeed in higher education. From this perspective, the capabilities approach allows me to take into account students' subjectivities and pluralities in my analysis of gender justice in higher education. By doing so, it offers a theoretical and practical basis for formulating interventions aimed at enabling women students (diverse as they are) to choose and convert educational opportunities into just and valued achievements. This is important for this study because educational experiences should be 'positive, enriching and enhancing for all learners' (Walker, 2007, p. 178).

Thirdly, the approach pays attention to context-specific histories and complex power and social relations and structures, and advocates for public debate and dialogue in specific matters of social justice. This way, it offers a process through which individuals and local communities can frame, discuss and come up with locally-specific interventions or means of addressing (gender) injustices (in higher education). From this perspective, it connects the universal discourses about gender justice to specific local realities, perspectives and reflections about gender justice in higher education. For this study, I engage in public debate and deliberation with the participants and formulate a provisional set of capabilities that matter for promoting and improving gender justice in higher education in the Kenyan context. This set could also form an evaluative tool for examining whether and the extent to which these capabilities are being fostered or contracted in higher education.

Fourthly, the capabilities approach acknowledges and attaches value to individuals' agency (and reflexive choices) to shape and determine their valued beings and doings. Hence, it offers a framework of understanding the complexity of the relationship between the social structures and the situated individual. This is relevant for my study since I seek to understand how women's

agency is expanded or constrained in and through higher education. My argument is that higher education should not only expand women's agency, but also facilitate development of their autonomy and empowerment. Lastly, the capabilities approach is open-ended. Thus, I can incorporate certain concepts from different theories (such as gender theory and Nancy Fraser's recognition and representation) to enrich my analysis of gender inequalities.

Therefore, a capabilities-informed approach offers a strong and multidimensional approach for assessing gender justice in higher education which goes beyond numerical parity to consider the diversity of students and their contextualized circumstances, in an effort to augment their opportunities and freedoms to choose and achieve their well-being and agency in and through higher education, and also to contribute to greater social justice. To quote Nussbaum (2003)

‘...by focusing ...on what people are actually able to do and to be, it[capabilities approach] is well placed to foreground and address inequalities that women suffer’ (p.39).

3.3 Capabilities approach and research on gender justice in higher education

Having justified the choice of the capabilities-informed approach as the analytical framework for my study, I highlight examples of research on higher education and capabilities relevant to my study to illustrate how the capabilities approach has been applied to specifically advance gender justice in the context of higher education.

In their work, Loots and Walker (2015) examine how and to what extent gender equality is addressed in higher education policies in South Africa. Their examination reveals that there is no national gender equality policy for higher education. They observe that this absence translates to lack of a clear framework for higher education institutions to use to conceptualize gender equality and its goals, as well as implement interventions aimed at promoting gender equality in higher education. To address this gap, they explore how the capabilities and human development approach can be used to inform development of a gender equality policy for higher education. Using empirical data from in-depth interviews with 38 students (18 men and 20 women), they examine what opportunities and freedoms these students value for their personal and social development, as well as for gender justice in and through higher education. Their analysis shows that higher education both expands and contracts students' opportunities and freedoms to choose and lead meaningful lives. From their data, they identified various functionings that students valued for their personal development and gender equality, and extrapolated the underlying capabilities. Their findings reveal that the most significant capabilities for promoting gender justice in higher education include bodily integrity and safety, voice, dignity and respect,

and knowledge and education. They argue that these capabilities are multi-dimensional and are all important, thus should be expanded in higher education so as to achieve gender justice. From this perspective, they show how the capabilities approach provides a comprehensive framework for understanding gender equalities in higher education, grounded in the subjective and collective experiences of students, and how the approach can be used to inform the development of gender justice policy and interventions which aim to expand students' freedoms and opportunities to do and be who they value in life.

For her part, Okkolin (2013) examines the experiences and insights of ten highly-educated women in Tanzania with the aim of identifying factors that support these women to construct their educational pathways to university level, given that a majority of women in Tanzania do not pursue education to this level. Using the capabilities concepts of agency and well-being, she examines how social structures contextualize and precondition women's choices, actions, opportunities and achievements in and through education. Okkolin's main focus is on how socio-cultural processes and relations constrain or enable women to construct their educational pathways and make choices with regard to their education and lives. Her results indicate that women's achievement of educational well-being and exercise of agency is influenced by women's personal attributes and motivation, as well as conditions and practices in their families, schooling environment and communities. She argues that all these factors intersect at different times of women's lives to shape their opportunities and choices in education, and thus should be taken into account when thinking about gender equality policy in higher education. Her findings confirm Unterhalter's (2006) argument that substantive gender justice can only be achieved if processes and practices in and outside higher education institutions that have an impact on gender and inequalities are simultaneously addressed. Like Loots & Walker (2015), Okkolin's (2013) study shows how the capabilities approach can provide a conceptual framework for assessing gender justice in higher education, as well as a basis for proposing gender justice interventions drawing on women's lives and experiences.

Other studies have shown how higher education can challenge and disrupt gender inequalities by expanding women's capabilities to live better lives. For instance, Deprez and Butler (2007) conducted a survey among women recipients of the Parents as Scholars (PaS)¹⁸ in the United States to assess the impact of post-secondary education on the lives of these women. They found that higher education expanded life opportunities of these women, as well as enriching their

¹⁸ PaS is a state funded programme which provides access to post-secondary education for low-income parents under the Temporary Assistance to Needy Families programme in the United States.

lives. A majority of these women reported increased levels of self-esteem and self-conceptualization, improved well-being, increased opportunities to lead better lives, and motivations to contribute to the betterment of their societies. Many participants stated that higher education strengthened their independence and self-respect. In addition, higher education was liberating as it gave them a sense of security about their future. For instance, most women stated that higher education had opened employment opportunities, which were not only financially lucrative but also personally satisfying. This reduced their vulnerability and increased their agency. They seemed happier and healthier as a result of their education. This implies that higher education enables women to 'stand on their two feet' whether within or without marriage. Besides, being in school broadened their horizons by enabling them to meet new people, share ideas and develop new goals and aspirations. The authors conclude that higher education enabled these particular women to see and experience a wide range of life options, which according to Sen (1992), enhances their freedoms and abilities to become and do what they value in life, as well as using these for the benefit of others, if they choose to.

Similarly, Malik and Courtney (2011) explored whether and how participation in higher education empowered women in Pakistan. They found that higher education increases women's awareness of their legal rights, especially those relating to divorce and inheritance. Yet, cultural norms and societal pressures such as the stigma associated with divorce prevent most educated women from claiming their rights. Nevertheless, education increases women's confidence and willingness to go to court to claim their rights, if the need arises. In addition, their findings indicate that higher education increases women's present and future opportunities for economic independence. This was seen in women's optimism that education will increase their chances of being employed and controlling their income, which would in turn lead to personal development. Furthermore, education enables most women to contribute to their societies through their participation in economic and civic activities. This is because education increases their confidence to express their opinions on personal and societal matters. As a result of their education, these women are respected, listened to and sometimes consulted on various issues affecting society. This improves their sense of self-worth and leads to the development of a positive identity since they feel recognized and respected as full members of society. Thus, women in this study felt that higher education had changed their lives for the better in various aspects, both within and outside the household.

Even though higher education is described as a resource for empowerment and social change, studies have also shown that higher education institutions can become sites of social

reproduction, producing and reinforcing inequalities in the larger society that hinder women from equal participation and achievement. For example, Tamim (2013) utilized the capabilities approach and Bourdieu's notion of language to illustrate how higher education pedagogies can limit equal participation and empowerment outcomes of higher education among women. She conducted a qualitative study among eight women entering higher education from private and government secondary schools in Pakistan. Her findings reveal a discrepancy between the dominant language of instruction at higher education (English) and the linguistic capital women from government schools acquired from their secondary schooling (Urdu), which lead to their marginalization and underachievement within higher education in terms of knowledge acquisition, participation and construction of their self-worth. Given that the ability to speak English positioned students differentially in higher education hierarchy (with those speaking English commanding more power), lower and working class women only participated in and beyond educational activities to the extent that their knowledge of English would allow them. Thus, the power and agency of these women to engage with knowledge and manage their learning was severely constrained by the use of a language different from theirs. Since language and academic success are closely connected (Cummins, 1996), lower and working class women were struggling to pass and as a result none of them was able to enter a professional course of their choice. In this sense, we see how pedagogy (use of English language) and poor schooling background intersect to disadvantage certain students by limiting the extent to which they use educational opportunities for self-actualization and preparation of a productive and creative life. If higher education is to be gender just, then there is a need to put in place systems and allocate more resources to support these kinds of students to learn the main language of instruction (Wilson-Strydom, 2015). Further, higher education should aim at equipping these kinds of women with the analytical capacity and courage to question these types of inequalities and work towards change.

Equally, Cin and Walker (2013) used the capabilities approach to examine the lives and experiences of fifteen women teachers selected from three different generations in Western Turkey. Their aim was to explore whether women teachers, in their dual capacity as women and teachers, have genuine opportunities and freedoms to choose and achieve their own well-being, as well as contribute to the well-being of others in their societies. From their analysis of participant's narratives, they identified core capabilities which women teachers valued for personal and professional lives, and how these were contracted and expanded over time. Their findings reveal how gendered economic, social, cultural and political constraints limit the opportunities, freedoms and choices women teachers have to achieve their well-being, although

these constraints were comparatively fewer for women from the third generation. Their findings, like Okkolin's (2013), illustrate the intersectionality of various factors that affect women's capabilities to achieve their well-being, and also contribute to social good. Overall, Cin and Walker (2013) findings demonstrate the importance of paying attention to the historical and contextual experiences of women to inform our understanding of what capabilities are important in promoting gender justice in education.

The above-cited studies illustrate that higher education has the potential to broaden the capabilities of individuals to function and lead reflexively valuable lives. However, the context, conditions and processes through which higher education is provided influences how different individuals, especially women, utilize their educational opportunities to achieve their well-being and exercise their agency (Kabeer, 2005). They also show how women's development and enjoyment of educational capabilities can be constrained by various conversion factors, indicating the importance of paying attention to intersectional inequalities (Shefer et al., 2012). For my study, the capabilities-informed approach offers a framework to evaluate these factors with the aim of transforming those that contribute to inequities. It also allows me to identify what opportunities to expand, and what forms of agency to foster in order to contribute to students' holistic development (Loots & Walker, 2015). Thus, my study builds on and contributes to the literature on gender, higher education and capabilities and human development. It provides additional insights into the complexity of women students' lives and experiences in and beyond higher education by exploring the relationship of agency and gendered social and educational structures and relations to consider what real opportunities women have to become and do what they value. Furthermore, by examining how (and the extent to which) gender intersects with other social, economic, cultural and political structures, this study demonstrates how higher education institutions produce, reproduce or disrupt gender inequalities in women's lives, which in turn illuminates what needs to be done so that all students are able to choose and lead dignified lives in and beyond higher education.

Conclusion

In this chapter, I have presented and defended my choice of the capabilities approach as analytical framework for evaluating gender justice in higher education. In the next chapter, I present the research methodology and design employed in this study.

CHAPTER 4: CONDUCTING QUALITATIVE RESEARCH FROM A FEMINIST PERSPECTIVE

Introduction

This chapter presents the research methodology and design I used to understand the lived realities and experiences of my participants both in law school, and as they prepare for their journeys into diverse disciplines in the legal profession. Divided into three sections, in the first section, I describe and justify my choice of qualitative feminist research methodology and design employed in this study. In the second section I highlight the practical aspects of the study such as selection of the research participants, data collection tools, the research process followed, ethical issues considered, data analysis and the possible limitations of the research methodology. In the final section, I introduce the research participants.

It is important to restate the aim of the study and the research questions because they informed my choice of the research methodology. My study examines the experiences of women legal graduates of accessing, participating and progressing through law school so as to understand how these experiences shape the construction of their educational and career goals and aspirations, and achievement of well-being and agency in and beyond higher education. The study is guided by the following research questions:

1. How do diverse women come to choose to study law? What role, if any, do their family, schooling and social and political environments play in making this decision?
2. What are their experiences in law school?
3. How do these experiences contribute to or influence their educational and career aspirations, and achievement of their well-being and agency?
4. What valued capabilities for their early professional careers and lives do they say they aspired for and/or achieved in and through higher education?
5. Based on the findings, what can be done both to theorize and to promote a more just, equitable and inclusive higher education?

4.1 Feminist research methodology

Harding (1987) defines a methodology as a theory of knowledge and interpretive framework that guides a particular research project. Given the aim of the study and nature of the research questions, this study is undertaken using a feminist research methodology. Broadly speaking, feminism is a political movement that recognizes and criticizes gender inequities in any given society, in order to initiate change and make society more gender just. Ontologically, it is grounded in the belief that gender determines the way different people, especially women are

perceived and treated in any society and this treatment or perception affects the opportunities, resources and power available to them and the manner in which they use these opportunities, resources or power within gendered constraints (DeVault, 1996). Accordingly, feminist research can be described as research where 'femaleness and maleness and the differences and the dominations between and within them are made a central feature for research questions, conceptualization and analysis' (Burns & Walker, 2005, p. 66). Feminist research critically investigates women's experiences, situations, conditions or circumstances, as well as the institutions that produce these conditions (Olesen, 2000). It aims at not only making diverse women's lives and experiences of oppression and subordination visible, but also to bring about social and individual change by suggesting measures and interventions to liberate women from forces of oppression and exploitation in their respective contexts (Letherby, 2003). In African context, as elsewhere, the central goal of feminist research is to address and transform the effect of androcentricity on intellectual writings, knowledge and practices and to engage in work aimed at addressing gender-based discriminations and injustices (Ahikire, 2014; Imam, Mama, & Sow, 1997). Epistemologically, feminists criticize the 'universalization' of women and the 'exclusion' of women's voices from mainstream research and argues that the structural location, and organizational and personal positioning of women changes across contexts which are used to generate knowledge (Ahikire, 2014; Nnaemeka, 2004; Olesen, 2000). Therefore, they advocate for the inclusion of women in knowledge production, and assert that this is best done by grounding research in the daily experiences of women as perceived and interpreted by the women themselves in various spheres of society (Harding, 1987; Hesse-Biber, 2010; Ramazanoglu & Holland, 2002; Stanley & Wise, 2002), paying particular attention to differences of power and privilege among diverse women.

I describe and approach this research as feminist because, first, it acknowledges the central role gender plays in creating and perpetuating the differential experiences and treatment of men and women in any given society. Secondly, it focuses on studying the experiences and lived realities of women legal graduates in and out of law school from their own perspectives so as to develop an understanding for how diverse gendered inequities interact to construct women's lives in and beyond higher education. Finally, the ultimate goal of the study is to use the knowledge from this research to suggest possible ways of making women's experiences positive and enriching to enable them to choose and lead reflexively valued lives both in and after higher education. Thus, besides constructing women as active knowing subjects in their own right, a feminist framework gives voice to women and validates their experiences, needs and values, as well as enabling me to understand the processes that inform their diverse experiences.

One may ask why not include men legal graduates given that gender is relationally constructed? It should be noted that what people experience and understand is systematically shaped by their location in hierarchically structured systems of power relations, the material conditions of their lives, the relationship of production and reproduction that shape their interactions, and the conceptual resources they rely on to interpret and represent these relations (Connell, 2002). Those who are subjects to structures of domination may have substantial epistemic advantage relative to those who are privileged (who are mostly men). By virtue of their social locations and experiences, and how they understand their experiences, women may have an expanded range of evidence and a critical perspective on otherwise unacknowledged framework assumptions. Furthermore, there is still fear among some feminists, that including men in a feminist research might silence and marginalize women issues since men seem to talk and be listened to more than women (Bryson, 1999; Shefer et al., 2010; White, 2000). Thus, the focus on women legal graduates should be construed as a recommendation to treat situated knowledge of gendered subjects as a resource for understanding the form and dynamics of the gender systems and conditions that shape their lives. However, I acknowledge that not including men is a limitation in my study because there is a growing acceptance among feminists to include men in gender studies so as to have a comprehensive understanding and knowledge to challenge dominant and problematic power and gender relations (see for example Shefer, 2010).

Harding (1991) has highlighted three epistemological positions for conducting feminist inquiry: feminist empiricism, standpoint theory and post-modern theory.¹⁹ I employed feminist standpoint theory in this study because it commences from the standpoint of women regarding them as socially situated and embodied persons who actually live and act (Haraway, 1988). It thus acknowledges the existence of a 'women' category, and recognizes that knowledge can be produced from women's heterogeneous experiences based on their perspectives. According to Hirschmann (1998), standpoint theory accommodates difference and thus brings out a multiplicity of standpoints which enables us to examine the tension between the commonality and divergence of women's experiences. This is important as it allows me to focus on and analyze the intersection of various conditions that shape and influence women's lives,

¹⁹*Feminist empiricism* is a foundationalist approach which does not criticize the norms of science but the way scientific methods have been practiced in a sexist and racist way. It is mainly concerned with the elimination of gender biases from scientific research by using designs that make women and their experiences and interests visible (Lykke, 2010). However, it does not challenge the notion that 'the truth is out there' waiting to be discovered. *Post-modernism theory* on the other hand, rejects the existence of one overarching reality. It embraces subjugated knowledges, which tell different stories and have different specificities. Post-modern feminists assert that there is no such a category called 'woman' or 'man' or 'gender' because such definitions and characterization leads to duplication of misogyny (Letherby, 2003). As such there is no tangible woman experience from which knowledge can be constructed (Lykke, 2010) because human experience is located within language.

experiences and social reality (Collins, 2000; Wood, 1992). This is in line with the argument made by African feminists that women (and African women in particular) are diverse in terms of age, race, class, ethnicity, sexual orientation, religion, culture and nationality, and that these differences have an impact on how they experience, view and interpret the worlds in which they live in (Chilisa & Ntseane, 2010; Fennell & Anort, 2009; Goredema 2010; Mama, 2005; Naidu, 2013; Nandigiri, 2012; Nnaemeka, 2004). However, as Nnaemeka (2004) argues, the diversity of African women notwithstanding, they have shared or common values, beliefs and practices that can be used as organizing principles in discussions about women in Africa.

Further, African feminists criticize a universalized western gender theory which puts binaries between men and women by essentializing men as oppressors and women as victims/subjects of oppression without paying attention to women's power and agency in terms of creativity and ingenuity (Gordon, 1997; Collins, 2000; Nnaemeka, 2005). While African feminists acknowledge that African women do suffer injustices under patriarchal culture and systems, they observe that African women do not see men as the 'other', rather as part of the human same (Higgs, Higgs, & Wolhuter, 2004). They strive to ensure that the relationship between men and women is mutually beneficial and transformative, both in the private and public spheres (Ibid). Fortifying this point, Fennell and Arnot (2009) state that men-women binary ignores diversity of experiences of girls and women within societies, their struggles, negotiations and resistance to different forms of patriarchal oppressions and domination. African feminists acknowledge that African women do and can exercise power and agency 'in particular to theorise from their cultures and lived experiences to produce knowledge that is contextually relevant, builds relationships, heals the self, the community and the larger socio-cultural context' (Chilisa & Ntseane, 2010, p.619). For instance, Nnaemeka (1997) shows how women use relational gender roles of motherhood, sisterhood and friendship as sites for resistance and sources of empowerment. From this perspective, she opposes the western practice of dismissing African culture as negative and instead calls upon African feminist to look into ways in which culture can be a positive force for development (Ibid). In her later work, she calls for a theorisation that 'allows a multiplicity of different but related frameworks from different locations to touch, intersect, and feed off of each other in a way that accommodates different realities and histories (Nnaemeka, 2004, pg. 363). As Ngunjiri (2010) observes, understanding the lived realities and experiences of African women needs 'a more holistic perspective that does not pit men against women; instead such a perspective must root out the unjust social arrangements between men and women' (p.757).

Further, scholars using a feminist standpoint perspective place women's experiences at the heart of the research process in order to understand social reality from their experiences with the aim of improving their situations (Hesse-Biber, 2012). This is because knowledge is socially situated as it is based on the lived experiences and realities of people (Collins, 2000). In this regard, African feminists oppose the universal practice of using Western-female based structures of language, concepts, theories and world views as a criteria against which experiences of African women are viewed and analysed (Chilisa & Ntseane, 2010; Nnaemeka 2004). These authors encourage feminists researching gender issues in Africa to recognize and document context-specific and indigenous methods of communication such local narratives, sayings, proverbs, rituals and songs because all these generate indigenous knowledge through which cultural ideologies of gender order are exposed and women's negotiation and resistance to these ideologies are revealed. Thus, a feminist standpoint allows the researcher to use women's diverse experiences as a lens through which (injustices in) any given society are examined and the legality of male authority is questioned (Brooks, 2007). This framework was of particular relevance to my study for it enabled me to construct knowledge from the social reality of diverse women legal graduates through their interpretation and perception of their experiences in and beyond higher education. In the process I was able to voice their experiences. My goal is to use the knowledge derived from this study to form a basis for suggesting interventions that are aimed at transforming law school to be more just and equitable. This follows Collins' (2000) argument that the knowledge obtained from women's lived experiences can be used to highlight the inequities and injustices in society as a whole, and also offer potential solutions to make a society more just. This aligns well with the capabilities approach which forms the theoretical underpinnings of this study. As I illustrated in chapter 4, the capabilities approach starts from an individual perspective and examines how social, cultural, economic and political arrangements affect or facilitate individual's capabilities to achieve well-being and agency, both singly and collectively. Thus, it allows me to connect diverse women's lived experiences to wider social, economic, political and cultural environments. This is important because structures, processes, conditions and outcomes in both market and non-market spheres of society are connected, and they both affect women's capabilities to convert available resources into capabilities, as well as their choices from a given set of capabilities, which in turn affects their overall well-being and agency (Robeyns, 2008). Accordingly, they should be taken into account when assessing gender justice in higher education (Unterhalter, 2006).

It is worth stating that there are three key concerns for qualitative feminist researchers: reflexivity; power relations between the researcher and the participants; and politics of

representation and voice (Pillow & Mayo, 2007). Qualitative feminist researchers argue that researchers are part of the research process and cannot be divorced from the study being undertaken (Ezzy, 2002). Accordingly, they suggest that all researchers should engage in reflexivity, which entails a critical examination of how the researcher's self, interests, position, experiences, background, knowledge, assumptions, interests, beliefs, values and prejudices affect formulation of the research problem, data collection, analysis and presentation (Hesse-Biber, 2007; Patton 2002; Pillow, 2010). This practice makes visible the process of knowledge acquisition, and construction within research so as to produce more accurate analyses of research (Hesse-Biber, 2010; Pillow, 2010). Therefore, my subjectivity as a researcher cannot be avoided in this discussion. My subjectivity was reflected on the choice of topic and case study, conceptualization and formulation of the research aim and questions, as well as the choice of a feminist methodology. I am a Kenyan woman and a lawyer. In addition, I am a doctoral student studying 'abroad'. I grew up in Kenya and attended law school in one of Kenya's elite public universities. My research was on law school experiences of women legal graduates in Kenya. From the outset, I was not a neutral researcher. I brought my social background, experience, knowledge, values and position of a woman, a lawyer and a feminist into this study. Through self-reflexivity,²⁰ I was able to examine, minimize and control for those that might have prejudiced and altered my interpretation and representation of the participants' perspectives (Garrison, 1996). Acknowledging and disclosing my location, values and biases during the research process were essential in producing less distorted accounts of research, and thus improved research validity (Hesse-Biber, 2012; Hertz, 1997).

Another concern for any feminist researcher is the issue of power relations between the researcher and the participants. Thapar-Bjorkert and Henry (2004) indicate that in any research project, power can be exercised by both the researcher and the researched. This is because human beings have agency (Griffiths, 1998) and as such, construct meanings for the events they participate in. Whereas, as a researcher, I had formulated the study and questions, I did not have control over the way participants responded. Accordingly, power relations were fluid and often shifted, and as such were negotiated during the research process. As, Matebeni (2008) argues, the relationship between the researcher and the informant(s) can affect and challenge one's thinking about oneself, one's identity, beliefs, values and ideas about how one relates to others. Feminists advocate for the democratization of research practice by dismantling power hierarchies in research (Wylie, 2012). Although, as Griffiths (1998) argues, it is difficult to achieve equal power

²⁰ I did this by keeping consistent and detailed field notes, which gave deep descriptions of what was done and observed during the interview sessions, and a personal research journal where I wrote about my thoughts, emotions, questions and notes to myself during the research process (see Pillow, 2010).

relations in research, shaking the boundaries between the researcher and the participants provides a space for knowledge production. I deconstructed the power hierarchies in this research by developing reciprocity. Following Goodson and Sikes (2001) advice on reciprocity, I briefly shared my legal education and professional experiences with my research participants at the beginning of each interview. In the process, I discovered that my identity as a woman lawyer with deep roots in Kenya created reciprocal dialogical communication between myself and the participants as they realized that we shared a common interest. I felt that the participants saw me as an insider with a strong understanding of the dynamics under study. As such, they were at ease sharing their experiences and perspectives with me. However, the flipside of this was that some participants assumed that I knew what women lawyers in Kenya experience in the legal profession since I was one of them. To counter this perception, I reminded them I had not been active in the profession for a period close to three years and that things might have changed during this period. For instance, I told them that a newly admitted lawyer was not allowed to start his or her own solo legal practice during my time. This led them to open up and share their experiences with me. Further, I allowed them to choose a venue and set the time for the interviews. This gave them some autonomy in the research. During the interviews, I let them talk freely with minimal interjections. I kept on assuring them that I valued their efforts and commitment to the study throughout the process. I noted that they felt respected, and that their contributions were valued. This was important as it enhanced the efficacy of the research process.

The final concern deals with representation. According to Alldred (1998), dissemination of the research findings provides a space in which the voices of the participants can be heard. From a feminist perspective, Nnaemeka (1997) argues that ‘speaking for others requires our carefully walking the fine line between participation and usurpation. It entails our figuring out how to share the site of affliction with the “afflicted” and as defined by them without claiming the whole territory in order to articulate it *for* and *on behalf of* them’ (p. 164). My main concern was how I could do this without silencing, misrepresenting or over-generalizing some voices. My study participants were diverse (in terms of socio-economic background, ethnicity, region, and area of legal practice), which implies that their experiences differed from one another, as well as mine. There was the possibility that the way I interpreted their experiences might not necessarily align with their intended interpretation. To counter this, I used DeVault’s (1999) strategy of ‘active listening’ during the interviews so as to consider what meanings lie in and behind the explicit and implicit speech. This allowed me to be surprised and taken to unexpected detours by the information I received (DeVault & Gross, 2012). For instance, I was baffled when one

participant said that she would take a five-year career-break to care for her family once she gets married. I wondered why she would do that when she had been exposed to knowledge about women rights and empowerment. To be accountable and responsible when organizing and representing my participants' voices, I followed Alcoff's (1995) advice of critically analyzing the impact of their location on what they were saying, as well as interrogating the effects that their representations may have (p. 111). In my research, this was achieved by firstly, engaging the participants in a power and freedom exercise at the beginning of the interview (see Appendix F for sample results),²¹ and secondly, seeking follow-up clarifications. This process allowed me to juxtapose their lives and experiences in relation to power relations, social situations, relationships and the specificity of their interconnections (Ramanazoglu & Holland, 2002). This was critical when I was interpreting their different ways of exercising agency to resist or negotiate gendered structures or conditions in their lives. Finally, as a researcher, I had the ultimate authority over interpretation and writing of the final research product (Letherby, 2003). My participants were diverse and as such they had multiple tales about the issues under inquiry. Although I could not achieve full representation of every aspect of all the research participants, I endeavoured to select and give narrative accounts of experiences that each participant could easily identify with, and also highlight multiple points of view that they could all agree on, although some were divergent. These are presented in the next three chapters.

4.2 Research design

A research design is a bridge connecting the research questions and the planning and execution of the research itself (Durrheim, 2006). It is a 'plan that describes how, when and where data are to be collected and analyzed' (Parahoo, 1997, p. 142). Thus, this section focuses on the practical aspects of the research process. This include the research method, data collection tools, sampling and access to the participants, ethical considerations, data analysis and the limitations of the methodology.

4.2.1 Qualitative research

Feminist researchers can employ either qualitative, quantitative or mixed methods approach in their projects. I chose to use a qualitative approach because my study seeks to examine and understand different experiences and perspectives of the participants. As opposed to quantitative research which treats individuals as islands out of context of their real lives and relies on

²¹ During the power and freedom exercise, I drew a ladder on a plain paper (with the bottom step indicating the least powerful and least free members of the society while the top step indicated the most powerful and most free members of the society), and requested each participant to position men and women (more generally) on the ladder. They gave their reasons for their positionings. Thereafter, I requested each participant to place herself in the ladder and give reasons for doing so. This was important when analyzing their experiences and explanations viz a vis that of other women and men in their different societies.

numbers to ‘prove facts’ in social life (Letherby, 2003), qualitative research is concerned with studying phenomena in their natural settings while attempting to make sense of the meanings ascribed to these phenomena (Denzin & Lincoln, 2000). It locates researchers in the world so as to identify and interpret material practices that make the world visible (Grove, Gray & Burns, 2014) by interacting directly with the people (Chilisa & Preece, 2005) so as to understand ‘how people interpret their experiences, construct their worlds and what meaning they attribute to their experiences’ (Merriam, 2009, p. 5). In this regard, as Creswell (2009) explains, qualitative approach provided a platform through which I explored, investigated and sought to understand the perspectives and experiences of women legal graduates as they accessed, participated and progressed through law school, and how this process enabled them to choose, plan and work towards the lives they reflexively valued in and through higher education. This approach also gave the participants a voice to recount and reconstruct their experiences of both learning and teaching in higher education. In the process of inquiring and listening to their stories, I was able to concentrate and gain an in-depth understanding of not only the experiences of women students of accessing and participating in law school, but also highlight contextual, cultural, social, familial, economic and personal factors that influence their decisions, choices and actions as they pursued legal education in Kenya and the value they attached to their education after law school. This examination illuminated and shed more light on the complexity surrounding women’s just and equitable access to, participation in and achievement through higher education, and particularly law school. This allowed me, as a researcher, to develop a nuanced understanding of the factors that constrain or enhance the construction of women’s educational and career pathways, as well as the opportunities they had (and were able to utilize) to achieve well-being and exercise their agency. Identifying these factors based on the participants’ experiences and insights was important in understanding what can be done to improve or promote just and equitable access to law school as well as participation in just and equitable learning processes and environment which fosters students’ wellbeing and development.

4.2.2 Participants

As stated in chapter 1, this study involved ten women legal graduates who had been in legal practice for a period of three to twelve months, after completing their law degree. They were purposefully selected from the Law Society of Kenya online portal (online.lsk.or.ke).²² While selecting my participants, I ensured that they came from different areas of legal practice: private practice, government, non-government organizations, and corporate institutions. I was also keen to include women from different ethnic groups, religion and region so as to understand whether

²² This is an online record of all advocates in Kenya. It shows year of admission, status (whether active or inactive), place of work and areas of specializations.

and how these differences affect their experiences. I used surnames to achieve this diversity, because in Kenya it is possible to tell which part of the country (region) one comes from as well as his/her ethnicity based on their surname. It is important to state here that while I intended my participants to reflect Kenyan diversity in terms of socio-economic class, ethnic group, religion and region, strictly speaking, this diversity was not achieved. This is because the ten women who agreed to take part in my study were all Christians. However, they were diverse in terms of socio-economic background, region of origin and ethnicity.

My selection of participants also was informed by Creswell and Clark (2007) who recommend a deliberate selection of participants who have experience with the phenomenon under study to give the needed information. I purposefully chose to work with women who had just been admitted to the bar since I was of the opinion that having recently completed law school and joined legal practice, they were in a better position to articulate their experiences into and in law school and how these experiences shaped their career pathways and achievement of well-being and agency beyond law school. This was based on Patton's (1990) argument that the sample of the research 'depends on what a researcher wants to know, the purpose of the inquiry, what is at stake, what will be useful, what will have credibility and what can be done with available time and resources' (p. 184). The choice of my participants was also determined by practical accessibility of the participants. I chose participants from areas of legal practice which I felt access would not be denied, especially from an administrative point of view. For example, if I wanted to involve women legal graduates who are in educational institutions (as researchers or lecturers), I would have been required to seek approval from various ethical committees in these institutions in addition to the approvals I already had. This would have been time consuming.

One may ask: why 10 participants? First, and as suggested by Charmaz (2006), the aims of the study determine the project design and the sample size. My objective is to explore the experiences of women as they access, participate and progress in a profession that is male-dominated in its culture and systems, thus there is a sense in which this study is phenomenological. In other words, it aims to uncover the phenomenon of 'being' a woman in a male-dominated legal profession. A recommended sample size for qualitative research of a phenomenological kind is 10 interviews (Hesse-Biber; 2010) because it is expected that at around this number of interviews, saturation would have been reached as no new meaningful data will emerge (Charmaz, 2006; Mason, 2010). Second, the aim of interviews in qualitative research is to uncover a deeper understanding of social life beyond surface appearance and manifest meanings, they require the researcher to be engrossed in the research field, to establish long-lasting, productive relationships with the participants. From this perspective, I followed Crouch and

McKenzie's (2006) argument that a small number of participants is important as it helps in facilitating the researcher's close association with the participants, and thus enhance the validity of fine-grained and in-depth inquiry. For these reasons, I decided to interview 10 participants. The profiles of my participants are presented in section 4.4 below.

4.2.3 Data collection tools

Moving to data collection, Simon (2009) observes that there are various methods that can be utilized in a qualitative research studies to collect data. These include ethnography, interviews, participatory action research and document analysis (Fonow & Cook, 2005). This study sought to understand the experiences of women legal graduates into and in law school and how these experiences shaped their educational and career pathways, and achievement of well-being and agency. As such, document analysis would have been inadequate to collect data that would have achieved this objective. In ethnography, researchers spend a considerable amount of time with the members being studied as they carry out their routine activities in order to understand in-depth their everyday life and practices (Whitehead, 2005). Although it was desirable, my research time lines could not accommodate the use of ethnography. Participatory action research requires active and continuous involvement of participants at all stages of research, and as such was not feasible for this study. For these reasons, I used in-depth interviews to collect data. Kvale (1996) defines interviews as attempts to understand the world from the subjects' point of view, to unfold the meaning of peoples' experiences, to uncover their lived world prior to scientific explanations. In this regard, interviews provided me with a platform to engage deeply with the participants so as to understand and interpret their arguably contingent and context-specific life experiences and conditions as expressed by the participants themselves (Anderson & Jack, 1991). Although interviews can be structured, semi-structured or unstructured, I used semi-structured interviews (See Appendix E for an interview protocol) because they are flexible in terms of allowing the researcher to interject to seek clarification and probe more into issues that she or he desires to be discussed in detail (Maree, 2007). In the process, I was able to develop a detailed description, integrate multiple perspectives and bridge inter-subjectivities (Weiss, 1994). Semi-structured interviews also provided the participants with 'a considerable degree of latitude' to discuss matters under issue (Bell 1993, p. 94). In as much as I had an idea of what I needed to cover, I allowed the participants to shape how the interviews unfolded and decide on what experiences they wanted to recount without leading them. This offered me with rich and important information for comparison.

4.2.4 Research Process

Before going to the field to collect data, I conducted two pilot interviews to ascertain possible practical flaws, difficulties and ambiguities that may arise during data collection. As I conducted these interviews, I observed interviewee's non-verbal behaviours as they responded to each question. I was able to identify questions they were uncomfortable responding to. This assisted me to revise and refine the interview questions to minimize discomfort during the main study. The pilot interviews also helped me to determine the possible length of interviews. Further, they gave me an opportunity to reflect upon and ensure that my location, knowledge and experience as a woman lawyer and doctoral researcher did not affect the interview process in a negative way. At the end of the pilot, I transcribed the interviews and thematically analyzed the transcribed scripts. This allowed me to assess the adequacy of the research instrument in collecting data that could achieve the aim and objectives of the study.

4.2.5 Access and ethical issues

Moving on to research ethics, Edwards and Mauthner (2002) define ethics in social research as the researcher's moral deliberation, choice and accountability throughout the research process. To conform to ethical requirements, I sought and obtained ethical clearance and approval from the Education Ethics and Review Committee of the University of the Free State (See Appendix A). Thereafter, I applied for and was granted a research permit by the National Council for Science, Technology and Information of Kenya (NACOSTI)²³ (See Appendix B). Since the research was being conducted in Nairobi and was educational in nature, I was also issued with a research authorization letter to be approved by the County Commissioner (CC) and the Director of education in Nairobi County (CDE). These approvals were granted and signaled by the CC's and CDE's stamps on the letter given to me by NACOSTI (see Appendix C). Armed with the permit and the approval, I visited the offices of the chief executive of the Law society of Kenya (LSK) to seek permission to conduct research on women lawyers. This permission was granted and signified by the LSK stamp on the research authorization letter that had been approved by the CC and CDE (See Appendix C).

With the permission granted, I started recruiting potential participants from the LSK membership portal (online.lsk.or.ke).²⁴ Using the year of admission (2014), gender (women) and Nairobi County as my filters, I selected fifteen potential participants and noted the physical

²³ This is a requirement that all research projects conducted in Kenya must be approved by the NACOSTI.

²⁴ This portal is in the public domain and can be accessed by anyone looking for an advocate in Kenya.

addresses of their offices.²⁵ While selecting the potential participants, I was keen to include women from different regions, ethnicity and religion to reflect diversity. This was based on the surname of each potential participant.²⁶ Since I have lived and worked in Nairobi, locating and accessing these offices was not difficult. Thus, I visited these offices and requested to speak to the identified potential participants. I introduced myself and my reasons for visiting. In the process, I briefly talked to them about my research and inquired if they could participate. Seven of the fifteen women I initially approached were willing to take part in the study and we set dates for subsequent meetings where we would talk more about the research and set interview dates and venues, taking their work (and for some, family) schedules into account.

With three participants short, I realized that I did not have participants from NGOs and corporate institutions. The online recruitment process was long and tedious and therefore I sought help from the seven participants. They referred me to some of their colleagues who were working in these areas. When I visited them at their places of work and explained to them my research, the first three were willing to take part in the research. Consequently, we set interview dates and agreed on the venues.

During the interviews, I informed the participants of their rights to voluntary participation and withdrawal, as well as the privacy and confidentiality of their identity and information shared. To signify their consent, I requested the participants to sign the consent forms I had carried with me. Six of them agreed to sign (see Appendix D for a sample) while four were reluctant, in which case I opted for oral consent.²⁷ I also requested their permission to digital-record our conversations, which request they all accepted. The interviews lasted between 90 to 120 minutes.²⁸ While conducting the interviews, I was sensitive to the rights of the participants. I avoided undue intrusion and ensured that my probing or seeking clarification did annoy or harass the participants. I also gave them the freedom to ask questions during the interview and seek clarifications. For instance, some would also ask if their conversations were helpful to which I would answer in affirmative. At the end of each interview, I thanked the participant for taking her time to participate in the study, and requested if I could contact them in the future in case I

²⁵As of December 2014, there were 12,025 advocates: 4,700 women, 6,532 men and 222 had not declared their gender. In the year 2014, there were a total of 196 advocates admitted to the bar out of which 102 were women. Of these 102 women, 97 were practicing in Nairobi (LSK membership statistics). The latter formed a pool from which I selected my participants.

²⁶ As I explained in section 4.2.2, it is possible to tell one's ethnic group and region in Kenya based on his/her surname.

²⁷The four participants stated that signing of documents was too formal, and they were apprehensive that I might use their signatures against them in the future. I felt that insisting on them to sign the consent form would affect our rapport and trust. Thus, I agreed with their oral consent.

²⁸The interviews took place over a period of 3 months (from December 2014 to February 2015), which also included the time for contacting and selecting the participants.

needed some clarifications (to which all of them answered in the affirmative). Thereafter, I personally transcribed all the interviews for analysis. To ensure privacy and confidentiality of the participants, I used pseudonyms for their real names in all transcribed and analyzed data. I kept the raw data filed in my private computer and used it solely for research purposes.

4.2.6 Data analysis

Data analysis ‘involves working with data, organizing it, breaking it down, synthesizing it, searching for patterns, discovering what is important and what is to be learned and deciding what a researcher will tell others’ (Bogdan & Biklen 1982, p. 145). In this study, I used deductive and inductive thematic analysis because it ‘permits the researcher to combine analyses of the frequency of codes with analyses of other meaning in content, thus adding the advantage on the subtlety and complexity of a truly qualitative analysis’ (Joffe & Yardley, 2004, p. 57). Also, it is flexible and minimally organizes and describes data sets in a rich and detailed account so as to interpret various aspects of the research (Braun & Clarke, 2006). After transcribing all the interviews, I thoroughly read and examined the interview transcripts so as to familiarize myself with the data. Then, I manually coded interesting features of all the data that were relevant to my study aim and questions. Finally, from the codes generated, I identified common themes which I further reviewed and refined to come up with main themes and sub-themes.

While analyzing my data, I followed a life-trajectory sequence of experiences before law school, during law school, and after law school. This enabled me to capture and draw together diverse events, actions, or happenings at different times of my participant’s lives that contributed to their well-being and agency achievement. Drawing on the capabilities language presented in chapter 4, I revisited their accounts in each phase and identified the opportunities, freedoms and or conversion factors that emerged in each theme. I also identified what capabilities (and or functionings) participants valued and how these capabilities were expanded or contracted across the three phases. In this regard, I was able to analyze how data talked to the capabilities-based approach to gender justice in education by identifying in and out of school conversion factors that affected women’s opportunities and freedoms to achieve their educational well-being and agency. In addition, I was able to use the feminist epistemological framework to analyze how gender intersected with other socio-economic, cultural, political and contextual factors to shape women’s choices and experiences. For instance, if a participant said that she never approached lecturers outside the classroom space, I sought to understand the underlying conversion factors and whether they had any gender dimension. This process was not linear rather it involved moving back and forth between transcripts and theory.

4.3 Limitations of the methodology

Being a qualitative study, the number of participants is too small to generalize data and findings to all women legal graduates in Kenya. As such, no claim is made that these participants speak for all women legal graduates who are themselves regionally, socially, culturally and ethnically diverse. Yet this does not mean that the data and findings from the study are not important. They serve to illuminate our understanding about the complexities of women legal graduates' experiences while in higher education, their challenges and motivation factors, and well as what capabilities and functionings they value as a result of their education. Although these experiences were subjective, context-specific and culturally-situated, they nevertheless contribute to our understanding and reasoning on gender justice issues in higher education in Kenya, and more particularly in law school. While not generalizable, I have provided a rich and detailed contextual description and life stories of the participants together with the research findings so that any reader can discern which of the findings can be transferable to their contexts and which ones cannot. As Mertens (2005) observes, it is the reader to place the research into perspective and delineate boundaries of generalizability within it by deciding what does or does not apply to his or her own context. Furthermore, while the findings are not generalizable in the quantitative sense, the analytical and conceptual framework employed in the study can be generalized and applied in understanding gender justice and higher education not only in Kenya, but also in other countries.

4.4 The profile of the participants

Before proceeding to the data presentation and analysis, I conclude this chapter by giving background information about the research participants. The names used here are pseudonyms and were chosen by the participants themselves. I need to say that all the participants were born in the mid-1980s during the second wave of feminism. For their legal education, five participants attended university X, two attended university Y, while three attended Z. University X and Y are public universities although they also admit parallel students. University Z is a private university. I now turn to the profile of each participant. For purposes of confidentiality, I have excluded participants' ethnic group from the profiles. If I give their ethnicity, one could easily identify who they are since I have given their places of work, especially those in government.

Lilly

Lilly is 28 years old. She is a second born to a nuclear family of four children: three girls and one boy. She attended public schools throughout her education. She completed her secondary school education from a girls-only boarding school and was selected by JAB (now KUCCPS) to study a bachelor's degree in law at university X. After completing her law degree, Lilly completed her

Advocates Training Programme and gained admission to the bar in 2014. At the time of the interview, she had been in the legal practice for a period of 12 months. She was working at the Criminal Litigation Department. Prior to this, she had worked as an associate in a Civil Litigation Law Firm for a period of eight months. Lilly's father, now deceased, had a bachelor's degree in education. Lilly's mother has a diploma in education. Lilly's sisters were at university: the elder one was pursuing her master's degree while the younger one was pursuing her bachelor's. The brother attended a middle-level college because he had not obtained the required grade to pursue university education. At the time of the interview, Lilly was married with one child. She was also pursuing her master's degree. She hopes to work for the UN one day.

Kaya

Kaya is 28 years old. She is the first born to a nuclear family of three children: two girls and one boy. Kaya's father has a bachelor's degree in Pharmacy while her mother has a diploma in secretarial studies. Her sister is a master's student at a local university. Her brother attended intermediary college and attained a diploma in engineering. Like Lilly, Kaya attended girls-only boarding public schools for her primary and secondary education. However, unlike Lilly, she pursued her law degree at university Z. After completing her law degree, Kaya proceeded to the United Kingdom to pursue a master's degree in law. She later returned to Kenya and completed her Advocates Training Programme at the Kenya School of Law. She was admitted to the bar in November 2014. At the time of the interview, Kaya was working as a state counsel. She was single but hopes to get married someday.

Kari

Kari is 29 years old. She is the first born to a nuclear family of three children: two girls and one boy. She grew up in a rural area, attended a public mixed-day primary school before joining a girls-only boarding school for her secondary education. Her father is a primary school teacher and holds a diploma in teaching. Her mother is a housewife. Kari's sister and brother are both at university pursuing their bachelor's degrees. Kari credits much of her educational achievement to her father who, according to Kari, sacrificed a lot to ensure that Kari and her siblings went to school. After completing her secondary school education, Kari was selected by JAB to pursue Commerce at university X which was not her preferred course. Given her poor financial background, she could not afford to pay to pursue her preferred career which was law at any private university or parallel programme. Thus, she proceeded to university X to pursue Commerce. However, after enrolling at the faculty of Commerce, she requested an inter-faculty transfer to Law which was approved. She graduated with a bachelor's degree in law in 2010.

Kari married immediately after law school to her husband whom she had met at university when she was enrolled in the faculty of Commerce. She attended her Advocates Training Programme after giving birth to her first child. She was admitted to the bar in January 2014. After her admission to the legal profession, Kari worked as an associate in a General Practice Law Firm for a period of six months and then quit after experiencing sexual harassment. Later on, she later started her own law firm. She is currently pursuing her master's degree in law and development. Kari seemed empowered in terms of making decisions about her life. She attributes this to her various internships with women organizations while she was in law school. At the time of the interview, Kari was expecting a second child.

Moore

Moore is 28 years old. She is the first born in a family of five children: four girls and one boy. Like Kari, Moore and her siblings were born and brought up in a rural area. Moore's mother (deceased) was a housewife. Her father has a diploma in teaching and he teaches in a rural school. She attended public schools throughout her education. She was in a girls-only boarding school for her secondary school education. At the end of her secondary school education, Moore did not score the grade required for her to pursue law as a regular student at any of the elite public universities. However, her father sponsored her to pursue law under the parallel programme in university X (although with financial difficulties). Moore completed her legal degree in 2011 and thereafter attended the Advocates' Training Programme in 2012. She was admitted to the bar in 2014 after one year of articles. At the time of the interview, Moore was a junior associate in a General Practice Law Firm. She was single but intends to marry in the future. She hopes to pursue her master's degree in the future.

Jane

Jane is 26 years old. She is the last born in a nuclear family of two children: one boy and one girl. She was born and raised in the city. Her father has a doctoral degree in science, while her mother has a master's degree in accounting. Jane's brother is also an accountant. Throughout her schooling, Jane had attended religion-based girls-only private boarding schools. Upon completing her secondary education, Jane enrolled in University Z to pursue her degree in law because like Moore, she did not qualify to study law in any of the public universities. She completed her legal studies in 2011 and attended the advocates training programme in 2012. She articulated for one year and was later admitted to the bar in June 2014. At the time of the interview, she had practiced for a period of nine months. She was a junior associate in a Corporate Law Firm. Jane is single and would not mind dating and eventually getting married. However, at the

time of the interview, dating and marriage were not her priority. She was keen on developing her career first.

Jully

Jully is 26 years old. She is a third born to a nuclear family of four children: one boy and two girls. Her father is a retired engineer, while her mother is principal in one of the public primary schools in Kenya. Jully was raised in a Christian home. Like Jane, she attended Christian-based private schools throughout her pre-university schooling. When it came to choosing university, her religion played a greater role in making this decision. Besides, she had not attained the grade required to study law in the public universities. Consequently, Jully enrolled at University Z to pursue her law degree. She completed her law degree in 2011 and was admitted to the bar in 2014 after completing Kenya school of law and successfully articling for one year. At the time of the interview, Jully was a legal officer in a large Corporate Institution. Prior to this, she was working in a General Practice Private Firm. Jully stated that she likes her current place of work because of the flexibility she has to do other things besides work. She intends to pursue her masters but wants to practice first for another year. She is single with no children, although she would like to get married and have her own family in the future.

Coco

Coco is 27 years old. She comes from a polygamous family of four wives and fourteen children (eight girls and six boys). Her mother is the fourth wife. There are three children in Coco's mother's family, all girls. She is the second born. Her father, now deceased, had a master's degree in statistics. Her mother has a diploma in computer science and works with an IT company. Coco attended public schools throughout her education. After sitting for her secondary school national examinations, Coco did not attain the required grade to pursue law in a public university under a regular programme. Her father encouraged her to apply to study law as a self-sponsored student in University Y. This application was accepted. Coco completed her legal studies in 2012 and thereafter attended the advocates' training programme at the Kenya school of law in 2013. She was admitted to the bar in November 2014. At the time of the interview, Coco was an associate in General Practice Private Law Firm. She has an interest in intellectual property which she intends to pursue in future at a master's level. She is not keen on starting her own family or having children. Coco's siblings have gone to university and she attributes this to her supportive father who worked so hard to ensure that all his children had at least a university degree. In a family of fourteen children, Coco is the only lawyer.

Yuki

Yuki is 26 years old. Like Coco, she is born to a polygamous family of two wives and seven children (three boys and four girls). She is the second last born. Like Kari, Yuki and her siblings grew up in a rural area. Her father is a retired financial adviser and holds a master's degree in finance. Her mother is a housewife. She runs a small business for the family back in the village. Yuki attended a girls' boarding secondary school but did not attain the grade required to pursue law in a public university as a regular student. Nevertheless, her father sponsored her to pursue law in university X but under the parallel programme. She graduated from the university in 2011 and later attended Kenya school of law in 2012. She later undertook her pupillage and was admitted to practice law in January 2014. At the time of the interview, Yuki was an associate in a General Practice Private Firm. She had practiced for a period of twelve months. Yuki has a keen interest in human rights and humanitarian law, which she would like to pursue at a master's level. She is motivated by her eldest sister who is currently pursuing her PhD in Human Resources Management. Except her last born sister who is undertaking a diploma in community development, all other siblings have a university degree. Yuki is single and is not in any serious relationship. She is keen on developing her career first.

Manaan

Manaan is 27 years old. She is a fourth child in a nuclear family of five children: two brothers and two sisters. Manaan's parents died when Manaan was in lower-primary school. At the time of their demise, Manaan's father was a professor of education while her mother was a bio-chemist. Together with her siblings, Manaan moved to her uncle's family. Manaan schooled in girls-only boarding schools throughout her education. Although she had passed to join university, she was not selected to pursue law in the elite public universities which was her preferred course. Her uncle and elder sister sponsored her to pursue a degree in law under the parallel programme in university Y. She graduated from law school in 2011 and gained admission to the bar in May 2014. At the time of the interview, she was a legal officer at a non-governmental institution that champions the rights of the poor and oppressed in society. All her siblings have gone to university. She links her family's educational achievement and aspirations to her grandfather who ensured that all his children achieved university education. Manaan is single and not keen on relationships or marriage. She was waiting to commence her master's degree in law.

Maryl

Maryl is 26 years old. She is the last born in a nuclear family of two: a boy and a girl. Her father (deceased) was an engineer and her mother (deceased) was a housewife. Like Manaana, Maryl's was brought up by her uncle who was supportive of her education. Maryl was sent to a girls-only boarding primary and secondary schools. After her secondary education, Maryl did not qualify to pursue law as a regular student. However, her uncle promised to support her to pursue law under the parallel programme at University X. she secured admission at University X but when by the time she was joining law school, her uncle had retired and faced financial difficulties trying to meet Maryl's tuition fees. Fortunately, Maryl got a scholarship from an NGO which catered for her tuition and accommodation fees at university. Maryl calls this scholarship 'her miracle'. She completed her legal studies in 2011 and was admitted to the legal profession in January 2014. At the time of the interview, Maryl was an associate in a Corporate-Commercial Law Firm. She had practiced for a period of 12 months. Before moving to corporate-commercial practice, Maryl undertook her pupillage in a general practice private law firm but like Kari, she quit after experiencing sexual harassment. Maryl is single and is not in any relationship. However, she hopes to get married and have her family someday. She aspires to further her studies if she gets a scholarship.

The following table summarizes the profiles of the participants.

Table 1: Summary of participants' profiles

Name	Age	Marital status	Region of origin	Highest level of education	University attended and type of student	Area of legal practice	Months in legal practice	Position at work	Parents' highest level of education
Lilly	28	Married	Central	Bachelors (pursuing masters)	X (regular)	Attorney General's Office (Criminal Law)	12	Prosecuting counsel	University (Bachelors)
Kari	29	Married	Eastern	Bachelors (pursuing masters)	X (regular)	Own law firm specializing in Commercial Law	12	Sole partner	Middle college (Diploma)
Yuki	26	Single	Nyanza	Bachelors	X (Parallel)	Private law firm (General Practice)	12	Junior associate	University (Masters)
Moore	27	Single	Western	Bachelors	X (Parallel)	Private law firm (General Practice)	12	Junior associate	Middle college (Diploma)
Maryl	26	Single	Central	Bachelors	X (Parallel)	Corporate firm specializing in Commercial-Corporate Law	12	Junior associate	University (Bachelors)
Manan	27	Single	Nyanza	Bachelors	Y (Parallel)	NGO specializing in Human Rights	6	Legal officer	University (PhD)
Coco	27	Single	Coast	Bachelors	Y (Parallel)	Private law firm (General Practice)	3	Junior associate	University (Masters)
Jane	26	Single	Nairobi	Bachelors	Z	Corporate firm specializing in Intellectual Law	9	Junior associate	University (PhD)
Kaya	28	Single	North Eastern	Masters	Z	Civil litigation	3	State counsel	University (Bachelors)
Jully	26	Single	Rift valley	Bachelors	Z	Corporate firm specializing in Insurance	12	Junior legal officer	University (Bachelors)

Conclusion

In this chapter, I sought to present a practical and theoretical account of my research methodology and approach. I have given my justification for choosing a qualitative research method and locating the study within feminist standpoint inquiry. I have also described the sampling procedures, research instruments, research process, approach to data analysis and ethical considerations. Finally, I acknowledged the possible limitations of the methodology of the study. The next three chapters present an analysis of the research findings.

CHAPTER 5: PATHWAYS TO LAW SCHOOL

Introduction

This chapter draws from the in-depth narrative interviews of the participants and presents findings on women's opportunities and freedom to decide on and choose their careers in higher education. It presents findings that address the following research question:

1. How do diverse women come to choose to study law? What role, if any, does their family, pre-university schooling and socio-environmental factors play in making this decision?

The chapter has four sections. The first and second sections interrogate the early lives of the participants within and without their families, and presents findings on participants' freedoms to decide on and choose law as their preferred career, and what valued outcomes or aspired capabilities and functionings the participants hoped or expected to achieve or gain by pursuing a career in law respectively. The third and final sections present findings on the participants' experiences of accessing higher education and particularly of gaining admission to study law. Specifically, these two sections describe various conversion factors that intersected at different stages of participants' pre-university lives to shape or influence their opportunities and freedoms to access higher education so as to realize their educational and career aspirations. In doing so, the chapter argues that if participants in this study had the opportunity and freedoms to choose law as their desired career and pursue it at university level, then they had both agency freedom and achievement.

5.1 Degrees of choice: Aspirations and agency

5.1.1 *Law was my choice...*

Six of the ten participants in this study had memories of choosing to pursue law as a career. They recollected that they were keen and passionate about law as they were growing up. However, like any other child, their choices were influenced by different factors and at different stages of their lives. For instance, Moore stated:

'I had always aspired to be a lawyer ever since I was a young girl. Back in primary school I... loved languages especially English...one of my teachers actually used to tell me I could make a good lawyer with my good English...I also used to admire Lady Justice Aluoch.²⁹ I read her story on a newspaper which my father had brought...I admired how

²⁹ Lady Justice Aluoch was among the first women to be appointed judges of the High Court in early 1990's. After serving for over 20 years as a judge, she became the first woman to be appointed as a chairperson of the

successful she was despite having come from a poor background. So I said I also want to be successful like her.’ (Moore, 21/01/2015)

Unlike Moore, Lilly recalled how the lifestyle of her uncle, who was a magistrate, kindled her interest to pursue a career in law.

‘My uncle was a magistrate. I remember he always had a briefcase when he came home and I used to think it was full of money...He also had a good house and a nice car. He spoke good English. People respected him.... So I wanted to do law to have all the good things my uncle had.’ (Lilly, 08/01/2015)

Like Lilly, Manaan was exposed to lawyers at a very young age. When her parents died, Manaan moved in with her uncle who was a lawyer. Manaan explains how she was exposed to other lawyers who visited her uncle. She describes how this exposure led her to develop a keen interest to pursue a career in law when she grew up.

‘I used to admire lawyers a lot...When they came to visit my uncle, they drove good cars. They wore nice clothes. They spoke well. I used to think they had lot of money. All these motivated me to become a lawyer. I wanted to be rich.’ (Manaan, 05/02/2015)

For Moore, Lilly and Manaan, exposure to lawyers in their early lives either physically or through media was a key conversion factor in deciding and choosing to pursue a career in law.

Two participants recollected how they chose law because it fitted with their personal traits.

‘I remember my parents always mentioned the way I liked criticizing things. So I thought what profession will fit me well, and law came to mind. This is because I used to watch programmes on TV about judges and lawyers. They were very critical and I thought I can make a lawyer too.’ (Jane, 21/01/2015)

Similarly, Jully detailed how being talkative and curious landed her in law.

‘I was very talkative when I was very young...my folks especially my dad would say you are too talkative, you should do law. Sometimes he would ask me if I want to be a lawyer...he ignited that interest in law and I became curious...I read more about law and I liked it. That is when I decided to pursue a career in law.’ (Jully, 29/01/2015)

Committee of African Union of Experts on the Rights and Welfare of the Child in 2003. She served in this position until 2009 when she was appointed a judge at the international criminal court based at the Hague, being the first Kenyan woman judge to hold such a position.

Although the decision of these two participants to choose to study law was influenced by their parents, they nevertheless had the freedom to choose. This is because, as July's excerpt illustrates, parents suggested a career based on knowing their children's attributes and abilities. The final decision remained with the participants.

Unlike Moore, Lilly, Manaan, Jane or July whose decisions to study law were influenced by either their personal attributes, teachers or lawyers in their lives, Kari's decision to study law was influenced by her exposure to injustices in her immediate environment as a child. Kari narrated that she grew up in a village that was disposed to land disputes.³⁰ Growing up in this environment, she witnessed how powerful people oppressed the poor by taking their parcels of land without any redress. It is at this point that she decided to pursue a career in law so that she could use her legal knowledge to address these injustices.

'In my village,...land has never been adjudicated so that each family gets its title...often people would fight over these parcels...growing up and seeing these fights over land affected me...I did not see any lawyer who could...settle these disputes. That was the first time I thought I would become a lawyer and help my village.' (Kari, 14/01/2015)

5.1.2 Law was not my choice but...

While Moore, Lilly, Manaan, Jane, July and Kari chose law as their desired career, the other four participants stated that they chose law by default. From their accounts, they had intended to pursue careers other than law. For example, Kaya stated as follows:

'I wanted to be a journalist...However my dad discouraged me...he gave me this example of a journalist in our family who according to him had failed in life. He was alcoholic...my father said there is no way he was going to support me to do a course which had no future...he prevailed upon me to think about something else...when I was in high school one of my teachers thought I was good in English and because I was argumentative, she said I would make a good lawyer. Then I remembered my mother's friend who was a judge. She was...respected and led a perfect life...I said maybe I can become a lawyer...for me law was a default career.' (Kaya, 09/01/2015)

For her part, Coco wanted to be a chef because she loved cooking. However, when she shared this interest with her father, he vehemently disapproved. She had to go back to the drawing board and think again about her future career.

³⁰ According to Kari, land in her village was not demarcated. No one had a title deed. What people did was to clear a certain portion and settle. As more and more people settled, land became scarce. Consequently, there were endless disputes as to who owned which piece of land. Often, this led to fights, blood-shedding and hatred among people.

‘Growing up I wanted to be a chef. You know I loved cooking...one day, my dad asked me what I wanted to be when I grew up and innocently I told him I wanted to be a chef. You don’t want to imagine the look on his face! He sternly told me no child of his will ever become a chef...It made me rethink my career options....in high school I became interested in matters of social justice and decided to pursue a career related to justice and that is how I came to study law.’ (Coco, 28/01/2015)

Like Kaya and Coco, Yuki was not interested in law when she was growing up. This is what she said:

‘I wanted to be a doctor because I was so good in sciences...However, to do medicine (in Kenya), I had to be good in both sciences and Math...but my Math got worse in form three. I knew I could not be admitted to medicine. I started thinking what other career I could pursue...I confided in my career teacher...and he asked me whether I had considered being an attorney at law...then I remembered that my elder brother had joined law school and I had visited him once and liked his campus. I thought why not.’ (Yuki, 04/02/2015)

The above excerpt shows that unlike Kaya and Coco, Yuki’s decision to study law was based on her inability to meet the set admission criteria to pursue her desired career, which was medicine. In other words, Yuki’s career aspiration gap (Ray, 2006) was too wide and this frustrated her. To close this gap, Yuki needed to invest more time in Mathematics. As time passed, Yuki realized that she could not perform better in this subject. Consequently, she adjusted her career aspirations to what was achievable. Nevertheless, as the above quotes indicate, the teachers in the different high schools that these participants attended played a key role in influencing them to choose law as an alternative career. However, the freedom to choose was left to the participants, and they chose law after considering other factors like what they were good in or what they were interested in

Unlike the three women, Maryl had a different story.

‘My dad was an engineer. I used to admire him so much and I wanted to be an engineer like him. When I told him, he was like *no you cannot be an engineer. I am an engineer your brother will be an engineer. You are a lady, you will be a lawyer*. From the tone of his voice, I knew there was no negotiation. I knew I will become a lawyer from that point.’ (Maryl, 09/02/2015)

This extract reveals that unlike Kaya, Coco and Yuki, Maryl's freedom and opportunity to decide and choose her desired career options were constrained because her father made that decision. Given her economic and social dependency, as well as parental power over children, Maryl abandoned her initial desire to be an engineer and decided to pursue a career in law as directed by her father. What is striking from Maryl's account is the fact that her father's decision was gendered. Maryl's father discouraged her from engineering simply because she was a woman. This illustrates how gendered sets of beliefs and perceptions of what career is appropriate for men and women might be used within families to limit women's freedoms to decide upon and pursue their aspired careers.

The evidence presented in sub-sections 5.1.1 and 5.1.2 confirm Brockman's (2001) argument that not all law students might have aspired to study law. As the results indicate, only six of the ten participants had a keen interest to pursue law while four of them pursued law as an alternative career after failing to pursue their initial careers either as a result of parental approval, or (for Yuki) inability to meet the requirements of their initially aspired careers.

5.1.3 Can a woman pursue law as a career?

Considering that law was initially a male-dominated discipline, I sought to understand from the participants whether and to what extent being a woman affected their decisions to choose law as their career. Moore and Yuki recollected how gendered perceptions of what career was appropriate for men and women affected their choices.

‘At some point I had my doubts. I wondered why there were very few women in the legal profession...I thought law was so tough and it was only preserved for men.’ (Moore, 21/01/2015)

‘The only fear I had was the society's perception of women lawyers. The society sees women lawyers as these women who are *big headed, loud, they cannot be controlled, they are always fighting for women's rights, they break homes...* at first the society's negative perception of women lawyers almost made me to drop the law idea.’ (Yuki, 04/02/2015)

So, for these two women, being a woman instilled fear and eroded their confidence to pursue law, because the legal profession was perceived as either a male-dominated profession (and thus fitting in would be difficult for women) or, as producing women who do not conform to their traditionally socialized roles and attributes. Nevertheless, availability of and exposure to few successful women lawyers became a positive conversion factor and dispelled these fears, and thus enabled them to sustain and pursue their valued career aspirations. They explained:

‘There is this day I was listening to radio and it was talking about the experiences of some three powerful women lawyers in the country... their experiences really motivated me. I said if they made it, then I will also make it.’ (Moore, 21/01/2015)

‘There were women in the profession I looked up to and they were good...they were respected. I thought to myself, if these women can be lawyers and still be respected, then I could be like them.’ (Yuki, 04/02/2015)

The importance of role models as an enabling conversion factor was reiterated by Lilly.

‘I had seen lady judges on TV. So I did not see a reason why I could not be a lawyer like these women.’ (Lilly, 08/01/2015)

While role models acted as an enabling conversion factor for Moore, Yuki and Lilly to sustain their career aspirations, Manaan’s audacious personality and attitude towards inequality formed one of the key conversion factors that influenced her pursuit of her chosen career aspirations. She stated:

‘Well law was predominantly male and even now {although} women are getting in but we have not achieved equality in terms of numbers. And I think I am daring. So I was like, there are no women? Good. I will get there. Let’s compete with you [men]. We can also do this. (Manaan, 05/02/2015)

Besides personal attitude, some participants’ families’ attitudes towards equality also played an important role in defying gendered perceptions and stereotypes of what career was appropriate for women. Jully explained this as follows:

‘The way my parents raised us, there was no woman or man career. They encouraged us to do whatever we wanted to do. And that is why my sister is doing her masters in computer science which is mostly men dominated.’ (Jully, 29/01/2015)

The explanation given by Jully reveals a shift in the way in which her family perceived the social gendering of careers. By encouraging, supporting and allowing their children to choose and pursue their desired careers, Jully’s parents had disrupted gender stereotypes that define certain careers as appropriate for either men or women. This disruption gave Jully equal opportunity and freedom as her siblings to choose and decide upon her career. This confirms the argument of Chiapero-Martinetz and Spreafico (2013) that to achieve equality, there is a need to equalize people’s opportunity sets by addressing the external factors that influence people’s actions and choices.

Overall, the evidence presented in this section demonstrates that all participants had formed aspirations for higher education. These aspirations intersected with their agency to form essential inputs for imagining and pursuing alternative and better life outcomes. They enabled the participants to navigate the ‘dense combination of nodes and pathways’ (Appadurai, 2004, p. 69) that lay between where they were, and their alternative imagined futures. Although participants’ aspirations were individual, they were multi-dimensional, multi-faceted and dynamic, and were formed by a wide array of personal, social and contextual factors. This confirms Appadurai’s argument that aspirations are socially embedded as they ‘are formed in interaction and in the thick of social life’ (Ibid, p. 67). Using Ray’s (2006) concept of the aspirations window and the people who populate that window, as well as the information that flowed through that window, we can argue that individual participants’ aspirations were informed and shaped by the lives, experiences, achievements, or ideals of ‘similar’ individuals, who acted as control mechanisms to determine whether and the extent to which what the participants aspired for was achievable. For instance, existence of successful women in the legal profession motivated Yuki to defy the negative perceptions about women lawyers, so as to pursue her aspirations of becoming a lawyer. However, for Kaya, the existence of ‘similar individual’ was a constraining factor. Her uncle, who was the only journalist in her aspirations window, had ‘failed’ in life and his ‘failure’ was used by Kaya’s father to dissuade her from journalism. Kaya’s example also demonstrates that limited mobility and or access to knowledge and information can affect aspirations. If either Kaya or her father had been exposed to other ‘similar’ but successful journalists, probably he would have allowed his daughter to pursue journalism. The argument here is that unequal capital (in the form of personal, social, cultural or environmental interactions and experiences) leads to unequal opportunities and freedoms to act and make choices.

Thus, we can argue that of the ten participants, only six (Lilly, Moore, Kari, July, Jane and Manaan) had a genuine set of opportunities and freedoms to choose and pursue their valued career aspirations. For Maryl, Coco and Kari, their agency freedom was limited by their parents, while Yuki’s was limited by her inability to meet systemic requirements. However, by aspiring to and working towards higher education and better life outcomes, these women contested, negotiated, and broke away from certain gendered inequalities existing in their communities such as prioritizing marriage over their education, and the gendered perception that considers women’s place as primarily belonging to the domestic sphere.

5.2 Attractions to law

Given that all participants had chosen or in one way or another had decided to pursue a career in law, I sought to understand what attracted them to law. In other words, I wanted to know the

valued functionings these participants aspired to achieve from pursuing a career in law. Understanding these functionings is important as it will enable us to determine whether and the extent to which law school enabled these women to achieve them.

5.2.1 Foster justice and help others

A prevalent theme was the desire to use the knowledge and resources acquired from law to advance justice and also contribute to development by helping the less privileged in society. This was mentioned by seven participants.

‘What motivated me the fact that lawyers fight for justice and I am very passionate about justice. I like working...fighting for people’s rights and justice.’ (Yuki, 04/02/2015)

Like Yuki, Jane stated as follows:

‘Law is about justice and helping people get their rights. I did law because I wanted to be a judge and dispense with justice.’ (Jane, 21/01/2015)

On her part, Manaan went to law in order to improve the lives of others.

‘I wanted to help the girl child. I thought if I had money I will be able to pay some girl’s school fees and give her an education. I know even these girls who get pregnant, it was out of ignorance...’ (Manaan, 05/02/2015)

5.2.2 Achieve financial security and lead good life

In addition to fostering justice, five of the ten participants also recalled having chosen to study law because they wanted to earn their own money and enjoy financial security and freedom. For example,

For me, it was all about money. I did law so that I could have money and be rich like my uncle.’ (Lilly, 08/01/2015)

‘I expected to get a good job after completing my law degree, earn good money and live a good life like the woman Judge I had read about.’ (Moore, 21/01/2015)

5.2.3 Command or earn respect

Another motivation to study law was the desire by the participants to earn prestige, high social status and respect that was usually accorded to lawyers. This was mentioned by four participants. For instance,

‘I knew lawyers command respect. There is a certain power lawyers have. You know we know the law...I wanted people to respect me. You know when I talk they listen and take me seriously.’ (Maryl, 09/02/2015)

‘My uncle is a professor of law and I used to see the respect he commanded. He also used to appear in the media so people really respected him...this kind of influenced me ...to do law.’ (Manaan, 05/02/2015)

5.2.4 Enjoy the flexibility of a legal career

In addition, four participants recalled that they were attracted to law because they perceived a legal career to be flexible. This was based on their understanding that law had various branches that one could specialize in and pursue. In addition, they were aware that besides enabling them to practice law, a law degree would expand their career options outside the legal profession. Manaan explained:

‘One thing I like about law is that it is diverse. One day I will deal with human rights and am done, another time I will deal with criminal law, two to three years and if I get bored I move to arbitration, arbitrate all I want if I get bored, I move to corporate. You know law is very diverse and you can do so much.’ (Manaan, 05/02/2015)

Coco also reiterated the fact that she was happy she chose law. She was responding to my question as to whether she regrets having pursued a career in law.

‘Not at all. Law is open ended. I don’t need to be in general practice. I can actually be a lawyer for this international group of hotels and still feel good about it. As a career, law is flexible.’ (Coco, 28/01/2015)

Like the lawyers in Brockman’s (2001) study, these accounts illustrate the various functionings my participants were aspiring to achieve after completing their degree in law. A majority of them aspired to use their career to help the disadvantaged and improve their societies. Further, half of the women aspired to achieve financial security, earn good money and be respected. It is important to note that most of their attractions to law were tied to what influenced their choice of law as a career in the first place. For instance, three out of the five participants who recalled that they were exposed to lawyers in their early lives mentioned financial rewards and command of respect as their main attraction to law. Similarly, Kari who came to study law because of the injustices she witnessed in her socio-environment context mentioned the desire to help others and foster justice as her main attraction to law. Assessing the expectations and experiences diverse students bring to the higher education is important in understanding their needs and how the university can meet them. As Knox and Wyper (2008) observe, this is important in ensuring that ‘students feel as if they are each treated as an individual and that they belong within the sector’ (p. 5).

Table 2 below gives a summary of factors that influenced each participant to choose law. A (-) sign means that that particular factor was a constraint, while a (+) sign denotes that it was an enabling factor.

Table 2: Summary of factors influencing participants' choices to study law

	Conversion factors	Lilly	Kari	Moore	Manaan	Jane	Jully	Yuki	Maryl	Coco	Kaya
Deciding on and choosing law	Exposure to lawyers while young (+)	√		√	√	√		√			√
	Witnessing injustices while growing up (+)		√								
	Parental influence (+)					√	√				
	Parental influence (-)								√	√	√
	Teacher influence (+)	√		√				√		√	√
	Systemic requirement (-)							√			
	Personal attributes: Critical/talkative (+)	√		√						√	√
Attractions to law	Good in English (+)	√		√							√
	Foster justice and help others (+)		√	√	√	√	√		√	√	
	Achieve financial security (+)	√		√	√		√				√
	Command respect (+)	√			√	√	√		√		
	Flexibility of law as a career (+)	√			√				√	√	

5.3 Scaling the terrain to law school

With diverse motivations and aspirations to study law; this section presents findings on what opportunities and freedoms participants had to pursue and realize educational and career aspirations and goals.

5.3.1 Society: devaluing women and girls' education

All participants noted that they came from patriarchal societies that did not value women's education. This was based on the perception that girls would grow to be wives, mothers and homemakers. Accordingly, girls' and women's marriage was prioritized over their formal education, as formal education was considered unnecessary.

'In my society, there is this general perception that women are supposed to be married and get children...They are not encouraged to go to school because they will be married and their husband will provide for them.' (Yuki, 04/02/2015)

‘In my village, a woman needs to stay at home, take care of animals and the farm, when she is mature enough, get married and take care of her children and husband...I think they were wondering why I was not getting married like other girls.’ (Lilly, 08/01/2015)

‘My society is patriarchal. Men are providers and women are care-givers. Consequently, most parents will send their boys to school as opposed to girls. This is because girls are expected to get married and bring dowry.’ (Kaya, 09/01/2015)

Kari narrated how the general devaluation of women’s education by her society almost limited her chances of getting educated.

‘When I was in high school, my dad had challenges raising my school fees and he sought help from my uncle. My uncle refused and asked my dad why he was sending me to school instead of using that money to educate my brother or start some business...His reasoning was that I should get married and give them dowry.’ (Kari, 14/01/2015)

These accounts resonate with Okkolin’s (2013) findings in Tanzania. They illustrate that in patriarchal societies, most women and girls’ choices and preferences are adapted to what is socially ideal or accepted, and thus most of them do not desire formal education. In other words, most women from these societies have what Appadurai (2004) calls adverse terms of recognition, which create unfavourable environment for them to develop and nurture their capacity to aspire for better lives. According to the participants, the aspirations of most girls and women rotated around family and marriage. The capability to be educated was not among the capability sets that a majority of women from these societies aspired to, not because they did not value it but because they could not achieve it as a result of the gendered cultural norms, expectations and practices. Thus, these cultural restrictions translate to limited resources, opportunities and freedoms, as well as lack of voice for women to express their interests in formal education. By ascribing to and ‘naturalizing’ the culturally defined inferior positions of women, these societies were diminishing the dignity of women and further deepening inequality between men and women as two distinct groups. These findings illustrate how cultural practices and beliefs affect individuals’ values and perceptions of what capabilities and type of lives to aspire for. Further, they demonstrate how misrecognition based on gender can lead to unequal distribution of resources and opportunities between men and women, often to the disadvantage of women.

What is striking about the women in this study is that despite coming from deeply gendered societies, they managed to acquire education to university level. In this respect, I sought to

understand how they managed to break through and negotiate the prevailing constraining norms and aspire for higher education.

5.3.2 Family: supporting girls' education

All participants stated that their families valued and supported their education. The support in this case was both financial and emotional.

'My parents were very supportive of my education. That's why my father restricted us from interacting with the villagers. He did not want us to be poisoned by the mind-set of the villagers.' (Lilly, 08/01/2015)

'My grandfather was an education officer. He valued education and he sent all his children to school. My father was a professor and most of my uncles and aunties are professors too. When he was alive, my father used to tell us that we must work hard and go to university and become professors like him. When he died, my grandfather and my uncles ensured that all my siblings and I went to school up to university. My elder sister also used to encourage us to work and realize the educational dreams our parents had for us.' (Manaan, 05/02/2015)

Yuki went further and stated that her parents never discriminated against women when it came to education.

'In terms of education, I thank God for my dad because with him he does not say *Yuki* is a girl and she should get married or so and so is a man so he deserves to go to school...He struggled to send all of us to school... Even my mother ensured that my brothers and sisters shared all house-chores.' (Yuki, 04/02/2015)

These sentiments were echoed by Kari who credits her education to her father's financial support and her mother's emotional support.

'My dad did not favour any of us. He gave us equal opportunities to school and even at home, my brother used to help with house chores...my dad sacrificed a lot to ensure that we went to school.' (Kari, 14/01/2015)

A typical Kenyan family is structured within the traditional gendered division of duties and roles: fathers are providers and have authority in decision-making, while mothers are care-givers and home-keepers (Wainaina, 2011). In this type of setting, girls are expected to assist their mothers with domestic chores. Yet, as the excerpts of Yuki and Kari indicate, some contemporary families are slowly disrupting these gendered roles by encouraging their children to equally share

household chores. As a result, all children in these types of family settings have equal opportunity to pursue and realize their educational aspirations. Thus, the accounts of these women signpost that a family can disrupt gendered inequalities within household division of labour and promote justice in women's lives.

Although gender roles and expectations of boys and girls within the households of some of the participants were changing, power hierarchy and relations within their households was far from changing. All the participants recalled that their fathers had a final say on their education. For instance,

'My mother never had a say in our educational decisions. It was always my dad because he was the one paying for our school fees and also upkeep. I never saw the hand or the voice of my mother except *you hear what your father said, work hard.*' (Coco, 28/01/2015)

'My mum was for the idea that I go to *Mango Girls High school*....But since my dad was the one who paid my school fees, she really did not have a say... whatever my dad said was always final.' (Yuki, 04/02/2015)

Thus, we can argue that participants' mothers' lack of voice was not only as a result of gendered norms and practices, but also lack of economic power. As I will illustrate in chapter 8, women's economic dependence on men contributes to their lack of voice. That notwithstanding, it is important to state here that two participants noted that although their mothers had no influence on educational choices and decisions of their children, they nevertheless acknowledged the immense emotional support their mothers offered and how this support contributed greatly to their academic success.

'...my father was providing...but I saw her (mother) struggle hard...so as to support my father and see us through school, to put food on the table, to clothe us... she encouraged me, and said she will do all in her powers to ensure that I achieve my dream of becoming a lawyer.' (Moore, 21/01/2015)

'My mother ...could not support us financially but she supported us emotionally by encouraging us. She also took care of us, made sure our food was cooked in time, we had clean clothes to wear to school etc. These are also important...she was this invisible hand behind our success.' (Kari, 14/01/2015)

Kari and Moore's accounts highlight the important role the often-neglected and taken-for-granted women's care work play in the educational achievement and success of their children.

As these women talked about their families and the way they supported girls' education, I inquired why their families would do so in societies that generally devalued and relegated women (and their roles) to the domestic sphere. Their responses were similar.

'I was born into a family of educated parents. They knew the value of education that is why they sent us to school. For them education was a key to my bright future.' (Kaya, 09/01/2015).

'As a teacher, my father understood the value of education. He used to tell us that education was the only way we could escape poverty. He never wanted us to end up like most people in the village. He wanted us to lead better lives.' (Kari, 14/01/2015)

'My dad was a government official. He was exposed to life outside my village. So he knew the value of education. To him, we had to be educated to get good jobs and lead good lives.' (Yuki, 04/02/2015)

'I remember my mother used to tell me that education was the only thing she would give me...she had no riches for me to inherit except education. To her, education was the key to my economic independence and good life in the future.' (Moore, 21/01/2015)

As shown in the above explanations, the value the parents of the participants in this study attached to women's education was first attributed to themselves being educated and second to their perceived instrumental benefits of education. As we saw in chapter 4, at least one parent of the ten participants had received education to either middle-college or university level (see Table 1). Having acquired education themselves, these parents knew the important role education played in enhancing the opportunities and freedoms for social and economic mobility of their children, especially women in the future. As such, they encouraged and supported their children, both boys and girls, without any discrimination to go to school to acquire the same. That might explain why for instance, despite facing challenges in raising school fees for his children and the negative influence from his brother, Kari's father still chose to send Kari and her siblings to school. In this case, parental economic and social aspirations for their children motivated them to defy and reshape existing social gendered perceptions of devaluing girls and women's education. Thus, we can argue that compared to other young girls in their societies, these ten women were better off because they used the information and experiences of their educated and supportive parents and became conscious of the links between their educational aspirations and outcomes and the processes to get there. In other words, participants' families' support (both

material and emotional) and positive attitudes towards women's education became important nodes that these women clung to as they negotiated their gendered societies to pursue and realize their higher educational goals and aspirations.

5.3.3 School: (re)forming, shaping and developing women's career aspirations

Wilson-Strydom (2015) underscores the importance of pre-university schooling and environment in shaping and realizing students' aspirations to access higher education. As I have highlighted above, all the parents of my participants valued girls' education and thus worked hard to send their daughters to the best schools they could afford. These schools also played a critical role in nurturing participants' capability to aspire, particularly by informing and shaping their educational and career aspirations. From the evidence presented in section 5.1, some participants stated how they were motivated to choose and pursue law based on the positive and encouraging comments from their teachers. Other women recalled how conversations with their career teachers provided them with opportunities to think about, discuss and reflect on their aspirations. These conversations also provided relevant information, which in turn enabled them to reconsider or revise their career decisions and aspirations, and re-align them with their own abilities and interests.

In addition to guidance and motivation, Kari narrated how her high school Principal supported her to stay in school despite having fees arrears. She attributed this gesture to her being a bright student because she never 'dropped below position five in [her] class.'

'My Principal back at high school was very understanding. I was never sent home for fees arrears. I think the principal knew my background and he called my father to work out an arrangement on how he was going to pay my fees...I remember I cleared my fees arrears one year after completing high school I went to collect my school leaving certificate.'
(Kari, 14/01/2015)

By allowing Kari to stay in school, this principal gave Kari the opportunity to concentrate in her studies so that she could realize her aspirations. All these examples illustrate that a supportive and encouraging pre-university schooling atmosphere is essential for students to form and pursue their educational goals and aspirations (Wilson-Strydom & Okkolin, 2015).

5.3.4 Individual women: determined to succeed

Another powerful factor was the personal determination and strong will these women had in pursuit of their aspirations. For instance, after the demise of her parents, Maryl moved to her

uncle's family. However, the family environment was not conducive for her to concentrate on her studies. Nevertheless, she persevered.

'My aunt made my life in her house miserable. She would scream at me. She made me do all the housework. She never wanted to see me sitting down and reading... I persevered. I made sure I did all the work and also read before sleeping...I knew if I didn't work hard and pass, my uncle might not support me. So, despite the challenges at home, I worked hard in school and passed.' (Maryl, 09/02/2015)

This extract illustrates how unfavourable home environment can limit one from achieving educational goals. Yet, personal determination and resilience can have a positive impact.

Kari on the other hand narrated how she did not let socio-class difference in high school deter her from realizing her educational aspirations.

'Most students in my school came from rich families. They ate good food and they had good stuff. I had none of those. We really had nothing in common except the school and the school uniform. I felt out of place and intimidated. The only way I could prove myself was to work extra hard. I spent most of my times at the library. I sunk myself into books throughout and that is how I managed to score an A and get admission to university.' (Kari, 14/01/2015)

Lilly, on the other hand stated as follows:

'My father passed on when I was in form two...My mother really struggled to keep us in school especially with paying our school fees. I realized I had to work hard so that I go to university under the regular programme. Otherwise my mother could not have afforded to send me to the parallel programme. I had to work hard and pass my exams. (Lilly, 08/01/2015)

These sentiments were repeated by Moore.

'I knew which family I came from...My parents were struggling to keep me in school. My duty was to work hard and pass. There was no way I was going to fail.' (Moore, 21/01/2015)

When talking about their educational and career aspirations, these participants demonstrated hopes for a better future. They desired better lives than that led by their mothers, and other women in their societies. Through the support of their parents, they had had access to primary and secondary education. All of them had internalized their parents' aspirations with regard to

their own education, and most of them had witnessed the sacrifices their parents were making to maintain them in school. So, they worked hard in their studies so as to attain the required grades for them to progress to university.

5.4 Gaining admission to study law: Who decides?

5.4.1 Individual's final grade in secondary school

All participants narrated the important role their performance in the national secondary school examinations (KCSE) played in gaining access not only to university, but also to pursue a career in law. As I stated in chapter 1, a minimum aggregate of a C+ pass is needed for university undergraduate admission. However, some degree courses require specific cluster points. For instance, the participants stated that for one to pursue law in a public university under the regular programme during their time, he or she must have obtained an A or a strong A- in KCSE. Seven of the participants recalled how their failure to obtain either of these grades almost shuttered their dreams of becoming lawyers.

‘You know in Kenya...for you to study law in a public university, you must have scored an A or A- in the secondary school national examinations. I did not score that...I was selected to study Bachelor of Education.’ (Coco, 28/01/2015)

‘I had a B+ and for you to study law in public universities, you must have an A or A-. I got a letter to study Bachelor of Arts.’ (Jully, 29/01/2015)

‘I missed A- by one point, probably because of my poor maths, so I could not get admission through the regular programme to study law.’ (Yuki, 04/02/2015)

These accounts illustrate that selection to university and to a particular course or discipline depends on one's performance in KCSE. This selection is competitive, and those students who don't meet the minimum pre-determined criterion or 'cut-off' points are left out. For instance, although all the participants had performed well and were eligible to access higher education, seven of them did not attain the grade and cluster units needed for them to be admitted to study law in the elite public universities under the regular programme. Instead, they were selected to pursue other courses as Coco and Jully's accounts illustrate. Yet, there were instances where two participants (Kari and Manaan) were selected to pursue different careers despite having obtained the required grade and cluster points to pursue law. This evidence supports the findings of Opini (2012) that obtaining a required grade improves the chances but does not guarantee admission to

one's desired career. The question then becomes, who really decides what careers students pursue in higher education in Kenya?

5.4.2 University joint admission board (JAB)

Besides achieving good grades, one critical hurdle a majority of students accessing higher education in Kenya have to cross in pursuit of their educational and career aspirations is JAB (now known as KUCCPS). JAB is a national university joint admissions board that selects qualified secondary school students to public universities under government subsidy. Under JAB, form four students are permitted to select (in advance) four courses they would like to pursue at university and the respective universities on a priority basis based on their anticipated performance in KCSE (Oketch, 2009). When examinations results are published, JAB centrally selects students to various public universities based on their performance and the courses they had selected.³¹ Under this system, some students are selected to pursue non-preferred courses in non-preferred universities, without the option of changing. As a result of its rigidity, JAB becomes 'ineffective, unfair and ambiguous to ensure that students are given the choices that match, or closely match, their preferences' (Ibid., p. 19).

Of the ten participants, only Lilly gained admission to study law in the public university under JAB. However, she explained how JAB could crush or enable some students to achieve their career aspirations.

'In Kenya, if you pass well, you are admitted to study in a public university under JAB. During my time, bright students were given forms to fill in for four different courses they would like to pursue at a university level in priority basis and the respective universities they would like to go. I filled those forms and left them with the school principal. When (KCSE) results came out, I waited to see if I had been selected to any of the courses I had selected. I was lucky because most students going to public universities through JAB really don't have a choice on what course to pursue or which university they will go to. JAB just selects you.' (Lilly, 08/01/2015)

This was corroborated by Kari who stated as follows:

'In Kenya we have this funny system of national university admission. You know all students who have passed and are eligible to go to university are placed in the same pool.

³¹ For instance, if a student selected Medicine, Law and Bio-chem in that order and she obtains a B+ in her examinations, automatically she does not qualify for the first and second choices because they require A as a mean grade in KCSE. Before JAB considers her third choice, priority is given to all candidates who chose Bio-Chem as their first choice. Then those who put it as the second choice will be considered before she can be considered because she had chosen it as her third choice.

Then I think the best scorers are separated, these are the ones that go to medicine, law, engineering, Bcom and so forth. They look at your overall grade and then cluster units and say fine we think this one can do law, or medicine, or engineering. Then they say ok, give her medicine at university X. The students do not have a choice at this point. You just receive a letter telling you that you have been selected to join university X and you will be pursuing course Y. So that is what happened to me...Although I passed (KCSE), I was not admitted to law. I was admitted to University X to pursue commerce. I was so disappointed.' (Kari, 14/01/2015)

Manaan also could not understand how she was selected to pursue a degree in Commerce despite having obtained the grade required for her to be admitted to law.

'Admission through JAB is sheer luck. I had A- but true to my worries I was not selected into law instead I was selected to pursue BCom.' (Manaan, 05/02/2015)

As the above narratives indicate, choosing a desired career while in secondary school is not enough. The system (in this case JAB) chooses too. Kari and Manaan's selection to pursue non-preferred courses in higher education shows that government selection policies to public universities under JAB system have the potential to limit the realization of some students' career aspirations. This is because some students are forced to study in institutions and pursue courses that they have little interest in. Their accounts also illustrate that whether a student attains the required grade to pursue a desired career, JAB can decide otherwise. The use of the word 'funny' by Kari or 'sheer luck' by Manaan to describe JAB's selection demonstrates their disapproval of process as it has the potential to limit the realization of students' educational and career aspirations

How then did Kari, Manaan and the other seven women manage to gain admission to law school to pursue their desired careers?

5.4.3 Family finances

Family finances of eight participants played a significant role in navigating JAB's decision, and enabling them to realize their career aspirations of pursuing law at university. These families could afford to pay (although some struggled) the tuition fee in either parallel programme in public universities or in private universities.

'When I got that admission letter, I was not happy. I told my parents I wanted to pursue law as I had initially planned. Being supportive, they told me to apply for law in a private university. That is how I managed to pursue my career in law. ' (Jully, 29/01/2015)

‘When JAB decided to select me for BCom instead of law, my sister told me to apply for law under the parallel programme. I applied to *University Y*. I think for me family income played a key role. I guess if I came from a poor family, I might have been forced to pursue BCom.’ (Manaan, 05/02/2015)

‘They (my parents) saw how disappointed I was when I learnt that my grades won’t allow me to pursue law. My dad told me to apply under the parallel programme...He struggled a lot to raise my school fees. Even my mother took loans and did all kinds of small businesses to generate some income to contribute to my fees. If it were not for their hard work, I would not be a lawyer today.’ (Moore, 21/01/2015)

From the above accounts, we can argue that in addition to valuing women’s education, the families of these women invested their resources on their daughters’ education. Those who came from low and middle-income families (Moore, Yuki, Maryl, and Coco) noted that their parents or guardians struggled to look for money to maintain them in school. They acknowledged that it would have been difficult for them to realize their educational and career aspirations if their parents and guardians had not supported them financially. Thus, material support was critical in the realization of their capability to be educated and to achieve their educational and career aspirations.

5.4.4 Personal determination and resilience

What about Kari whose family could not afford to support her to pursue law as a self-sponsored student? Kari used her agency to realize her career aspirations. Although she was disappointed by JAB’s decision, she nonetheless joined university X to pursue Bachelor of Commerce. This is because her parents were unable to sponsor her to study law under the parallel programme. However, she never gave up on her dream of becoming a lawyer. She explained:

‘I did not give up. As soon as I got admitted in Bcom, I started finding out if there was a way of changing or transferring to law. I was told I could apply for change of faculty but there was no guarantee that I would get the transfer...I filed my application for interfaculty transfer from commerce to law. And my application was accepted and approved. That is how I came to law school.’ (Kari, 14/01/2015)

Kari’s excerpt demonstrates the agency-unlocking role of aspirations. Her desire to achieve her career aspirations drove her to inquire the possibility of changing careers. When she discovered there was a possibility, she utilized it by making an inter-faculty transfer application. Thus, her aspirations motivated her and drove her into action to change her career to the one she had always aspired to, and in the process contributed to the achievement of her well-being (in this

case, attending university and pursuing a desired course). Kari's example shows how aspirations, agency and opportunity intersect and lead to achievement of individual well-being.

The accounts of these women illustrate that the decision as to whether or not students gain access to university to pursue their valued career aspirations in Kenya not only depends on their performance in KCSE, but also the selection by JAB. However, those dissatisfied with JAB's decision can still pursue their desired careers in private universities or in the parallel wing of the elite public universities if they can afford the cost, while those who cannot are forced to enroll and pursue non-preferred courses. In this regard, we can argue that although the private universities and parallel programme in the public universities have opened access opportunities to more students especially women, the students accessing these institutions are those that are able to pay the high cost of tuition required by these institutions (mostly those already advantaged), implying that most students from poor socio-economic backgrounds are excluded. This suggests that private universities and parallel programmes in the public universities are creating a new form of exclusion in higher education in Kenya.

Before concluding this chapter, the table below presents a summary of various opportunities and challenges participants had in pursuit of their higher educational goals and aspirations.³²

Table 3: Participants' opportunities to study law and the conversion factors

		Lilly	Kari	Moore	Manaan	Jane	Jully	Yuki	Maryl	Coco	Kaya
Accessing university to study law	Societal devaluation of girls' and women's education(-)	√	√	√	√	√	√	√	√	√	√
	Familial support for girls' education(+)	√	√	√	√	√	√	√	√	√	√
	Supportive pre-university schooling (+)	√		√				√		√	√
	Individual's performance in K.C.S.E (+)	√	√		√						
	Individual's performance in K.C.S.E (-)					√	√	√	√	√	√
	JAB(+)	√									
	JAB (-)		√		√						
	Family income (+)				√	√	√	√	√	√	√
	Family lack of income (-)		√								
	Personal determination and resilience		√								

³² A (-) sign after any factor indicates that that particular factor was a constraint, while a (+) sign means that a particular factor was an enabler.

Conclusion

In this chapter, I have presented findings relevant to the first research question. In the first section, I utilized Sen's notions of agency and conversion factors to understand whether and the extent to which the participants had the freedoms and opportunities to choose and decide upon their desired educational and career aspirations. Evidence presented shows that participants' decisions to choose to study law were influenced by different factors such as individual traits and abilities; their families; teachers, exposure to lawyers; as well as the wider social, cultural, economic and political contexts within which they lived. Parental influence on the career choices of these women was based on what Saito (2003) calls the 'future freedoms' of children. Thus, while one can say that Coco and Kaya's parents constrained the freedoms of their daughters to pursue their initially chosen careers, we could also argue that these parents were concerned that the careers their daughters were initially aspiring to pursue were likely to limit their real opportunities and freedoms in the future. Nonetheless, it is important for parents to afford their children an opportunity to think about and discuss their career aspirations. These discussions and engagements are likely to improve their children's knowledge of possible career opportunities and achievable aspirations. They might also assist in identifying, examining and understanding various challenges different children face, and what resources, opportunities or freedoms they need to pursue and achieve them. This is because the evidence I have presented in the chapter shows the ability of children to form aspirations, navigate the obstacles or persevere the risks involved in the pursuit of these aspirations depends on having other capabilities and functionings such as confidence and resilience, knowledge and information, as well as support from social relations.

Having formed or re-shaped their career aspirations, the chapter then moved on to consider factors that constrained or enabled these women to realize their educational and career aspirations. These were societal attitudes towards women's education, familial support, supportive pre-university schooling environment, personal will and determination, university admission board and family finances. The participants' narratives demonstrated that changes within families and schools such as letting girls speak out about their careers play a vital role in sustaining and pursuing their aspirations. Yet, institutional practices as university admission criteria almost prevented nine women from pursuing their desired educational aspirations. What these findings demonstrate is that individuals can aspire to better standards of living, but their circumstances (personal, social or contextual) might diminish or enhance their different capacities to navigate their aspirations gap to be where they desire to be. Thus, while it is crucial to encourage girls and women to aspire to higher levels of education and better life outcomes, it

is equally important to expand their freedoms and opportunities to use their agency to sustain, pursue and effectively achieve their aspirations and life goals.

The next chapter walks through the lives of these women in law school and presents findings on how their experiences in law school enabled or constrained them from achieving their educational and career aspirations, as well as achieving well-being and agency in and beyond higher education.

CHAPTER 6: LAW SCHOOL EXPERIENCES

Introduction

The previous chapter explored participants' perspectives of their pathways to law school in order to investigate what factors supported or constrained their exercise of agency to choose and pursue their desired career aspirations and goals. The aim of this chapter is to give participants a platform to voice their contextualized experiences of law school so as to raise awareness of what matters to women students in law schools in an effort to develop more inclusive and equitable higher education. Divided into three sections, the first and second sections focus on participants' experiences in classroom and outside-classroom respectively and present factors that enhanced or inhibited women's participation and interaction in these spaces.³³ The final section interrogates these experiences to discern whether and to what extent the law school environment as a whole was a 'chilly climate' for women students as illustrated in literature on gender and legal education. But first, the chapter commences with a brief overview of participants' expectations before coming to law school.

6.1 Expectations of law school

In the previous chapter, we saw that through determination and hard work, family support and enabling school environments, all the participants were able to gain admission to university to study law even though it was not the first choice for all of them. This section presents findings on their expectations of university, and law school in particular, prior to their admission.

6.1.1 To experience university 'freedom' and control my life

Nine out of the ten participants recalled that they looked forward to a 'free' learning environment at the university where they would be in charge of their educational, personal and social lives, for example

'I think it was the freedom. While in high school, people used to talk about students in university...like there was no one to follow them whether they attended classes or not or whether they went to town or not or what time they slept or woke up. I wanted to experience that freedom too.' (Lilly, 08/01/2015)

'I expected university to give me that space where I could exercise my freedom without someone following me like in high school, and also have fun.' (Kaya, 09/01/2015)

³³ In this study, I defined participation as taking part in educational and non-educational activities in law school such as volunteering to ask and respond to questions and being involved in group and club activities.

‘I expected to be free in campus to do all that I wanted to do without someone scolding me.’ (Coco 28/01/2015)

6.1.2 To meet new friends and travel to new places

In addition to ‘freedom’, other six participants stated that before going to university, they had expected that university would enable them to meet and make new friends, and also travel to new places. These comments were typical.

‘I was expecting to make more friends from all-over the country. Travel to new places.’ (Jully, 29/01/2015)

‘I expected to enjoy university life by making new friends and also visiting new places.’ (Jane, 21/01/2015).

‘I was looking forward to meeting new friends and also to have fun by going to new places’ (Maryl, 09/02/2015)

6.1.3 To engage in intellectually stimulating learning processes

Although most of the participants had memories of having looked forward to campus ‘freedom’ and ‘fun’, five of them recalled that they had also expected university to provide them with an opportunity to engage with others and expand their knowledge. For example,

‘I knew university was not going to be a joke. My brother used to tell me that there was a lot of reading and arguing in law school. I knew it was going to be tough and intellectually stimulating.’ (Yuki, 04/02/2015)

‘Law is a prestigious course. I was expecting to meet other bright students from the best schools around the country. So, I was also looking forward to meeting and intellectually engaging with them.’ (Moore, 21/01/2015)

‘I was expecting to join an environment where students are busy reading, arguing and debating.’ (Manaan, 05/02/2015)

As the above extracts reveal, participants expected law school to provide them with opportunities and freedoms to meet, interact and learn from new people, travel to new places and also engage in intellectually stimulating educational processes. From their narratives, it is interesting that anticipation to experience campus ‘freedom’ was highly ranked and emerges as most important (this was mentioned by 9 of 10 participants). This could indicate something about the constraints experienced at home and in schools. The desire to meet new people and travel to new places emerged second as it was mentioned by 6 of the 10 participants, and this

could suggest that these participants had limited interactions or mobility during their pre-university schooling and lives.

It is important to understand students' expectations or aspired valued functionings of higher education as they are helpful in defining the relationship between students and their teaching and learning environments, as well as achievement of their well-being. As Biggs (1996) observes, a 'learner brings an accumulation of assumptions, motives, intentions, and previous knowledge that envelops every teaching/learning situation and determines the course and quality of learning that may take place' (p. 248).

With their diverse expectations of university life, the following sections present findings on participants' experiences in law school and whether or not their expectations were met. The first section focuses on the classroom experiences of these participants. However it is important first to give a brief description of the three law schools.

As I stated in chapter 4, the participants in this research had graduated from three different law schools (see table 1). These law schools were semi-autonomous in the sense that they had separate administration and tuition blocks, libraries and residence accommodation specifically for law students. With regards to gender composition, participants recalled that there were more male than female lecturers across the three schools, a few of whom held professorial titles. However, there were gender disparities among the student bodies. On the one hand, the law school of university Z had more women than men students (almost three quarters). On the other hand, law schools of Universities X and Y had more men than women students overall. However, participants noted that when the student body is categorized as regular and parallel, there were slightly more women than men student enrolled in the parallel programmes, while there were slightly more men than women students enrolled in the regular programmes. Given these similarities and differences, how did women students experience these law schools?

6.2 Classroom experiences

Tinto (1997) argues that most of a student's educational experience occurs in the classroom because it is here that students integrate with their lecturers and other students to shape their learning experiences. In this regard, I explored participants' perceptions of their own participation levels, as well as their perceptions of who between men and women students participated more in classroom activities. But first, to understand student engagement in the classroom, I asked the participants to recall the various modes of teaching that were employed in their law schools.

6.2.1 How we were taught

All participants stated that their law schools had employed two main methods: note-dictation and debate.

‘Generally, it was note-dictation...we [students] copied the notes and then read them later on our own.’ (Manaan, 05/02/2015)

‘At undergraduate...most lecturers came in...dictated notes...and went away.’ (Lilly, 08/01/2015)

‘A majority[of the lecturers]used to...dictate notes. We just copied.’ (Moore, 21/01/2015)

‘It was note-dictation. We spent more time writing notes instead of listening to...the lecturers.’ (Jully, 29/01/2015)

Participants observed that this mode of teaching limited students’ active participation and engagement in the classroom as reflected in the following quotes.

‘They [lecturers] never explained the concepts before dictating the notes.... And also because the lectures were long, students got exhausted from writing notes...That might explain why we had very few questions after the class.’ (Kari, 14/01/2015)

‘We spent more time writing notes. There were very few opportunities to ask questions or seek for clarifications.’ (Kaya, 09/01/2015)

‘In note-dictation, only a few students benefited. At the end of the day it was upon individual students to go to the library to read more.’ (Coco, 28/01/2015)

The second mode of teaching across the three law schools was a form of debate.

‘[In a] few courses, lecturers would give us hand-outs to read in advance...When the lecturer came to class, we discussed what we understood and what we did not...these courses were engaging students among themselves and also with the lecturer’ (Kari, 14/01/2015)

‘Some lecturers made their classes like a debate. For example, they would give you an article or notes to read in advance. During class time, they grouped students into various groups to discuss that article. The lecturer’s work was to facilitate the discussions.’ (Yuki, 04/02/2015)

‘Some lecturers used to tell us what to read in advance or give us a topic...When the session was on, the lecturer would introduce the topic and then open the floor for discussion. I enjoyed these sessions because I learnt a lot from other students.’ (Kaya, 09/01/2015).

From these accounts, debate created more contact opportunities between students and lecturers and also among students themselves. Students also spent more time and energy reading and preparing for these classes, which in turn increased their knowledge and information bases. Thus, we can argue that students learnt and developed more during debate when compared to note-dictation. While debate promoted and enhanced students’ active participation, it should be noted that it was rarely used as illustrated by the participants’ use of the words ‘few courses’ or ‘few lecturers.’

Given the above modes of teaching and how they affected student’s overall participation, I asked the women to recall whether they themselves participated in classroom activities.

6.2.2 Participating in class activities

All participants stated that participation in class activities was voluntary. Eight of the ten women took part in these activities. They attributed their active participation in class to their desire to learn and pass with good grades, for example

‘I was passionate...I wanted to learn...that is why I participated in both class and club activities.’ (Yuki, 04/02/2015)

‘If I had a question I raised my hand and asked it. And if we had group work I would be involved. As I said my first goal in law school was to pass and I was determined to do so.’ (Moore, 21/01/2015)

‘I asked questions, I attempted to answer others. If I got a question wrong, I was corrected...I learnt more that way.’ (Manaan, 05/02/2015)

‘I was not the type of girl who kept quiet. I asked questions and sought for clarifications.’ (Kaya, 09/01/2015)

These excerpts demonstrate the critical role individual determination plays in enabling students to learn and develop, even when the surrounding circumstances are not conducive.

The two women who did not participate in class had this to say:

'I never raised my hand to ask questions because I never wanted to sound stupid. I never had that courage.' (Lilly, 08/01/2015)

Thus, lack of courage prevented Lilly from active engagement in the classroom. She attributed this to limited knowledge and information on the subjects being taught. On her part, Coco's lack of interest in learning prevented her from participating in classroom activities, especially in junior years of law school.

'Honestly, I did not care. All I did was to go in sign the attendance list, take notes or listen to what other students said and walk out...I was worried of things outside the classroom like parties and travels.' (Coco, 28/01/2015)

I then sought to understand participants' perspectives on who between men and women students asked questions or volunteered to answer questions or comment in class. There were different responses depending on the type of law school attended.

Those who attended the high status public law schools whether as regular or parallel³⁴ students recalled that more men than women students participated in classroom activities.

'Boys. People always imagined that the boys had something to say. Although as I said earlier, I learnt that these guys just talked for the sake of talking...Sometimes they said irrelevant things. They just wanted to be seen or noticed. So they got vocal and overshadowed women students who, as I said earlier, were still afraid.' (Lilly, 08/01/2015)

'Men students asked more questions and also answered more questions. I can only remember a few ladies who used to ask questions or actively take part in class activities.' (Yuki, 04/02/2015)

'Men participated more. They were brave. Ladies were a little shy. Unless a lecturer picked up on them, they rarely answered questions.' (Manaan, 05/02/2015)

This differential and gendered participation in public law school was attributed to various factors. Firstly, all the seven participants who had attended the elite public law schools associated male-dominance in classroom participation with their gendered socialization.

'That is how the society socializes men and women. Men are socialized to be more confident, bold, active and always in charge. So they spoke more often. They were loud

³⁴ Parallel students are self-sponsored students in public universities in Kenya.

too so the lecturers noticed them easily. Girls on the other hand were quiet, or may be keen listeners. This is because girls are socialized to be quiet in public, and especially when they are in the presence of men.’ (Kari, 14/01/2015)

‘That is the way we were brought up, boys talk girls listen... most men are naturally bold and outspoken.’ (Moore, 21/01/2015)

‘Men were confident and usually loud and they never cared if they asked the wrong question or went out of topic...they were proving that they were men and always in control.’ (Coco, 28/01/2015)

Thus, from the above accounts, we can argue that gendered perceptions and expectations of what behaviours or actions are appropriate for men and women permeate institutions of higher learning and (can) curtail women’s substantive opportunities and freedoms to participate in learning activities (Unterhalter, 2006).

Secondly, six out of seven participants who had attended the public law schools stated that a majority of women students in their law schools lacked the courage to ask or answer questions. For instance,

‘Most girls were afraid...Some felt like the lecturer would not appreciate their comments, they were simply afraid of the unknown.’ (Moore, 21/01/2015)

‘Ladies cared a lot about what people said about them. Men never cared. They would ask questions even if it kept us longer in class. Girls did not. But then it restricted their learning because they had issues but they would not ask.’ (Maryl, 09/02/2015)

‘Women are naturally shy and they do not want to be embarrassed if they gave a wrong answer.’ (Coco, 28/01/2015).

These quotes illustrate how perceived lack of confidence or low esteem among a majority of women students in public law schools prevented them from active participation in classroom activities. It could be possible that most women students might have participated in classroom during their early days in law school and were met by embarrassment, which in turn led them to stop participating. Moore’s account also illustrates how internalization of misrecognition by some women students affected their participation in a negative way. Whereas lecturers are not explicitly hostile against women students, the practice of dismissing or failing to appreciate comments from women students affects their confidence, and thus makes them reluctant to engage in classroom activities. It also sends inert messages that women’s comments do not

matter and thus makes women invisible in the classroom. This illustrates the interconnectedness of confidence, recognition and student participation in the classroom.

Thirdly, three participants attributed women student's low classroom participation rates to lack of encouragement from the lecturers. Coco explained:

'The lecturers too played a role. If they saw the same students always asking questions, why didn't they encourage the rest to participate?' (Coco, 28/01/2015)

While participants from public law schools stated that men participated more than women as a result of the above factors, the three participants who had attended the private law school recalled having observed that more women than men students took part in classroom activities.

'Female students participated more because we were more than male students. And secondly, I think female students wanted to prove a point, we can do it.' (Jane, 21/01/2015)

'Most male students in our classes seemed uninterested and they used to sit at the back of the class. Female students were more and they used to sit at the front. So the chances of them being picked to ask or answer questions were high...of course, there were those few men who would ask or answer questions.' (Jully, 29/01/2015)

'Women talked a bit more than men. May be they had more questions.' (Kaya, 09/01/2015).

From the above quotes, women students' dominance in classroom activities in the private law school was firstly associated with their numbers. From participants' recollections, women students made up more than half to three quarters of their classes. As such, they had more chances than men students when it came to participating in class activities because they were a majority. Secondly, there was a perception that a majority of men students in the private law school were possibly the less-able students who sat at the back of class and seemed disinterested or withdrawn from classroom activities. This gave a majority of women students, who mostly sat at the front of the class, more opportunities to participate in class. Finally, there were perceptions that the women students enrolled in the private law school were hard-working and had the desire to learn and prove themselves, and were possibly more able than men students. These accounts seem to suggest that women students in private law school were committed and dedicated to their studies. While most participants seem to emphasize and use the difference between men and women to explain and legitimize gendered participation, the underlined part of Jully's account suggests that some men students were negotiating and deconstructing the dominant

discourse of men students' passivity in the private law school. It demonstrated the importance deconstructing discourses that homogenize students and paying attention to students' diversity and subjective experiences.

6.2.2.1 *Gender of the lecturer did not affect participation*

I sought to understand from the participants whether, and if so to what extent, the gender³⁵ of the lecturer affected class participation. All participants were very clear that the gender of the lecturer had no significant effect on classroom participation. These responses were typical:

'It was the approach of the lecturer not really the sex that influenced how students participated in class.' (Lilly, 08/01/2015)

'Students tended to participate more if a lecturer was friendly. I would say it was the approach of the lecturer that affected participation as opposed to gender.' (Kaya, 09/01/2015)

'What made students participate...was how good a lecturer was. There were some lecturers who encouraged students to ask questions or air their opinions.' (Coco, 28/01/2015)

Unlike the findings by Cassman and Pruitt (2005) and Mertz et al. (1998) which found that women students' participation increased in classes taught by women professors, findings of this study shows that the gender of the lecturer did not affect women students' participation rates. Participants emphasized that it was the lecturer's attitude or approach that affected class participation. Talking more about the lecturer's approach towards teaching, seven participants recalled that use of gendered or blatantly sexist remarks by some male and female lecturers affected students' participation in class. For example,

'Some lecturers will pick on you because of your hairstyle, make up or even dressing. This was especially with female lecturers. They will make nasty comments like, *that girl with a low cut top, that girl with Beyoncé-type of hairstyle* etc. So it will affect participation because then attention of the class shifts to the girl in question.' (Moore, 21/01/2015)

This was reiterated by Jane as follows:

'There is this day a certain girl was wearing some crazy hairstyle and she sat in front of the class. When the lecturer came in and noticed her, she was like *did you come to my class or*

³⁵ In this case, I used gender as a noun to refer to sex.

you were going to a modelling studio. That kind of dressing does not reconcile with someone who wants to be a serious lawyer...are you looking for a husband? She spent like twenty minutes talking about that girl and the way she looked inappropriate...That lecturer patronized that girl and she was affected for the rest of the semester.’ (Jane, 21/01/2015)

Elaborating on the effect of these comments on the individual student, Kaya stated as follows:

‘Those comments affected the individual students because they became the centre of focus. Even when they left the class, other students would continue to talk about it. I can say that those comments affected their interaction both in and outside the class.’ (Kaya, 09/01/2015)

These extracts illustrate how the use of humiliating comments that target women students not only affects their personal, social and professional development, but also their educational process as a whole because the lecturers seem to spend more time demeaning the affected student than imparting knowledge to all students. They also lead to embarrassment, negative self-evaluation and low confidence among the affected women students, which in turn may lead to their disengagement or withdrawal from active participation in academic environments. This evidence confirms the argument made by Wilson and Taylor (2001) that frequent use of sexist comments makes the classroom atmosphere hostile to women students, which in turn puts them at an educational learning disadvantage relative to men students.

Further, these accounts illustrate how some of the women lecturers keep gender relations in place instead of disrupting them. For instance, by making disparaging comments about women’s appearance or dress, the specific women lecturers were reinforcing gendered stereotypes of what is appropriate for women to wear. Furthermore, they were unconsciously passing messages to students in the classroom that it was acceptable to ridicule women based on their appearance or what they wear. This might have contributed to the incidences of sexual harassment women students experienced while outside the classroom (this is explained in section 6.3 below). While one can speculate that the intention of these women lecturers was to instill professional etiquette and conduct, publicly humiliating individual women students is unacceptable as it puts them at an educational disadvantage as explained above.

6.2.2.2 Class-size affected participation levels

Another factor that limited class participation was the size of the class. Seven participants recalled that their classes were too large to allow for meaningful engagement between the lecturer and the students.

‘We were in a classroom of about three hundred students. We did not have a microphone...it was so difficult to understand or learn under these conditions.’ (Coco, 28/01/2015)

‘We had classes of more than a hundred students. It was not possible for everyone to participate. The lecturer only engaged with those students who raised their hands and mostly it was those who sat in front of the class.’ (Jane, 21/01/2015)

Comparing her post-graduate class to the undergraduate classes in law school, Lilly stated:

‘Undergraduate we had a raw deal. How do you expect meaningful participation in a class of 200 plus students?’ (Lilly, 08/01/2015)

Thus from the participants’ recollections, three factors affected students’ classroom participation rates across the three law schools regardless of whether they were public or private. These were the large class sizes and limited resources; some lecturer’s negative attitudes towards students; and use of sexist comments directed at students, especially women students.

6.2.3 Choosing courses

I then sought to understand how students chose their courses in law school and the factors that influenced these choices. This is because Kumar argues that the courses students choose while in higher education have a significant effect on their future career aspirations and development (Kumar, 2009). Results reveal that during the first and second years in law school, all courses are compulsory as they introduce students to the basic and fundamental laws and principles in law. Law students start choosing courses in their third year of study.³⁶ These choices were influenced by various factors, for example

‘It depended on one’s interest. But of course there was the issue of grades...I needed a good certificate with good grades.’ (Manaan, 05/02/2015)

‘I chose courses that were aligned with my interest. However, my choices also depended on whether the lecturers teaching those courses were generous with grades.’ (Jully, 29/01/2015)

³⁶ According to the participants, the following courses were compulsory in their law schools: Law of Torts, Law of Contract, Criminal Law, Law of Evidence, Constitutional Law, Legal Systems and Research, and Jurisprudence. As I explained in chapter 1, this is a requirement by the Legal Education Act (RoK, 2012b), which regulates the provision of legal education and training in Kenya. Optional courses included Family Law, Law of Succession, Commercial Law, Administrative Law, Conveyancing, Equity and the Law of Trusts, Public International Law, International economic Law, Accounting for Lawyers, Energy Law, Law of the Sea, Labour Law, among others.

‘When choosing courses, a lecturer’s reputation in terms of giving good grades mattered a lot.’ (Yuki, 04/02/2015)

The above quotes illustrate that students’ course choices in law school were influenced by a combination of two factors. First, it was an individual’s interest in a particular course. Beyond personal interest in a certain course, students’ perception of the lecturer teaching that course played a key role in determining whether or not students chose it. Students tended to avoid courses that were taught by ‘mean’ lecturers who gave students poor grades. Participants stated that students desired good grades as they enhanced their employment prospects.

I also sought to understand from the participants whether there were courses that were chosen by more men or women students and if there were, what might have been the causes. All agreed that some courses in law school reflected gendered choices.

‘There were a few. Like *Gender and the Law* was concentrated by female students. Men shun away from it because it was labelled a “woman” course...You know male students tended to choose tough courses like insurance, intellectual property, accounting and so on. A majority of women chose non-complex courses.’ (Jully, 29/01/2015)

‘*Women in the Legal Profession* had 80% women...*Family Law* had more women...But courses like *Energy Law*, *Accounting for Lawyers*, and *International Trade Law* were for men...*Energy* you think of physics, *Accounting* you think of maths and these things are associated with men...there were few ladies in these courses.’ (Maryl, 09/02/2015)

‘*Accounting* had more men because it was all maths and calculations and as you know maths is a male domain...*Gender* and *Conflict of Interest* were dominated by women. They were about women, family and so forth.’ (Manaan, 05/02/2015)

When I asked the participants whether they had chosen ‘complex’ courses, only four responded in the affirmative.

‘I did *Accounting* but because I had already done accounting before coming to law school. Otherwise I would have avoided it.’ (Jully, 29/01/2015)

‘I took *Energy* and *Accounting* which had more men than women. But I was fine. I never felt threatened because there were more men.’ (Maryl, 09/02/2015)

‘I was interested in *Accounting*. I chose it. It was difficult but the lecture was very supportive.’ (Kaya, 09/01/2015)

'I did *Intellectual Property Law* because I liked it and the teacher was good.' (Moore, 21/01/2015)

Based on these accounts, one can argue that when courses are stereotyped as masculine or feminine and students internalize and use these stereotypes to make decisions on which courses to pursue, it may hamper the educational process. This is because some talents or potentials in certain courses or branches of law are likely to be lost or remain under-utilized by gendered course choices. This was illustrated by Jully's confession that she would not have chosen *Accounting* had she not been introduced to accounting before. The accounts of Moore and Kaya also illustrate the significant role lecturer's support plays in retaining women students in 'complex' courses. However, by choosing 'complex' courses, these four women were challenging and deconstructing dominant discourses of masculinity and femininity associated with courses in law school.

Further, these accounts demonstrate how the curriculum is a major site for relaying dominant power and gender relations in society (Morley et al., 2006). For instance, while there were gender-related courses in the three law schools (*Gender and the Law* and *Women in the Legal Profession*), these courses were optional. This suggests that gender and feminist issues are generally 'excluded' or marginalized from mainstream curriculum, which in turn hampers gender awareness in legal education.

To sum up, classroom experiences had a profound impact on the teaching, learning and development of participants, as well as other students. Although the two modes of teaching employed in the three law school were not always or obviously gendered, participation in classroom activities was gendered. In public law schools, more men than women students participated in classroom activities, while in private law school (with more women than men students), more women than men participated. Gendered participation in public law schools was attributed to gender stereotypes, lack of confidence among women students and non-encouragement from faculty. This evidence confirms the findings by Sifuna (2006) on some of the challenges facing women's equal participation in higher education. In private law school, women students' high participation rates was attributed to their numbers, as well as men students' perceived withdrawal from learning activities. The following diagram gives a summary of the classroom 'environments' that affected students' participation in the classroom across the three law schools. The red arrows signify that that particular factor had a gendered element.

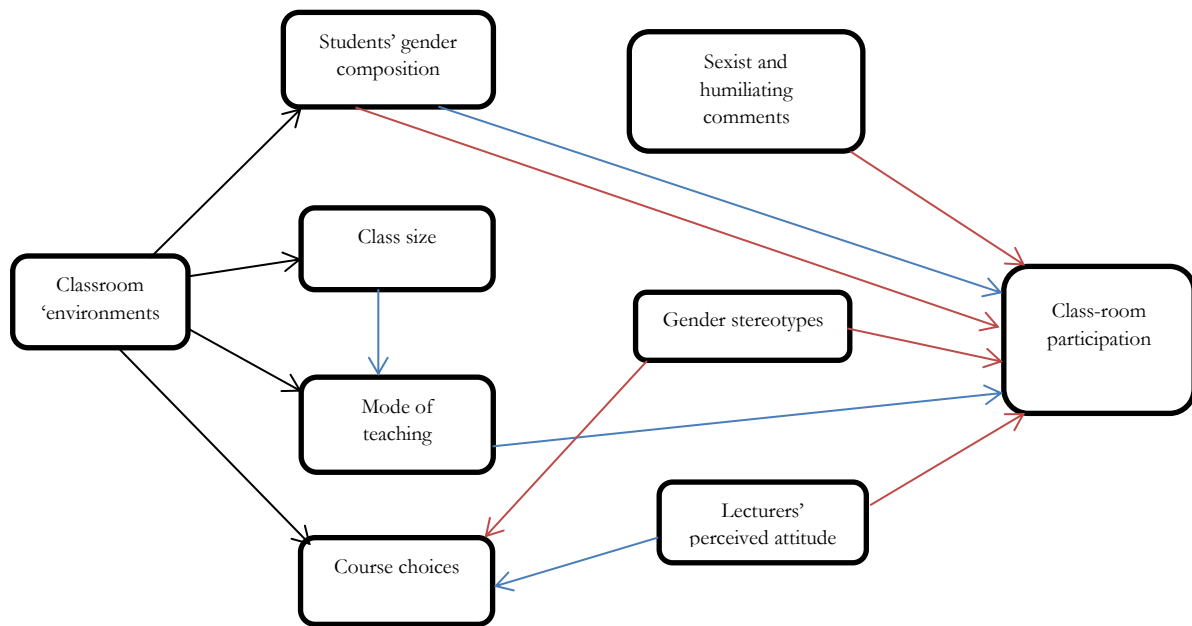


Figure 1: Diagram showing factors affecting women students' classroom participation and experiences

6.3 Experiences outside the classroom

Having presented classroom experiences of women students in law school as recalled by the participants, this section presents findings on the experiences of women students in spaces outside the classroom. Tinto (1997) observes that, just like the classroom environment, whatever happens outside the classroom has a significant effect on the learning and development of students. Studies have shown that participation in activities outside the classroom such as extra-curricular activities, and meaningful interactions with peers and faculty members in other university spaces have a positive impact on students' educational outcomes and personal development (see Kuh, 2003; Nathan, 2005; Terenzini, Pascarella & Blimling, 1996). In this regard, I explored participants' experiences and perceptions of the environment outside the classroom. In particular, I sought to understand whether and to what extent students participated in extra-curricular activities, as well as interacted here with their lecturers and peers.

6.3.1 Interacting with lecturers outside the classroom

All participants confirmed that there were opportunities to consult and interact with their lecturers outside the classroom.

'Lecturers had consulting hours. We knew those hours because they were written on our course outlines and also on the lecturers' doors.' (Coco, 28/01/2015)

‘Students were free to consult lectures outside class. For me, I approached lecturers sometimes when I needed them to guide me on career choices.’ (Moore, 21/01/2015)

‘Mostly, I approached a lecturer when I needed help with understanding certain concepts...I built a good relationship with those lecturers. Some of them became my referees and they are my friends up to now.’ (Jully, 29/01/2015)

The above extracts underscore the importance of student-lecturer interactions outside the classroom. For instance, they give students opportunities to discuss academic matters, as well as their career goals. Further, they provide students with opportunities to build productive mentoring relationships with their lecturers, which are crucial for professional guidance and development.

6.3.1.1 Lecturer’s availability

While participants noted the importance of student-lecturer interactions outside the classroom, only five of them took advantage of available opportunities to consult or interact. According to the participants, one of the main factors that limited interactions was non-availability of lecturers after class hours.

‘Most of our lecturers were involved in other matters outside law school. They would only come to law school when they had classes. And they left as soon as their classes were over. If you attempted to see them, they would tell you how busy they are and request you to wait until next time.’ (Kari, 14/01/2015)

‘In campus...lecturers just don’t have only you as their job. They had other students and also other matters outside class and also outside law school. Most of them were lawyers with law firms or worked outside campus...finding them in school after class hours was difficult.’ (Manaan, 05/02/2015)

‘Lecturers...were busy. In addition to lecturing they were partners in law firms or were consulting in certain agencies...They were always in a rush. This reduced the chances students had to interact with them.’ (Kaya, 09/01/2015)

A majority of the participants attributed lecturers’ absence from law school to their being busy with other engagements outside law school. I sought to understand from them who between women and men lecturers seemed busier. While participants indicated that all lecturers were busy, three of them (Kari, Coco, and Kaya) observed that more women lecturers were busier than men lecturers. For instance, Kari stated thus:

‘Female lecturers were busier than male lecturers. For example, our conveyancing lecturer was really good. But you see, besides lecturing at our university, she was also lecturing in three other universities. She also had her own law firm where she was a partner... In addition she was married with children and a husband, this means she had to perform the wifely and motherly roles...finding her in law school was difficult.’ (Kari, 14/01/2015)

These three participants seemed to homogenize women lecturers as all married and keen on family. This could be attributed to the gendered practices existing in their societies, which seemed or rather assigned this responsibility only to women. By implication, they show how students’ evaluation of their lectures is influenced by wider societal gendered norms and expectations of men and women. Further, participants’ explanations appear to reinforce and perpetuate gendered perceptions that women are ineffective in discharging their professional duties because they cannot balance professional work and family. It could also be the case that since women lecturers were a minority, their absence from law school was easily noticed compared to men’s.

6.3.1.2 Lecturer’s attitudes

The second determinant of student-lecturer interaction outside the classroom was the attitude or behaviour of the lecturer. Coco explained:

‘Some lecturers used to tell us that their doors were open and we should feel free to visit them and consult. We felt welcome and most students would take advantage of that and visit them outside the class.’ (Coco, 28/01/2015)

While some lecturers would encourage students to interact with them outside the classroom as stated by Coco, two participants indicated that the lecturer’s attitude or comments inside the classroom prevented interactions outside the classroom.

‘There were other lecturers who would say, “*you guys no one will ever reach the international criminal court (ICC) to represent clients...I have been to the ICC and I don’t see any of you reaching there.*” That statement had the potential to demoralize most students....it lowered students’ esteem and aspirations. It crashed the dreams of others. I avoided approaching that lecturer outside the classroom because he was full of negative energy.’ (Jully, 29/01/2015)

‘Interacting with lecturers outside the classroom depended on how a lecturer treats students in the classroom. There was this lecturer if you said something wrong or

fumbled in her class, she (the lecturer) hurled insults at you “*Oh which route did you take to law school, or I wonder what type of lawyer you would make*”...that is why I never interacted with lecturers outside the classroom.’ (Lilly, 08/01/2015)

The above explanations illustrate that negative comments not only eroded students’ self-confidence and assurance to perform better or achieve their goals, but also led to poor student-lecturer relationships in and outside the classroom.

6.3.1.3 Worries about sexual harassment

A third factor that prevented women students from engaging with their lecturers outside the classroom environment were widespread perceptions of sexual harassment. This factor surfaced when I inquired whether the gender of the lecturer affected their decision to approach and engage with lecturers outside the classroom. Although all participants recalled that the gender of the lecturer had no effect on their decisions to interact with lectures outside the classroom, they were categorical that most women students were afraid of engaging with men lecturers outside the classroom environment.

‘There were these rumours about male lecturers and female students. You know sexual favours in exchange for grades...Most of these lecturers were known...if you were seen with such a lecturer, the other students would start talking about you that you were soliciting for a free grade...This made me feel like my right to learn was elusive.’ (Jully, 29/01/2015)

‘Worries about sexual harassment prevented most female students from approaching male lecturers especially in their offices. For example, my friend had missing marks and she went to inquire about the marks from the concerned lecturer, who happened to be male. That lecture wanted to sleep with her before he could give her the marks but she refused...she never graduated with us...It was cases like this that made female students to avoid male lecturers.’ (Moore, 21/01/2015)

While all participants agreed that women were victims of sexual harassment, three of them noted that this was not always the case. Kari and Moore recalled:

‘We also had cases where some female students seduced male lecturers to give them grades.’ (Kari, 14/01/2015)

‘There were few incidences where certain girls would dress in a certain way or talk in a certain way to entice men lecturers...But as usual no one saw that as sexual harassment.’
(Moore, 21/01/2015)

On the surface, Moore and Kari’s accounts seem to suggest that some women students perpetuated sexual harassment. However, given the gendered and male-dominated environment and the power relations between lecturers and students, as well as the prevalent ‘sex for grades’ culture in these law schools, it is difficult to see how men lecturers could be sexually harassed by their female students. Unlike female students who would be victimized for refusing sexual advances from their men lecturers, there was no consequence if a male lecturer refused sexual advances from his female student. In my view, some of these women may have been taking advantage of the gendered situation to obtain good grades (Shefer et al., 2012). Further, and as Odejide et al. (2006) put it, the practice of attributing fault to the victims of ‘transactional sex’ makes it difficult to address gender-based attitudes and institutional structures and relations that perpetuate these inequalities. Thus, we can conclude that while the opportunities to approach lecturers for personal or professional advice were open to all students, participants in this study were of the opinion that worries of sexual harassment and the widespread perception of ‘sex for grades’ culture, limited the opportunities and freedoms of most women students to approach and engage with most of their men lecturers outside the classroom. As a result, their freedoms to effectively learn, develop and achieve both as students and also as aspiring professionals were constrained. Thus, and as Kari stated, most women students had ‘more questions than answers’ and felt that their ‘right to learn was being curtailed.’

Besides skewed learning, perceptions of sexual harassment and the ‘culture’ of ‘sex for grades’ affected the image of women students. According to Yuki, men students started to question the good performance of women students.

‘Those rumours of exchanging sex for grades affected all women students. Most men students did not see women students as bright. If a woman scored a good grade, they sarcastically asked whether it was exchanged for sex.’ (Yuki, 04/02/2015)

Reinforcing this point, Maryl stated as follows:

‘You will hear boys gossiping about girls grades, especially when more girls are performing better. They (boys) will say those are sex grades...It used to annoy me because...it is like women are not capable of performing better unless they are helped.’
(Maryl, 09/02/2015)

Thus, men students took advantage of the 'sex for grades' culture to disparage women students' academic abilities. In the process, they reinforced gendered stereotypes that describe women as incapable and incompetent, which was further used to devalue and mis-recognize women students' educational accomplishments. This was explained by Jane.

'There was disrespect towards female students...Male students...were always insinuating that women used their bodies to earn the good grades. Those comments were not nice especially for the hard working female students.' (Jane, 21/01/2015)

From the accounts of these women and the disapproving tone they used while describing incidents and the effects of sexual harassment on their educational well-being, I could tell that they all valued their bodily integrity and had the desire to be treated with dignity. Further, they wished to be respected and recognized as capable students who could perform well. That is why, as most of them said, they avoided consulting those lecturers who were known to solicit for sex from women students.

Perceptions of sexual harassment were not limited to men lecturers-women students only. All participants recalled incidents where some men students had harassed women students.

'Some men students were nasty. If they were seated in a group and a female student passes by, they would make funny comments about certain parts of her body or even the way she dressed. Some of them would make funny noises as she approached and passed them. It was really annoying. Women walked past quickly and never talked to them.' (Moore, 21/01/2015)

'There was this 'culture' of senior male students wanting to take advantage of the first year women students because they were 'fresh'. They lured them into relationships and left them after sleeping with them. Some would get pregnant and drop out of campus. It was a bad culture and it used to happen every year.' (Coco, 28/01/2015)

When I inquired whether these cases were reported, eight of the ten women answered in the negative.

'Law school was predominantly male...Now you can imagine reporting a male to another male lecturer. They won't take it anywhere! In fact you will be victimized...what made the female students keep quiet was the fear of being victimized.' (Kari, 14/01/2015)

'Report to who? No one wanted to be victimized. We had accepted that was how life was. Men were being men. We just moved on with our lives.' (Coco, 28/01/2015)

While most cases of sexual harassment were not reported, two women recalled some incidents that had been reported.

‘I remember our Dean was taken to Senate for asking female students for sex in return for grades. But the case just ended like that and he still remained the Dean.’ (Coco, 28/01/2015)

‘There was a case where a lecturer refused to submit another lady’s marks to the Dean because she (the lady) had refused to sleep with him. It was reported but we never got to hear the end of it. I guess it was handled ‘diplomatically.’ (Moore, 21/01/2015)

These excerpts demonstrate how power relations intersect with gender to silence and/or mis-frame women students from articulating justice claims and seeking redress (Fraser, 2009). As Kari and Coco illustrate, silence about or non-reporting of sexual harassment incidents was attributed to fear of (re)victimization among the victims, and also to lack of trust in the validity of the complaint procedures because of male-dominance in law school administration structures. Given that most victims of sexual harassment were women, the silence and tolerance of incidences of sexual harassment had a gendered dimension of who was an acceptable target of sexual harassment. In other words, the silence sent a message that sexual harassment against women students was tacitly sanctioned. This was illustrated by Coco’s statement that ‘men were being men’ suggesting that it was normal for men to sexually harass women.

6.3.2 Participating in educational clubs and recreational activities

In addition to interacting with lecturers outside the classroom environment, I sought to understand what opportunities and freedoms students had to interact with each other. Participants acknowledged that they had extra and co-curricular activities through which they interacted with other students. These activities included sports, clubs, moot courts, legal aid clinics, law journal, just to mention a few. Participants stated that these activities were introduced to them during their first year of college and they could choose which ones to take part in depending on their interest as they were all voluntary. All participants except two (Maryl and Kaya) stated that they took part in one or more of these activities. The two attribute their non-participation to other engagements outside the university.

‘I did not participate in any of these activities because most of them took place in the evening when I was away attending classes at Strath.’ (Maryl, 09/02/2015)

‘I did not participate in any of these activities for the obvious reason that I was working part-time. Balancing between work and school was hard enough. I never wanted to add a

third strain to my already strained brain. I avoided extra-curricular activities so that I could have time to read.’ (Kaya, 09/01/2015)

For the eight participants who were involved in these activities, they stated that participation was valuable to them both personally and professionally.

‘It improved my reading and writing skills. I was not just reading, I was reading critically...I learnt interpersonal skill, how to relate with colleagues in the office, with clients and also the wider society. I also developed teamwork...I also learnt...how to manage my time between them and my school so that my academics do not suffer.’ (Kari, 14/01/2015)

‘At Kenya Model of United Nations (KMUN) we used to talk before so many people... This increased my confidence and my assertiveness. It also made me read widely and I became informed about global issues...I also met law students from other law schools and we would talk and exchange ideas.’ (Jully, 29/01/2015)

In addition, participation in some of these activities gave them a chance to apply theory in practice.

‘I was a member of legal aid. We could visit prisons or slums and talk to people there about their rights, and those who had legal issues we would advise them of their options in regard to the law.’ (Manaan, 05/02/2015)

‘Legal aid gave me the opportunity to apply law in practice. I was able to use the law I learnt in class to solve real legal problems.’ (Yuki, 04/02/2015)

Further, extra-curricular activities provided students with the opportunities to travel to new places and interact with diversity as stated by Jane.

‘In moot court competitions...I was able to travel to new places and meet new people.’ (Jane, 21/01/2015)

Besides, participants stated that involvement in activities such as sports boosted students’ physical and emotional well-being. The two participants who took part in sports’ activities had this to say:

‘For me sports came in handy to refresh the mind...They were therapeutic and they would restore my mind after the too much reading.’ (Moore, 21/01/2015)

‘Sports gave me that opportunity to escape away from the heavy work load of law school. You know shake my body up and get ready for the next reading. I always felt fresh and energized after sporting. And it also helped me to release stress and tension.’ (Coco, 28/01/2015)

The above accounts illustrate the importance of out of class activities on the personal, social and academic and professional development and achievement of diverse students. For instance, they gave students the opportunities to travel to other places, meet and interact with new people with whom they developed valuable social and professional networks. Further, they improved students’ legal knowledge and skills, as well as their confidence. As we saw in section 6.1, these were some of the valued outcomes that participants in this study were aspiring to achieve from their university life. Given the benefits gained from active involvement in academic and non-academic activities outside the classroom, I explored participants’ perceptions of who between men and women students participated more in these activities. The following responses were typical:

‘The gender disparity in the student body was reflected in these clubs except the public interest litigation where we had more women...I guess it is because women are more oriented to giving back to society than men...In law journal I was working with three men and I was the only lady...In sports, there were more men.’ (Kari, 14/01/2015)

‘Male students participated more especially in sports. You know most women will be like sport is for men...Like me I was kind of a tom boy so I fitted in. Girls want to maintain their feminine bodies...And of course there were also these other girls who rather do something else like reading instead of going for sports.’ (Coco, 28/01/2015)

‘I can only speak for the club I was a member of. There were more women students in human rights club because it was about giving back to society and it was more women-oriented.’ (Jane, 21/01/2015)

The above quotes indicate that composition of and participation in certain extra-curricular activities was based on gendered stereotypes and perceptions. Although these activities were voluntary and open to all students, gendered composition and participation influenced the treatment given to certain groups of students, for example women in male-dominated clubs. For instance, Moore recalled how gendered perceptions and expectations prevented most women students from participating in student governance and leadership in law school:

‘The politics I was talking about, I was an observer...we knew the female contender would win because she was very popular...This did not go well with most male students who were saying that they would not allow a woman to lead them. They disrupted voting, caused chaos and we had to call the elections off...All these happened because the popular candidate was a woman and not a man’ (Moore, 21/01/2015)

Moore’s example illustrates how misrecognition of women intersects with and affects their active participation and effective representation in law school politics and leadership (Fraser, 2008). It shows how gender inequalities in one aspect of women’s lives can and does contribute to inequalities in other aspects of their lives. For instance, misrecognition of women students’ ability to lead constituted women students as of less worth and not entitled to equitable participation as full members (ibid) of law school community.

So far, evidence presented in this section shows that men students dominated participation in outside class activities across the three law schools although there were instances where membership in certain clubs/group activities was gendered with more women students participating in care-oriented activities and more men students in leadership-oriented activities. Since participation in these activities expanded students’ opportunities to create valuable social and professional networks and improved their legal knowledge, male-domination in participation put women at an educational disadvantage. Further, normative gendered participation limited women students’ networks across other branches of the law, and as a result seemed to prepare most women students towards ‘choosing’ feminine career paths after law school.

6.4 Was law school environment ‘chilly’ for women students?

Writing on ‘chilly campus climate’, Hall and Sandler (1982, 1984) and Sandler and Hall (1986) state that while educational institutions are accepting women (both as students and professionals), subtle discriminatory behaviours and attitudes towards women may make women uncomfortable and thus prevent them from benefiting fully from education. Studies on gender and legal education suggest that over-reliance on the case-method or Socratic mode of teaching in law school, male-dominance in law school spaces and sexual harassment and discrimination are some of the factors that alienate women students and put them at a disadvantage. This section revisits and interrogates participants accounts of their experiences in law school to elucidate whether and to what extent their different law schools were ‘chilly’ for them, and other women students.

6.4.1 Being trained to be a lawyer

As we saw in sub-section 2.3.3, Socratic method requires law students to think on their feet and analyze facts in a linear and logical way (Mertz, 2007). According to Schleef, (2001), this method requires women law students to become or behave like ‘gentlemen’ by engaging in combative arguments, being assertive in their responses and opinions, as well as challenging their peers and faculty. These attributes usually conflict with women’s socialized identities and as such women law students feel alienated from the classroom environment that uses this method. Findings presented in sub-section 6.2.1 revealed that the three law schools did not employ Socratic method in their teaching. However, all participants recalled that the qualities and attributes of a lawyer they were being trained to acquire conflicted with their socialized identity of a woman. Yuki and Coco stated as follows:

‘In law school, there was this idea that lawyers were supposed to be aggressive and assertive. For me this was difficult because as a woman I was brought up and told to respect and obey my elders especially men. In law school, they told us that we must defend our client’s case regardless of who is in the opposing side. There was a lot of conflict because I felt like I was being trained to argue with my elders. (Yuki, 04/02/2015)

‘As a woman you have been raised knowing that you should be submissive and you don’t talk back at men. In law school, they taught us to be assertive, argumentative and authoritative. We were told to question or counter what the opposite party says...There was always a conflict.’ (Coco, 28/01/2015)

This conflict was explained by Jully as follows:

‘As a woman lawyer, if you are assertive, it is good for you and your case but the society out here will judge you, oh this one cannot be married because she will control her husband. And if you are submissive, oh this one is not a good lawyer. She does not know how to fight for her client’s case and so forth. There is always tension trying to balance when you demonstrate your woman attributes and when you demonstrate the lawyer attributes.’ (Jully, 29/01/2015)

Like Jully, most participants (seven) noted that they struggled to balance being a woman and becoming a lawyer. Given that all of them were practicing lawyers by the time of the interviews, I inquired how they managed this conflict. Two of them stated that they did not experience difficulties because they were naturally argumentative and/or assertive.

‘I do not consider myself a typical Kenyan woman. I am assertive, when I believe in something I just go for it. I never experienced any conflict so to speak.’ (Coco, 28/01/2015)

‘Personally, it did not affect me. I grew up being critical and always speaking my mind. These were some of the qualities that we were being told are necessary for one to be a good lawyer. In my case, there was no conflict because this is who I was. Maybe other women experienced difficulties.’ (Jane, 21/01/2015)

While Lilly acknowledged the difficulties women face as lawyers, she stated that she had no problem balancing the woman and the lawyer in her.

‘When I am at work I am a lawyer and when am at home I am a mother...It is a matter of balancing.’ (Lilly, 08/01/2015)

However, as Jully and Yuki explained, this was a tough choice and a difficult thing to do.

‘That is what the society expects from you, when you reach the doorstep of your house remove the hat of a lawyer and wear that one of a woman. How can you do that? Law is not a piece of cloth you remove and wear another clothe called a woman. Law is instilled in us, we breathe law, we talk law, we dream law.’ (Jully, 29/01/2015)

‘You need the power within to drive you. Otherwise you will suffer emotional stress...It is so to speak a man’s world and for us who are there we seem to be men. We have to be tough, act tough and talk tough.’ (Yuki, 04/02/2015)

Using the power within them, two participants stated that they decided to embrace the values and attributes of a lawyer that had been instilled in them.

‘As a lawyer, you are liberated from the shackles and chains of fear and intimidation. In you are instilled confidence and the ability to speak out for you and for others...For me, the society and especially my family had to take and accept the new me. I was not planning to behave like my mother or grandmother; you know keeping quiet, letting things be as they say for the sake of peace.’ (Kari, 14/01/2015)

‘I chose to be a lawyer...I do what I love, being a lawyer. I have learnt the rules of the game and I am playing by them. I do not listen to people or let what other people think or say about me affect my career and life goals.’ (Moore, 21/01/2015)

On her part, Maryl had this to say:

‘When I was in litigation, there was conflict. It was emotionally draining because I was not used to arguing and fighting with words. Now I am in commercial where I don’t need to engage in combative arguments. I am comfortable here. I think it boils down to what area of law you practice.’ (Maryl, 09/02/2015)

These descriptions demonstrate a subtle underlying assumption in the legal training approach that women students (and lawyers) ought to adapt the masculine culture of legal education and practice. Yet, most women students and professionals face challenges when deciding who between the lawyer and the woman in them should prevail as illustrated above. Nevertheless, personal characteristics and agency interacted and formed important conversion factors and enabled women in this study to become successful legal professionals, even though there were some who juggled between these two identities as they had to be lawyers in one space and women in other spaces. Others like Maryl chose areas of practice where this ‘identity’ conflict is minimal. This shows that while the masculine culture of legal education and practice affects all women as a group (as the finding of Bowers (2000) and Mertz (2007) indicate), it affects some more than others depending on their personal, social and cultural capitals.

6.4.2 Male-dominance in law school spaces

Studies have indicated that the smaller number of women both as students and lecturers contribute to the chilly climate in law school (Bowers, 2000; Guinier et al., 1994). As I stated in section 6.1, the gender composition of lecturers across the three law schools favoured men. These numerical disparities had different impact on different participants. For instance,

‘I don’t think it affected me. That was the state of affairs. There was nothing much that could be done about it.’ (Lilly, 08/01/2015)

‘We had like two women lecturers, the rest were men...I took it as a learning and motivation point. It made me think that one day I might want to get to the academy. You know work hard so that one day I could get into the academy.’ (Manaan, 05/02/2015)

‘For me, I saw a job opportunity. The few women in the academy motivated me. I wanted to study and go all the way so that one day I could also get to the academy.’ (Kaya, 09/01/2015)

Thus, under-representation of women lecturers in the law faculty did not appear to have a chilly effect. On the contrary, the smaller number of women lecturers acted as a conversion factor and fueled the interest to work hard and excel among three participants (Kari, Kaya and Manaana).

However, three women were affected not by the numbers but by the attitudes some of the women lecturers had towards women students. For example, Coco stated thus

‘What affected my learning was their attitude towards students not their numbers. I never bothered whether one was a female lecturer, as long as she showed hostility, I avoided her.’ (Coco, 28/01/2015)

This sentiment was reiterated by Jilly who stated as follows

‘I was already biased against female lecturers because of their negative attitudes...they were mean, not approachable and just too full of themselves.’ (Jilly, 29/01/2015)

‘I just wished all [women lecturers] would be friendly and approachable. Sometimes, there were issues we faced as female students and we rather talked to a woman than a man lecturer. And because a majority of the women lecturers were mean and hostile, we [women students] felt side-lined. First, we could not approach men lecturers because of sexual harassment, and second we could not approach women lecturers because most of them were mean.’ (Moore, 21/01/2015)

As participants noted, negative attitudes exhibited by some of the women lecturers towards women students affected their learning and development, and to some extent contributed to their feelings of alienation. However, it is important to note that students’ perceptions of their lecturers are affected by their culturally instilled and implicit attitudes about gender (Basow, 2000). For instance, research has shown that women lecturers receive lower ratings than men lecturers as a result of gender stereotypes, and as such they must work extra hard to ‘prove’ themselves and their competence (Yim & Bond, 2002). This often involves being ambitious and assertive. Yet, these qualities are considered masculine and women professors or lecturers who exhibit them are judged harshly by students because women are supposed to be ‘tender’, ‘warm’ and ‘responsive’ to students (Arbuckle & Williams, 2003). Thus it is not surprising that participants in this study perceived their women lecturers as ‘hostile’, ‘unapproachable’, or ‘full of themselves’. It could be that some of these women lecturers had acquired the masculine traits and qualities as required of any ‘competent’ and ‘successful’ legal educationist or practitioner. But, students might have misconstrued these qualities as unfriendly or unreceptive because they did not fit to the gendered stereotypes and behaviours of women. This, however, does not mean that I ignore or excuse or sanction negative attitudes of women lecturers towards women students. As the evidence presented in section 6.3 demonstrated, negative attitudes from lecturers affect students’ effective participation and interaction in and outside the classroom. Therefore, there is a need for all lecturers, including women, to examine their teaching approach

and behaviours to ensure that they do not perpetuate inequalities and affect students' educational development and well-being.

Moving on to the gender composition of the student body, this had an impact on women students' classroom participation in the private law school. As we saw in sub-section 6.2.2, participants from the private law school attributed women students' dominance in classroom activities to their greater numbers. This confirms the argument by Brown (1999) that when a class is women-dominated, women feel free to speak up and take risks. While this was true for women in the private law school, it was not the case for women in the parallel wing of university X's law school. Although women students were slightly more than men students in the parallel programme, men students still dominated participation in law school activities. This was linked to men's aggressiveness, women's lack of confidence and non-encouragement from faculty. These factors, when they occur frequently, generate cumulative disadvantage that limits women students' equal participation and achievement in educational processes. In addition, there was evidence that men students dominated participation in extra-curricular activities and student clubs across the three law schools. Although membership and participation in these activities and clubs was voluntary, participants observed that some clubs were gendered. This might have limited the choices of women students when deciding to take part in clubs that were male-dominated. This was illustrated by Moore's example of a woman student whose election to a leadership position in student affairs was disrupted because she was a woman.

6.4.3 Sexual harassment and sexist comments

According to Sandler (2005), sexual harassment and sexist comments are other factors that contribute to the 'chilly' climate experienced by women students in higher education. As I have highlighted in sub-section 6.3.1, a majority of the victims of sexual harassment and sexist comments across the three law schools were women students. Yet, evidence indicated that there was reluctance among the victims or the witnesses to report these cases. This resulted from the fear of victimization or the perception among many participants that the administration (which was male-dominated) would not take any action or measures to redress the sexual harassment. This evidence confirms the findings by Morley (2011) that acts of sexual harassment 'undermine and destabilize women and keep them in positions of fear and powerlessness' (p. 108). In this study, powerlessness among women students was reflected in statements such as, 'we had accepted that is how campus was', or, 'girls got used to it'.

While participants in this study stated that most incidents of sexual harassment were 'naturalized' or implicitly tolerated in their law schools, they nevertheless noted that these incidents affected their well-being. For example,

‘They made me fear especially if I was approaching a group of male students. You know they could wink or make funny noises or comments. They made me feel uneasy.’ (Jully, 29/01/2015)

‘I used to be afraid walking alone on campus when I was not with my girls. It was just a fear. So I can say maybe it affected my freedom of movement around campus especially if I was alone.’ (Manaan, 05/02/2015)

‘My freedom of movement was really curtailed. There are days I would get late going to the library because I would see those boys sitting downstairs and I had to wait for them to go away.’ (Moore, 21/01/2015)

Thus, sexual harassment (whether actual or perceived) instilled fear of physical safety and psychological violence among most women students, and consequently limited their freedom to move and interact freely around campus spaces. These findings confirm the findings of Carroll and Brayfield (2007) that sexual harassment is rife in contemporary law schools, and that it continues to marginalize women students from learning activities. From this perspective, we can argue that while access to campus facilities such as the library was open to all students, worries of sexual harassment might have limited this access for most women students. In the long-run, this was likely to limit their full participation in campus activities, and thus their development as students and aspiring legal professionals. Thus, sexual harassment contributed to the chilly climate by excluding or marginalizing women students from certain educational and developmental opportunities. This is illustrated in the diagram below.

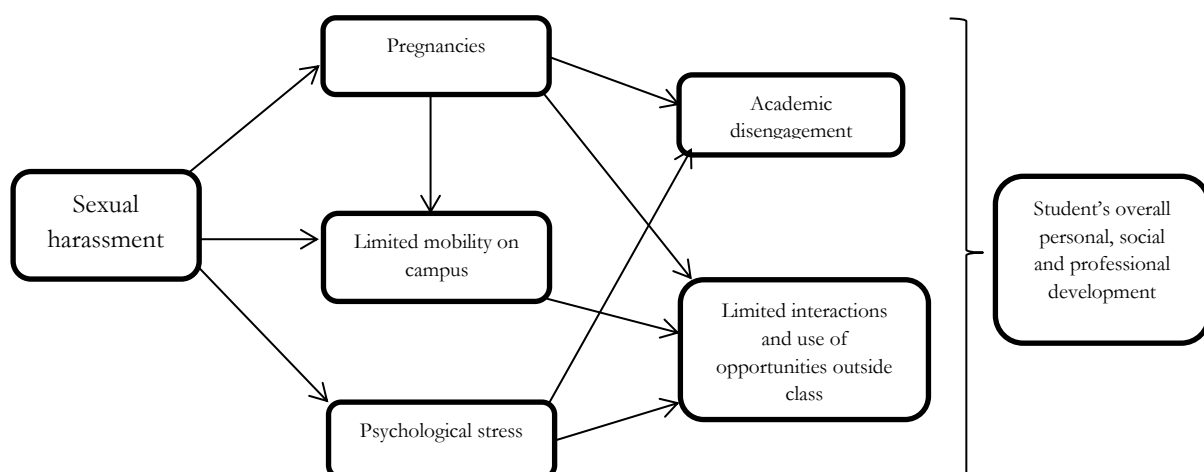


Figure2: Diagram showing the impact of sexual harassment on women students' well-being

Conclusion

In this chapter, I have presented findings on the experiences of women students in law school in two spaces: classroom and outside classroom environment. As Entwistle (1991) observes, exploring the experiences of students in higher education is valuable in our understanding of what needs to be done to improve teaching and learning in institutions of higher learning. Evidence shows that while there are opportunities and freedoms to access and participate in law school, most women students experience alienation and hostility and may feel like outsiders within law schools. This was illustrated by women's limited participation in class and outside classroom activities as a result of gendered assumptions of incompetence and lack of confidence, sexual harassment and use of sexist language and comments, as well as negative attitudes towards women students. In other words, the evidence presented in this chapter illustrates the subtle ways through which women are excluded from within (Morley et al., 2006), indicating systemic failure in addressing entrenched gendered norms that lead to inequities. Although increased numbers of women seem to have made a difference in the private law school, overall evidence demonstrate that only allowing more women to access institutions that are inherently gendered in their culture and practices is counterproductive to the quest for gender justice and women empowerment. Thus, these findings suggest that in order to address deep-rooted forms of gender inequality, law schools and higher education institutions more generally need to look beyond statistical parity and consider how diverse students especially women experience and perceive their educational environments. This is important because students' experiences in higher education 'build over time into inter-subjective patterns and shape what kind of girls and boys, men and women we recognize ourselves to be and what we believe ourselves able to do' (Walker, 2003, p. 169). Thus, there is a need to transform institutional cultures in law schools that perpetuate subordination and or exclusion of women students in the learning experience.

CHAPTER 7: LIFE AFTER LAW SCHOOL: OPPORTUNITIES, CHOICES AND ACHIEVEMENTS

Introduction

In the previous chapter, I investigated the participants' experiences while at law school and presented findings and evidence on what opportunities and freedoms they had to participate in law school activities. In this chapter, I present findings on their lives after law school, exploring the relationship between women's higher education and their valued capabilities and functionings. The chapter is divided into two sections. The first section examines the career paths these women took after law school, and the extent to which law school prepared them for these paths. The second section explores the value these women attached to their education for their personal and social lives. More specifically, the section describes what higher education enabled these women to do or become, and what it did not.

7.1 Early professional lives

7.1.1 *Securing pupillage*

The women's career lives commenced with the pupillage programme,³⁷ which is a pre-requisite before they can gain admission to the legal profession in Kenya. All women except Manaan indicated that they undertook and completed their pupillage in private law firms.

'For my pupillage, I was in a civil litigation law firm. I wanted to do civil litigation when I was getting out of campus. Initially it was not easy to find a placement. It took me like three months before I could secure pupillage.' (Lilly, 08/01/2015)

'I wanted to undertake my pupillage at an NGO. But when I talked to a friend of mine who was then working in an NGO, she advised me to undertake pupillage in a private firm first to gain exposure to all areas of legal practice. I followed her advice and looked for pupillage in a general practice law firm.' (Moore, 21/01/2015)

'Pupillage was kind of where you got the opportunity first. Most people stayed for long periods before getting pupillage. So for me it was the firm that gave me the opportunity to do pupillage. It was not about interest. Once I got in, I gained experience, developed interest in a particular area and then started to pursue it.' (Jane, 21/01/2015)

'I did my pupillage in an NGO. When I was in law school, I had a keen interest in human rights. I did my public interest course in this NGO which dealt with human rights...I

³⁷ This was explained in chapter 1 (see *supra* note 9).

requested the director if I could work there after I clear from law school. She agreed. So after law school, I started working there, I did my pupillage there and I am still working there.’ (Manaan, 05/02/2015)

As the above accounts suggest, the early career pathways of women were influenced by various factors. The first factor which most women considered was their interest to work in a particular branch of law, which they had developed while in law school. However, there were some whose early career paths were shaped and influenced by friends, as Moore’s excerpt shows. Nonetheless, she had the freedom to choose after considering the opportunities private practice would have presented to her as she began her career in law. For some women like Jane who had not developed an interest in any particular branch of law while in law school, they accepted what the job market offered. In any case, pupillage was a pre-requisite to join the legal profession and it never mattered where she completed it.

As these women talked about their pupillage, it was clear from their conversations that it was difficult to secure a place to undertake pupillage since the legal labour market was ‘flooded’. For instance, it took Lilly three months to secure a place in a firm to undertake pupillage. Limited placement and/or employment opportunities in the legal labour market forced some of the women to accept whatever the market was offering as Jane’s quote above shows. Kari shared her experience as follows:

‘There are expectations and then there is reality. Of course I wanted to work in the corporate commercial world...I made several applications to various law firms and I got a job offer at this general practice. I jumped on it without thinking. At that particular time I needed money more than working in my area of interest.’ (Kari, 14/01/2015)

Therefore, employment opportunities available in the labour market also had a bearing on the early career paths some of these women took. With limited employment opportunities, five participants reported that the networks they had created while in law school played a key role in enabling them to secure pupillage positions. This was in terms of either referring them to various offices that had vacancies or actually giving them the opportunity to undertake pupillage in their law firms. For example,

‘During judicial attachment, I made professional networks and these are the networks that helped me to get pupillage and my current job.’ (Coco, 28/01/2015)

‘It is hard to get a good job out here. So I used one of my networks to refer me. All I needed back then was a job to keep me going. That is how I got my job in this law firm. I did my pupillage here. Now I am an associate.’ (Moore, 21/01/2015)

These excerpts reveal the importance of social capital (formal and informal networks, and active interpersonal connections). As new graduates from law school, these women tapped the social networks they had either already or formed during law school to secure pupillage positions. Thus, we can argue that the rich social capital embedded in the friendships and networks these women had formed enabled them to have access to relevant information about available pupillage or employment opportunities, and were able to use that information to their professional advantage. These findings confirm Sen’s (1992) argument that the relative advantages individuals enjoy in society have a bearing on their achieved functionings. However, we recall from chapter 6 that law students formed their social and professional networks from their interactions outside the classroom. Yet, evidence revealed that worries about sexual harassment prevented most women students from interacting freely outside the classroom environment, which in turn constrained their freedoms to form and develop necessary social networks and friendships. This translated to low social and professional capitals from which they could benefit. That’s why Kari and Lilly took longer periods to secure pupillage since they had fewer social networks compared to Manaan for example.

7.1.2 Pupillage experience

Whether they undertook pupillage in private law firms or an NGO (in the case of Manaan), all participants stated that pupillage gave them the opportunity to learn and apply law in practice. These replies were typical.

‘I was fresh from law school and still grappling with the practical aspects of the law. Pupillage induced me into the legal practice. My experience was good. I learnt a lot. We used to go to court with the associates and we learnt the court procedures by observation. Also in the office we used to do a lot of research and drafting pleadings. I learnt a lot during pupillage.’ (Jully, 29/01/2015)

‘In law school, no one tells you this is what you expect in real practice and this is how you handle it. Most of these things I learnt them during pupillage when I used to accompany my master to court...Pupillage gave me the opportunity to learn court process and procedure. I also learnt a lot of drafting and research. It was so fulfilling.’ (Kaya, 09/01/2015)

Therefore, pupillage introduced these women to practical aspects of the legal practice such as legal research and drafting, procedures and processes, as well as professional etiquette and ethics to be observed both in court and in the advocate's chambers. Since the programme was closely monitored by their pupil masters,³⁸ these women became more knowledgeable in legal practice.

As I stated in chapter 1, law school is a gatekeeper to the legal profession. It forms a space where professional knowledge, skills, attributes and values of the legal profession are inculcated into the minds of the aspiring lawyers. Given that all the women talked highly of their pupillage experience, I sought to understand whether and to what extent law school prepared them for their early legal careers. All of them expressed dissatisfaction with the kind of training they had received at their different law schools. In particular, they emphasized that law school did not create an environment where they could apply legal theory and knowledge in practice.

'Nothing practical was done in law school. For example, engineering students went to buildings or roads, medical students went to hospitals, law students went to no law firms or court unless you were in legal aid clinic and this was not compulsory. To some extent, I came out of law school feeling like a fish out of water.' (Yuki, 04/02/2015)

'Law school did not prepare me for practice. It gave me just theory which is a very small part in practice. No one will ask you to define a contract in practice. In practice, they expect you to draft a good contract that safeguards the interests of your client. We were not taught the 'how' in law school. They just gave us the 'what.' I was introduced to the practical aspects of the law...during my pupillage.' (Coco, 28/01/2015)

These perspectives illustrate that law schools put more emphasis on abstract theory rather than practice. Whereas the participants agreed that it was important for them to learn theory, they stressed that it was equally vital for them to understand how to apply the theoretical aspects of the law when addressing concrete issues that they encountered in actual practice. The statement by Yuki that she felt like 'a fish out of water' illustrates that she was not fully prepared for legal practice. No wonder July in her earlier statement (see previous page) noted that she was 'grappling with the practical aspects of the law' during her early days in the pupillage programme. These findings resonate with the argument made by Edwards (1992) that many law schools produce graduates-men and women- who are under-prepared for legal practice because they lack the 'how' to practice.

³⁸ A pupil master is a practicing advocate who accepts to train pupils in his chambers in preparation for their admission to the bar. According to the Advocates Act, a pupil master must have at least five years of professional experience in the major areas covered during pupillage period (see *supra*, note 9). At the end of the pupillage period, the master sends a confidential report to the Kenya School of Law on the performance of the pupil during the pupillage period.

While all the participants were of the view that law school did not give them sufficient opportunity to learn the practical aspects of legal practice, I tried to find out whether there were any skills that were taught at law school that they applied in their early professional lives. The following answers were typical.

‘Writing and research skills. These ones come in handy when I am drafting opening and closing submissions...Secondly, oratory skills. These come in handy when I am doing oral submissions in court...to persuade the judge...Another one is being logical and analytical. I have to analyze the facts of my client’s case, the law that is applicable to it, and whether we stand a chance in court.’ (Kaya, 09/01/2015)

‘As a lawyer you cannot avoid writing and research. Even those in corporate world who don’t go to court, they write and do research. Law school also taught me presentation skills which I apply when I presenting my clients’ cases in court. Thirdly, analytical and critical skills are part and parcel of all lawyers and for me I experienced them first hand in campus and I am applying them now.’ (Manaan, 05/02/2015)

‘I learnt legal reasoning, legal judgment and critical analysis. I am able to reason practically or logically in all situations that face me. I ask ‘what if’ a lot. I don’t take things the way they are presented to me.’ (Kari, 14/01/2015)

The above quotes show that these women gained valuable professional skills which they applied in their different areas of legal practice. These included legal writing and research skills, legal reasoning and judgment, critical analysis, as well as oratory presentation skills. It should be noted that, and as the evidence presented in section 6.3.2 demonstrate, most of the professional skills were gained from their participation in extra-curricular activities such as moot courts, legal aid clinics, law journal among others, although some of them were gained in classrooms. Given that participation in these activities was gendered and often male-dominated, women students might not all have benefited fully. Thus, there is a need to encourage all students, especially women, to take actively part in extra-curricular activities.

7.1.3 From pupillage to legal profession

Upon completing their pupillage, the women successfully petitioned³⁹ to be admitted as legal practitioners in Kenya. I asked them to recall where they had first worked as advocates. Six of them (Manaan, Moore, Yuki, Coco, Lilly and Kaya) stated that they were employed by the firms or organizations where they had undertaken their pupillage.

³⁹ See supra note 10 for the form and process of petitioning

‘I am still working at the law firm. I was retained after pupillage. I don’t think I will change anytime soon unless I get the opportunity to further my studies.’ (Moore, 21/01/2015)

‘After pupillage, I made an application for employment in my organization because I liked my work and I was satisfied. I was employed and I have been working there ever since.’ (Manaan, 05/02/2015)

Jully, Jane, Maryl and Kari had different stories, however.

‘After pupillage, the firm could not retain me because they had enough employees. I had to look for another job. I made applications to various offices without any response. I remember I was out of work for two months. One day my friend told me that *Green* (a large corporate firm) was hiring lawyers. I applied and I was called for interview and I got the job. It was a blessing because I had always wanted to work in a corporate firm.’ (Jully, 29/01/2015)

Jully’s account demonstrates how employment rates in a particular profession’s labour market can constrain individuals from achieving their economic well-being. In her case, few employment opportunities in the legal labour market left her unemployed for a period of two months. During this period, she was anxious because she could not support herself and consequently had to depend on her parents for personal and economic sustenance. This economic and social dependence limited her mobility, and the ability to exercise control over her life. She explained:

‘You know I had started feeling worked up asking for money from my parents for everything. I just needed a job and my own money. When I got this job, I was relieved. It is like I started to live again.’ (Jully, 29/01/2015)

While Jully left her pupillage because of lack of employment opportunities, the desire to earn a better income so as to lead a quality life, as well as work in her preferred area of legal practice compelled Jane to look for better employment opportunities.

‘During pupillage, the pay was not good. Also the firm did not have a lot of commercial matters which is what I was interested in. So I decided to look for a better job. I got this one and I am happy. I earn more and I deal mostly with commercial matters.’ (Jane, 21/01/2015)

Unlike Jane and Jully, Maryl quit her work after pupillage as a result of sexual harassment.

‘I quit my job immediately after pupillage because of sexual harassment. I would go to my boss’ office to get directions and the guy would be like *oh come give me a kiss*. And I would tell him *excuse me sir that is unprofessional* and the guy used to get mad at me. Can you imagine? This continued for some time and I started to avoid him. Once I finished my pupillage and he signed my forms, I quit. I had no job but I had preserved my dignity.’ (Maryl, 09/02/2015)

Similarly, Kari provided a detailed account on how repeated incidences of sexual harassment by her pupil master led her to quit her job after pupillage.

‘The law firm had two partners both male. I was the only advocate employee. After some time, the managing partner started passing sexual advances to me. He was my boss so I had to go to his office every day to get instructions or to report on the progress of certain matters. He would take this opportunity to pass his advances. It started as jokes, you know ‘I had a bad morning please give me a hug,’ I would hug him then I go... This went on for some time. Now I started realizing that this guy was sexually harassing me. I told him to stop and he temporarily stopped. After a month or so he started again, he would hug me so tightly and even sometimes he would attempt to kiss me. I was in a dilemma, either to accept his advances and keep my job or to say no to him and lose my job. I decided to quit. I went home to take care of my son and my husband.’ (Kari, 14/01/2015)

As the above quotes illustrate, the working environments of these two women (Kari and Maryl) were not friendly as they were subjected sexual harassment. This affected their psychological and economic well-being. It also limited their freedom of movement and association within the office spaces. Their predicament was exacerbated when they had to choose between retaining their jobs and preserving their bodily integrity. When they chose to preserve their dignity, they lost their jobs, which in turn affected their professional development and economic well-being. Their experiences confirm the findings of Brockman (2001), Rhode (2001) and Wambua (2013 who found that sexual harassment within the legal profession has negative repercussions on women such as job dissatisfaction, loss of employment, anxiety and irritation. Maryl and Kari demonstrated their job dissatisfaction by resigning. However, as their explanations show, they valued preserving their bodily integrity, self-respect and dignity, as opposed to the financial or professional benefits they would have derived by remaining in their ‘hostile’ working environments.

I inquired from these two participants whether they had reported these cases to the relevant authorities. They replied as follows:

‘After quitting my job, I sued him (the master) for sexual harassment and constructive dismissal from work. It was during this time I realized that this guy was known for sexual harassment. Most of the people I talked to advised me to settle the matter out of court because I was a young advocate and I had a reputation to protect. So we settled the matter out of court.’ (Kari, 14/01/2015)

‘The guy was too big a name in our profession to fight. I was just a pupil, who would have listened to me? Probably they would have mocked me that I had been paid to bring him down and so forth. So for me court was not an option. I quit and left him to the hands of God.’ (Maryl, 09/02/2015)

Thus, Kari exercised her agency and brought the perpetrator to justice. On the contrary, Maryl felt powerless because of her position (being a pupil). In her case, power relations intersected with gender to constrain her agency. While Kari was willing to fight the court battle for sexual harassment, there also seemed to be a subtle ‘silencing’ power from the senior lawyers that she consulted. Instead of supporting her to fight for her rights and probably deter the perpetrator from harassing other young women legal professionals in future, the senior lawyers were worried that the case would damage Kari’s reputation as an upcoming legal professional. They advised Kari to settle the matter out of court so as to protect her image. It was the same desire to protect one’s image and reputation within the profession that also prevented Maryl from reporting her case. This was illustrated by her fear of being ‘mocked’ as someone who had been ‘paid to bring him down.’ This shows that Maryl would have liked to report the matter but was constrained by the fear of being scorned or criticized by other members of the profession. Her use of words such as ‘who would have listened to me’ also illustrates that the legal fraternity had turned a blind eye to sexual harassment, especially if the aggressor is a known powerful legal figure. In Maryl’s case, constrained agency amounted to disadvantage because she did not have a *real* choice. This confirms Narayan's (2005) assertion that fear is disempowering because it freezes action. We recall from chapter 4 that Kari had worked so hard, including transferring from the faculty of commerce, to gain admission to pursue a career in law. Repeated incidences of sexual harassment at a time when she was launching her career in law constrained her career dreams and, as she felt, rendered her previous efforts futile. She recalled:

‘I had given up from legal practice. I wanted start a business. I never wanted to practice [law] again.’ (Kari, 14/01/2015)

Maryl also reiterated how sexual harassment affected her professional development.

‘It discouraged me from the legal profession. I was out of practice for some time. I never wanted to work in a law firm again.’ (Maryl, 09/02/2015)

However, support from family and friends acted as an enabling factor for these two women to go back to legal practice.

‘My husband encouraged me. He...would tell me how a great lawyer I would become. He restored the faith of practice in me. That is how I was able to come back to practice. I had actually given up.’ (Kari, 14/01/2015)

‘After sometime, I met this friend from church and when I shared my story with her, she said I could work in her corporate firm. Since she was someone I knew and I could trust, I agreed.’ (Maryl, 09/02/2015)

The emotional support and encouragement Maryl and Kari received from their respective family and friends demonstrate the significant role social capital played in restoring their confidence and self-efficacy to pursue and achieve their desired professional goals. At the time of the interview, Kari was working in her own law firm, which her husband had assisted her to establish. She stated that she was happy and satisfied with her job. Maryl was also happy and satisfied with her job at her friend’s corporate firm.

As I listened to and analyzed the stories of the participants, I discovered that instances of sexual harassment were not limited to Kari and Maryl. For example, Coco and Moore indicated that they had experienced, observed or heard other young women lawyers talk about being subjected to sexual harassment.

‘Young lawyers especially women are vulnerable to sexual harassment. The profession expects us to lead a certain lifestyle, which we cannot afford with our low salaries. What do most partners do? They have the money, and they can give you that lifestyle on condition that you cede to their sexual advances...It is very common, at the law firms, in the courts.’ (Moore, 21/01/2015)

‘There were many stories of partners harassing junior women associates and interns...even at Kenya School of Law, a majority of women students used to talk a lot about how partners in their respective law firms harassed female employees.’ (Coco, 28/01/2015)

These descriptions suggest that a disproportionate number of (young) women lawyers experience sexual harassment at their places of work, and thus confirm the findings by Brockman (2001), Rhode (2001) and Wilder (2007) on the prevalence of sexual harassment in the legal profession. Yet, power relations and mistrust of the complaint system within the profession prevents the victims from reporting these cases, which in turn continue to perpetuate injustices as a majority of the victims are forced to either compromise their bodily integrity and dignity to maintain their jobs, or preserve their worth and leave their employment as the accounts of Kari and Maryl illustrate.

In addition to sexual harassment, two participants stated that women lawyers are not treated with respect by their men contemporaries. Lilly, who was a prosecutor at the time of the interview, stated as follows:

‘In court, especially when am dealing with male advocates who happen to be the majority in criminal litigation, there is that feeling that the men advocates want to intimidate me and pull me down because I am a woman. It really affects me because I know they do not do that to men prosecutors. They think that as a woman I am not competent to confront them in court.’ (Lilly, 08/01/2015)

Confirming Lilly’s sentiments, Yuki who was in litigation department at the time of the interview said,

‘Sometimes in court men advocates want to pin you down because they think you don’t know a lot. Litigation is so to speak a man’s world and for us women who are there we seem to be men. We have to be tough and act tough, talk tough. Otherwise these men will ride on our backs.’ (Yuki, 04/02/2015)

The above excerpts illustrate how gendered devaluation of women’s competency was used to judge the ability of these two women to discharge their duties as legal practitioners effectively. The men lawyers in question looked at Lilly and Yuki as women first before they saw the professionals in them. They then used gender biased stereotypes of femininity to discredit their ability to engage in aggressive advocacy. This devaluation or non-recognition affected the emotional well-being of these two women as it generated anxiety and discomfort. It created pressure for them to work harder so as to ‘prove’ their competence. To do this, they resisted these stereotypes by ‘acting and talking tough’ just like men, which in turn, held dominant gender relations in place, even if this was not their intention.

Thus, the evidence presented in this sub-section illustrates that prevalent sexual harassment and demeaning behaviours and attitudes against women legal practitioners undermine professional relations in the profession (Bolton & Muzio, 2007; Sommerlad, 1994). For instance, they portray law firms or courts as transactional institutions where women lawyers get what they need as long as they give what the men lawyers demand. This gendered practice has the potential to make women lawyers, especially young women lawyers, vulnerable to further abuse and, continues to perpetuate gender and power relations in the legal profession. Thus, this 'hidden practice' in legal practice reinforces gender inequities of not treating men and women with equal dignity and respect even when they hold same qualifications. Misrecognition or disrespect towards young women professionals might breed a culture of low self-confidence among them, which in turn might constrain their capacity to aspire to greater heights within the profession.

To conclude this section, the following table shows the pathways women took after law school: from pupillage to the legal profession.

Table 4: Participants' professional pathways after law school

	Place of pupillage	Place currently working	Reasons for staying or leaving after pupillage
Lilly	Law firm specializing in civil litigation	Government as a prosecutor (criminal litigation)	Left law firm in search for better economic prospects
Kari	General Practice law firm	Own law firm specializing in corporate and commercial law	Sexual harassment during pupillage
Moore	General Practice law firm	Same law firm	Satisfied with her job
Maryl	General Practice law firm	Corporate firm specializing in commercial law	Sexual harassment during pupillage
Yuki	General Practice law firm	Same law firm	Satisfied with her job
Manaan	NGO specializing in human rights	Same NGO	Satisfied with her job
Coco	General Practice law firm	Same law firm	Satisfied with her job
Kaya	General Practice law firm	Government as a state counsel (civil litigation)	Left law firm in search for better economic prospects
Jane	General Practice law firm	Corporate law firm specializing in commercial law	Desire to work in her chosen area of interest
July	General Practice law firm	Large corporate institution (Insurance firm)	Limited employment opportunities at her place of pupillage

In summary, an examination of women's early professional pathways and lives indicates that law school predominantly prepares students for private law firm practice. However, after their pupillage, legal graduates are able to decide and choose their areas of practice based on their interest, as well as availability of employment opportunities. For instance, a majority of women in this study ended up working in corporate and commercial law firms as opposed to general practice or public interest. There is also evidence that law school partially prepares students for

their duties as legal professionals. Apart from the theory and soft skills they receive in law school, legal graduates learn more practical aspects of the law during their pupillage period. Finally, evidence shows that while legal education enables graduates to gain valuable professional skills, it does not give them the knowledge or skills needed to disrupt existing gender and power relations in the legal profession. This was illustrated by continued sexual harassment against young women lawyers, as well as disrespect and misrecognition of their professional abilities.

7.2 Personal and social lives

In addition to their professional lives, I sought to understand what other aspects of their lives had changed as a result of their higher education. In particular, I wanted to find out whether and to what extent higher education, and in this case legal education, augmented or diminished their well-being, freedoms and agency in their personal and social spaces.

7.2.1 'University empowered me'

All the women stated that university education increased their confidence and augmented their sense of self-worth.

'I have the confidence I did not have before. I am able to stand and address a crowd. I am no longer the timid little girl I was. Also I have built self-esteem. I believe in myself and my decisions.' (Lilly, 08/01/2015)

'Going through university made me realize my worth and what I can actually do.' (Jully, 29/01/2015)

'I have become confident and secure with who I am. Initially I kept things to myself and used to cry a lot. But right now, I am confident; I walk with my head high because I believe in myself.' (Maryl, 09/02/2015)

These extracts demonstrate that education was psychologically empowering for these women. As seen in their accounts, they experienced an increased sense of self-confidence and self-worth and in the process they were able to make decisions about their lives and act upon them. For instance, Kari stated that university education 'killed' the introvert in her and 'instilled' an assertive individual. Consequently, she was able to confront her uncle who was demanding excessive dowry in exchange of agreeing to her marriage. Under the patriarchal conditions in which most of these women grew up, the ability to speak back or challenge negative practices was important in enabling them to choose and lead their valued lives. In this case, confidence intersected with recognition of one's worth and fueled the actions of some of these women.

Thus, these findings confirm Narayan's (2005) argument that 'self-confidence and a sense of self-efficacy are important precursors to action' (p. 20).

In addition to confidence and improved self-efficacy, all the women articulated how university education improved their opportunities to secure better and decent jobs where they earned their own income.

'After university, I got a professional job. I earn my own income and use this income to pay my bills and also take care of my other needs. I don't depend on anyone.' (Kaya, 09/01/2015)

'Now I have my job I have my money, I do my business. I live in my own apartment. I mean I would not have done this if I stopped at high school.' (Manaan, 05/02/2015)

'With university education, I was able to get a job that earns good money. I use my money to live the kind of life I want. It is a wonderful freedom because I don't depend on anyone.' (Moore, 21/01/2015)

These accounts illustrate that higher education gave these women the opportunity to gain and develop relevant professional skills, which enhanced their chances of getting professional work, earn a decent income and improve their economic lives. In this regard, they valued their university education because it freed them from shackles of financial dependence and enabled them to secure adequate shelter, food and clothing. This was in line with the aspirations the parents of these women had when they were supporting them to acquire education. As we saw in chapter 5, their parents saw education as the only pathway that could grant their children economic independence that was necessary, for some of them, to escape poverty, and for all of them, to lead decent and quality lives. As the evidence presented in section 5.2 shows, one of the factors that attracted five participants to pursue a career in law was their desire to earn their own income and enjoy financial security and independence. From their accounts of life after law school, we can argue that this valued functioning was achieved. However, it is important to note that some participants took longer than others to achieve this functioning. For example, Lilly and Kari took longer time to secure pupillage after law school while Jully was out of employment for two months after completing her pupillage. They had to use their networks and associations to get job placements. This shows that although education in itself improves economic well-being benefits, sometimes these benefits are enacted and navigated over time depending on one's social and contextual conditions.

All participants underscored the important role their achieved economic independence played in enabling them to shape and direct the courses of their lives.

‘With my money, I am able to plan my life. I make my own decisions and I have choices. If I want to do something, I do it because I don’t depend on anyone to finance it. Like now I am using my own money to further my studies.’ (Lilly, 08/01/2015)

‘Financial independence comes with other freedoms. Like me, I am able to control my life because I have my money. If I never came to university, maybe I would be married by now. But now I am the one who will decide when to get married, to whom and how many kids I will have. For me, university education has enabled me to make my own decisions and follow them. No one says no because I am not asking them for money. I plan my life and live it the way I desire.’ (Manaan, 05/02/2015)

‘I am able to live on my own. I am able to plan my life. I am able to make my own decisions. All these things I could not have done if I did not have my own money. For me, financial independence opened the door to other freedoms, especially one of being in charge of my life.’ (Kaya, 09/01/2015)

The above extracts indicate the significant role economic or material resources have in unlocking other opportunities and freedoms for women to exercise agency and achieve their well-being. To this group of women, gaining economic independence was essential in the development and enjoyment of other freedoms. For instance, they were able to make strategic life decisions such as where to live, when and whom to marry, the number of children they would have and also the progression or advancement of their careers. By putting more emphasis on their ability to ‘control’ or ‘plan’ their lives, the women demonstrated the critical role higher education had in enabling them to decide upon and lead the kind of lives they had reason to value. These findings confirm Sen’s (1999) argument that education enhances the capabilities of women to exercise control over their lives and enhances their self-esteem. They also demonstrate that through their financial independence, these women had acquired the capability of autonomy, which enabled them to make reflexive choices in their lives.

The ability to control their lives extended to the ability to manage their time and finances. For example,

‘They say campus comes with freedom but this freedom comes with responsibility. I learnt how to manage my finances and this was a great responsibility. There was time management and self-discipline too. You know, attend classes, wash your clothes, read

for your exams, etc. there was no timetable, it was upon me to know what to do and at what time.’ (Kari, 14/01/2015)

‘At university I was on my own. I had to know what to do with my life, my finances and my time. It made me more responsible, especially with money and time. Now I am able to plan well.’ (Coco, 28/01/2015).

These accounts demonstrate that the women valued the opportunity higher education gave them to develop their ability to plan and manage their time and finances, as well as decide what to do with their lives. This was critical for their personal, social and professional lives as they needed to apportion time and finances for various aspects of their lives for positive growth. However, they did not have complete autonomy. They stated that each time they went back to their villages or rural homes, they had to behave and dress in accordance with their different cultures. For instance, Kaya and Jully explained:

‘Although I can make decisions about my life, I am still afraid of how my decision or actions will affect the reputation of my family. You know when you are too assertive, people gossip that so and so’s daughter is spoilt. So, when I go to the village I watch how I talk to my elders. If I don’t agree with them I don’t tell them outright no. You know, there is me down here under the society umbrella. Yes I am free but not that free.’ (Kaya, 09/01/2015)

‘When I am out with my extended family especially in the village, I am careful with how I dress, behave or even express myself. Otherwise I will be perceived as this disrespectful woman who talks back at men. You know in our culture that is not allowed.’ (Jully, 29/01/2015)

The above explanations indicate that while these women had the ability to exercise control over their lives, the existing moral and social norms and values still constrained what they could or not do in some contexts or spaces. They confirm Drydyk’s observation that expanded agency does not necessarily lead to empowerment if we do not simultaneously address ‘group subjection or intra-group dominance’ (Drydyk, 2013, p. 260). From this perspective, for women to fully enjoy and exercise their autonomy, there is a need to transform culturally shaped gendered norms and power relations that constrain women’s actions and choices, and thus continue to perpetuate inequalities in women’s lives.

Besides the ability to exercise control over their lives and resources, five women (Yuki, Manaana, Maryl, Kari and Kaya) stated that legal education earned them more respect, prestige and status in society.

‘When I am in a group and someone introduces me as a lawyer, people respect me. Others actually come for legal advice. I feel like I’m already somewhere up here (pointing high in the air) in society where people respect me and take me seriously.’ (Yuki, 04/02/2015)

‘Ever since I got my law degree, the way my grandparents and relatives look at me has changed. They call me up for advice when they want to make important decisions. Before this, they never called me. Now...I sit down with them and discuss important family matters. And they take what I tell them with high regard. It really feels good.’ (Maryl, 09/02/2015)

Findings from chapter 6 revealed that all participants grew up in settings where women and girls’ roles rotated around their reproductive roles of mothers and wives. To become better wives and mothers, girls and women in these societies were socialized to submit to men and avoid talking back at or in the presence of men. They were conditioned to assume inferior positions and their views were not sought or taken seriously. As such, women in these societies generally lacked or had limited voice both in the public and private realms. However, the women in this study stated that their legal education fostered their capability of voice and they began to not only air their concerns, but also to participate in decision-making within and outside their families. They felt respected each time people sought and took their advices seriously. As illustrated by Maryl’s excerpt above, the senior members of her family started to consult her after she acquired her law degree. While it could be argued that these women were respected and consulted because they were lawyers, Maryl was quick to add that she was not the only one. She stated that her grandfather treated her other female cousin who was a doctor with the same respect. Thus, for Maryl and other women in this study, having gone through higher education elevated their status in their families and earned them respect. The respect given to university graduates was emphasized by Manaana.

‘University education has some power. People just look at you differently, like you are so knowledgeable and full of great ideas. That is why university graduates are respected back in my village.’ (Manaana, 05/02/2015)

These illustrations suggest that university education improves the social status of individuals in society, especially if they come from societies where most people have low levels of education.

Once individuals acquire higher education, their social status changes and people start to treat them with respect and dignity. Thus, we can argue that if more women from deeply gendered societies acquire university education and are accorded the respect and recognition given to university graduates, the cultural patterns and norms that devalue women might start to shift slowly and in the long-run lead to more equality.

7.2.2 'University opened me up to other worlds/diversity'

Six participants stated that university provided them with an opportunity to meet and interact with different people whose perspectives about life challenged their own perspectives and goals. In the process, they were able to learn, understand and accommodate diverse people and points of view.

'It[university education] gave me an opportunity to meet and interact with people from various walks of life. These interactions opened me up to other people's worlds which were different from mine. I appreciated, embraced and learnt how to deal with diversity. This is essential because we live in a diverse society...some of the people I met became my important networks in my career.' (Jane, 21/01/2015)

'My social life improved. Before campus, I was never a social person. I never wanted people to come to my world but campus broke that ideology. I met new people, I formed friends with whom I shared my personal experiences and I was astonished to learn that other people had greater challenges than mine. I learnt from their experiences and they kind of motivated me to keep going. Most of those people I met in campus are my friends up to today. We learn and help each other all the time.' (Maryl, 09/02/2015)

'When we were growing up my dad restricted who we associated with. At university, I met people and became friends with some of them. This improved my associations. I also met and interacted with students who were different from me in terms of sex, tribe, culture, economic background just to name a few. In short I learnt how to live with and appreciate other people regardless of who they were.' (Lilly, 08/01/2015)

These illustrations indicate that higher education provided immense opportunities to form and expand their social relations and networks, which later on formed part of and increased their social and professional capitals. Moreover, interacting with different people improved their communication and interpersonal skills. For instance, university education transformed Maryl from an introvert to a sociable person. Further, evidence shows that these women valued the interactions they had with diverse people while on campus as this prepared them for life after

university where they would deal with different people both in their professional and social lives. Kari and Yuki recalled:

‘...this [exposure to diversity] was good as it prepared me for the real world. After campus I got married, I had new neighbours. At work I had new colleagues, all different. I knew how to deal with them...I understand that I am a free woman but not free to trample on other people’s rights and freedoms. I do understand that where my rights or freedoms end that is where someone else’s starts. I am able to demarcate my own rights and other people’s rights.’ (Kari, 14/01/2015)

‘I don’t judge people before I understand where they are coming from. I have become more tolerant. I respect people more and their views even when they oppose mine. This is very important especially when I have to live or work with these people.’ (Yuki, 04/02/2015)

The above explanations show that in as much as these women command the respect and prestige associated with university education and the legal profession in particular, they are also able to treat the people around them with respect and dignity, indicating that they value and respect diversity. This is because higher education enables them to imagine and develop compassion for situations or conditions of diverse people they come into contact with. In the process, they are able not to only embrace diversity, but also accept and accommodate people who are similar and different from themselves. This is important for harmonious living.

Thus, we can claim that higher education broadened the horizons of these women by expanding the spectrum of the people they came into contact with. It had, as Sen (1992) argues, personal, interpersonal and social impact. As the above quotations indicate, the women benefited from these contacts personally, socially and professionally.

Another value of higher education was with regard to their aspirations. Five participants (Lilly, Coco, Manaan, Moore and Kari) described how university education fueled their aspirations and dreams in life.

‘When I was coming to law school, what I wanted was to finish and get a job. Now that I have a job, that has changed. I have realized that there is more to life than just a good job. I am more ambitious. For example, I have enrolled in school to pursue my masters and also gotten out of my way to earn that extra coin to enable me lead the kind of life I want for myself and my family. I don’t want to settle for average, I want the best and I am working towards that. I dream big.’ (Lilly, 08/01/2015)

‘The exposure at law school was good...When getting to law school, all I wanted was get my degree get a job and live life. Now I want to go beyond that and all this I discovered in law school. I have since reworked on my goals. I am hoping to pursue a master’s degree and probably a PhD. I am aiming higher.’ (Moore, 21/01/2015)

The above excerpts illustrate that higher education not only enabled these women to achieve their initial aspirations of becoming lawyers, but also ignited new aspirations. Thus, higher education acted as a capability multiplier that fostered the capability to aspire. In other words, higher education expanded, what Appadurai (2004) calls, the aspirational maps of these women. These findings confirm Ray's (2006) argument that the experiences and ambitions of the people we interact with have an impact on our aspirations and the effort we put to achieve them. Similarly, they confirm the findings of a study by Walker (2006) in a South African context that going through school improves the opportunities girls and women have to imagine other possibilities in life and work towards achieving them..

In addition to expanding their aspirational maps, eight participants stated that higher education enabled them to support and care for other people in their respective families and or societies. This support was both material and non-material. These accounts were similar:

‘I take care of my other siblings. My two sisters are staying with me as they look for jobs, and I also support my dad to pay school fees for my younger brother and sister.’ (Moore, 21/01/2015)

‘I am supporting three children from my village to get their education because I know this far I have come is because of education.’ (Kari, 14/01/2015)

‘Sometimes I go back to my high school and encourage girls to work hard so that they can go to university and live their dreams. I mentor these young girls to set and strive towards achieving their goals.’ (Jully, 29/01/2015)

‘I am...able to give back to the society...in my village, we had water shortage...I summoned other young professionals from my village and together we contributed money and drilled two bore holes that are now serving our village.’ (Kaya, 09/01/2015)

The support these women gave to their families and communities at large confirms the old adage that ‘*when you educate a woman you educate a village.*’ Having gone to school, these women knew the importance of education in enabling women to choose and lead the kind of lives they valued. As such, they endeavoured to support other girls, financially or otherwise, to acquire education. Besides encouraging and supporting girls to set and strive towards achieving their educational

and life goals, some of the women in this study were involved in developing their communities. For instance, by drilling two boreholes in her village, Kaya saved women and girls in their village the long miles they had to walk in search of water. In this regard, in addition to achieving their own well-being, these women demonstrated their agency by initiating change or being part of change in their diverse communities and more specifically in improving girls' and women's lives.

What emerges from this sub-section is that all women valued the freedoms and opportunities higher education had opened up for them. They valued the knowledge, skills and experiences they gained from higher education, which were instrumental for their economic and social independence. They also valued the confidence and sense of self-worth they had gained, which enabled them to voice and speak out against injustices in their lives. Further, higher education enabled them to secure well-paying jobs, which in turn improved their economic status. Improved economic status gave them opportunities and freedoms to make valuable choices and decisions in all matters that affected their lives, as well as the lives of those around them especially their immediate families. Their social standing in the society also improved as a result of their higher education, and they were able to contribute to the development of their societies. This shows that higher education has the potential to shift some cultural constraints and inequalities in women's lives such as lack of voice, non-recognition and inactive participation in public life. In essence, the findings presented in this sub-section demonstrate that higher education has intrinsic, instrumental and positional value for the women themselves, as well as their families and their communities at large.

7.2.3 'University changed my perspective on marriage'

In chapter 5, we saw that all participants came from societies that prioritized women's marriage over their education. Given that the families of these participants instead prioritized their education over marriage, I sought to understand what the perspectives of these women were with regard to marriage now that they had acquired their university education. Kari, who was married with one child and expecting another one at the time of the interview, stated that she was happy in her marriage. She had married immediately after graduating from law school at a time when she had no job. During this period, her husband supported them financially. After the birth of their son, her husband sponsored Kari to go to the Kenya School of Law to undergo the Advocate's Training Programme. Despite having the financial power in the relationship, Kari stated that he was respectful and treated her with dignity. He consulted her in all matters that affected them. Further, when Kari lost her job because she refused sexual advances from her employer, her husband was supportive emotionally and financially. She recalled:

‘My husband was very supportive, I had a home to go to, I had food, I had someone to tell all my frustrations, and he kept reassuring me that things will be fine. That is why sometimes I wonder how my life would have been if I never got married when I did.’ (Kari, 14/01/2015)

Lilly also stated that she was happy in her marriage. Unlike Kari, Lilly married two years after completing her law degree and after she had secured a permanent job. Yet, like Kari, she maintained that her husband was very supportive.

‘My husband supported my idea of furthering my studies. Although he does not pay my tuition, he pays rent and other bills in the house. And he takes care of the baby and also helps with domestic chores on Saturdays when I am in school. This gives me ample time to do other things that I value.’ (Lilly, 08/01/2015)

Thus, the support these two women received from their husbands enabled them to cultivate, pursue and realize other valued aspirations and functionings such as furthering their studies, or developing their careers. Their husbands were also agreeable to sharing household responsibilities such as taking care of the home and children. This evidence confirms the findings of Baxter (1997) and Cunningham (2007) that when married women spend more time in paid employment, the probability of their husbands taking part in domestic work increases because women have less time to perform these duties.

Besides being supportive, Lilly and Kari stated that their husbands involved them in making decisions about their families.

‘My husband consults me when it comes to family matters. Before we got married, we discussed and agreed on when to get married, where would stay and how many children we would have and when and generally how we would run our home. And after we got married, he always asks my opinion before he does anything that will affect me and the baby. We always discuss our family matters, where we want to be and when I tell him something, he takes it seriously and acts upon it.’ (Lilly, 08/01/2015)

For her part, Kari stated as follows:

‘I know I won’t have so much of a say if I was wholly dependent on my husband financially. He will be playing the music and all I will be doing is dancing to his music. So to me, education and more specifically law school has changed that aspect. He has to involve me in all decisions that are affecting me and my family, where my family includes

him. So if he wants to buy asset X he will consult me or at-least ask for my opinion.’
(Kari, 14/01/2015)

These explanations illustrate that Kari and Lilly had negotiating power within their marital homes and this was mainly connected to their economic independence and ability to contribute to the subsistence of their families. As Kari elaborated, most women in her society have limited agency in their homes because of their lack of financial power. In her case, the ability to earn an income and contribute to the household positioned her differently in the family and gave her a bargaining power when it came to making family decisions. This finding implies that educated women who earn an income similar to their husbands and enjoy a certain status in society occupy a privileged position compared to their peers who have no or little say in family matters. This confirms the findings of a study of women in Southern-Asia by Khurana (2015) that the ability of women to shift or negotiate power and gender relations in their homes depends on the type and status of paid employment they are engaged in. Consequently, we can argue that women’s higher education and economic independence plays a significant role in enhancing their agency to share and make decisions within their households, and thus has the potential to disrupt gendered inequities. The findings might also suggest a change of attitude on the part of their husbands, who were equally educated, with regard to gender roles. By implication, this evidence suggests that women having more education can produce more equal relationships as men learn to be different in relationships with highly educated women. While it does not always work like this, it can and does as Kari and Lilly’s examples illustrate.

For the other eight women who were single, I inquired whether they intended to get married and what their perceptions were about marriage. While seven said they would like to get married in the future, Coco was clear that she would not get married. She explained:

‘I will not get married. I may sound selfish but that is how I want my life...I want to discover me and love me for who I am and actually live me. I am self-driven and very passionate...I have set my goals and actually planned how to achieve those goals and I don’t intend to let anything come between me and the course I have drawn. So for me [marriage] will derail me from achieving what I want in life...because once a woman is married she takes care of the home and her children. She has limited chances of enjoying life and also doing other things.’ (Coco, 28/01/2015)

From her perspective, Coco considers marriage to be a gendered institution that restricts women’s freedoms and opportunities to do and become what they value. Her decision to remain single is permit her to enjoy her freedoms and also to utilize available opportunities to achieve

her goals. However, by choosing to remain unmarried, Coco was aware that she was subjecting herself to endless scrutiny from her community.

‘Of course there is pressure from all quarters. *Oh Coco when are you getting married, when are you getting kids?* They all rotate around marriage and children. At some point, I told my mum to tell her friends to stop bothering me. I am happy my mother understands me and she is ready to stand by me in all my decisions.’ (Coco, 28/01/2015)

The pressure to get married and have children is based on the society’s dominant and gendered perception of women as home-makers and child-bearers. The single women in this study recalled that their diverse communities frowned upon women who were of marriageable age but for one reason or another had decided to remain single. For instance, Kaya explained:

‘If you are say thirty and not married, the society is sick worried, even your friends and family. First, they do not respect you that much even if you are educated and you support them. You also become a bad example to young girls. They are told *don’t be like so and so’s daughter*. So to avoid all that pressure and ridicule and sometimes disrespect that single women of marriageable age face, most women prefer to get married.’ (Kaya, 09/01/2015)

Kaya’s explanation illustrates negative discourses surrounding single women of marriageable age. These discourses notwithstanding, Coco was determined to remain single and pursue her career and life goals. She resisted the identity of a ‘typical woman’ and constructed her own identity in opposition to the dominant discourses on gender. The support of her mother also boosted her ability to focus on and pursue what she valued in life.

Like Coco, the other single women (except Maryl) acknowledged that marriage has the potential to curtail women’s freedoms and opportunities to do and achieve what they value. However, they were not closed to the idea. They nonetheless chose to delay marriage in order to develop their careers and enjoy the freedoms they had achieved as a result of their education.

‘I am not opposed to marriage. But you see most Kenyan men are very patriarchal. Once you marry, they expect you to give birth, do all the housework and also to contribute to family upkeep. For me, getting married now and especially to a typical Kenyan man will restrict my freedom and progression...I will prefer to get married to man whose mind-set about sharing house-chores and responsibilities is egalitarian. For now I am happily single and focused on my career, education and business.’ (Manaan, 05/02/2015)

‘The moment a woman gets married, her family becomes her priority. She needs to go home and prepare a meal for the husband, and when the baby comes she needs time off to take care of the baby. While she is doing this, her male colleagues are either getting that promotion or getting back to school to advance their careers. So that is the challenge I face when I think about marriage. I hope to find a man who views marriage as a partnership.’ (Yuki, 04/02/2015)

These accounts demonstrate dominant discourses on women, marriage and domestic duties. However, evidence in their narratives of these six women shows that they were challenging and negotiating these discourses by delaying their marriage to and also preferring to marry men who are pro-gender equality within the family. In their view, equality in sharing domestic work and making decisions about family matters would give them opportunities and freedoms to also pursue their other valued aspirations. This shows a shift in the thinking of these women about the position of women in the family compared to their mothers or women in their wider societies. Analysis of their narratives also shows a deconstruction of hegemonic discourses that construe women as passive victims of gender inequalities and instead indicate that women can (and do) exercise their agency to choose and lead their valued lives (Shefer, 2001). This shift in thought and action will in turn, hopefully, affect any children they have and further secure intergenerational gender justice.

For her part, Maryl agreed that pursuing career and life goals were important to women. Yet, she did not perceive marriage as an obstacle to these goals. According to her, marriage and family were important for women too.

‘Family is very important...I admire and respect some of my friends who take career breaks or quit their jobs to take care of their families...Even me I will take a break say for five years to take care of my kids.’ (Maryl, 09/02/2015)

I inquired why she would take a long career break to raise children. This was her response:

‘Women spend most of their time with children...It is natural like that and that is our calling. If a woman can manage work and family that is fine, but if she cannot let her choose family because if women don’t lay a strong foundation for their children, they destroy their future and the society at large.’ (Maryl, 09/02/2015)

Unlike the other single women, Maryl’s perception about the roles women play in the family had not shifted, especially with regard to child-care and upbringing. When analyzing her interview, I realized that Maryl was a staunch Christian who believed in the biblical structure of the family

where a man is the head and a woman is required to be submissive to her husband. Secondly, she was orphaned at the age of six and was brought up by her uncle, who instilled the importance of having and belonging to family. As she narrated her story, she stated that her life might not have been the same if her uncle had not adopted her and her brother. Her personal/familial circumstances intersected with her religious beliefs and values to inform her conception of the good life, and consequently her decision and choices with regard to marriage and family. Thus we can see that although she was exposed to knowledge and other alternatives like the other participants, she still chose and valued marriage and family. Maryl's different perception with regard to family and marriage is in line with the capabilities approach's notion of plurality of positions, whereby two individuals exposed to similar capability sets might end up having different functionings depending on their choices based on their conception of the kind of lives they wish to lead (Robeyns, 2003). From this point of view, what is required is to expand people's substantive opportunities to enable their effective freedom to choose and lead their reflexively valued lives.

To sum up, there seemed to be greater gender awareness or consciousness among women in this study, who were of the view that the burden of domestic responsibilities which is traditionally placed solely on women limits their freedoms and opportunities to develop personally, socially and professionally. But still they have to choose between work and relationships (and marriage) as shown in the decision among seven of them to delay their marriages (or to remain single as in the case of Coco) in order to achieve their career and life goals first. However, their desire to be in gender egalitarian relationships implies that they were hoping to transform power relations, decision-making processes and sharing of household responsibilities in their future marital homes and thus enjoy equality. Thus, we can contend that higher education equips women with relevant knowledge, information, experiences and perspectives that enable them to reflect upon and probably question the conditions of their lives, which in turn leads them to take actions and make decisions aimed at improving those conditions that perpetuate inequalities.

Conclusion

This chapter examined personal and early professional lives of the participants after law school so as to understand what value they attached to their legal education. Findings on their early professional lives indicate that higher education gave them an opportunity to achieve their valued aspirations of becoming lawyers. Through higher education, they acquired relevant knowledge, values and skills that are important for their work as lawyers. These include practical and legal reasoning, critical and analytical judgement, writing and research skills, as well as the ability to deal with, respect and value diversity. However, there was evidence that the practical aspect of

the law was lacking from their training at law school. All participants agreed that they gained practical experience during pupillage period. That notwithstanding, their early career experiences reveal a tremendous growth in their professional lives. Yet, there were incidents where practices such as sexual harassment and devaluation of women's abilities compromised their capability sets to discharge their professional duties effectively.

Concerning their personal and social lives, findings revealed that higher education enhanced the confidence and self-esteem of these women. It also enabled them to achieve economic independence which in turn, gave them voice and ability to decide on and pursue their valued goals. These outcomes were valued by all women in this study. In addition, higher education had redistributive and interpersonal benefits. For instance, some used the economic benefits of their education to improve the lives of the people around them such as supporting young girls to achieve their education and contributing to the development of their communities. Further, higher education changed the perspectives of most of them with regard to the position and roles of women within the family and in marriages. They were of the view that women should be involved in making family decisions and also that men should assist in sharing family responsibilities. In turn, this would give women more opportunities to pursue their other valued goals outside the family.

By and large, women's accounts of the relationship between higher education and their personal, social and professional lives indicate that higher education was empowering as it expanded their opportunities and freedoms to set, pursue and lead the kinds of lives they valued. These findings illustrate that higher education can disrupt inequalities in women's lives such as lack of voice, non-recognition and economic dependence. In this regard, we can argue that higher education is critical in the process of women's empowerment which, as Murphy-Graham (2012) observes entails women gaining confidence and recognition of self-worth; developing the capacity for personal and social critique; and acting (singly or collectively) to negotiate, challenge or transform inequitable structures and power relations in their lives. Participants' accounts of their empowerment suggest that women's empowerment denotes but is not reducible to gaining power. It also involves the removal of constraints to women's exercise of agency, and expansion of their opportunities and freedoms to achieve well-being. These findings confirm Drydyk's (2013) argument that empowerment is relational and multi-dimensional as it not only entails expanding people's agency, but also their well-being freedoms; and transforming the asymmetries of power within and between groups. The latter is important because substantive gender equality and women empowerment through (higher) education cannot be fully realized without addressing existing exploitative power and gender relations (Unterhalter, 2012).

CHAPTER 8: RE-THINKING GENDER JUSTICE AND HIGHER EDUCATION: A CAPABILITIES PERSPECTIVE

Introduction

Chapters 5, 6 and 7 presented participants' experiences and insights in accessing, participating in, and progressing through higher education. In this chapter, I revisit these experiences to explore the opportunities and freedoms women had in and through higher education, and the extent to which they used, or were able to use, these opportunities to exercise their agency and achieve their well-being. Divided into two sections, the first section uses Sen's (1992) concepts of agency and well-being freedoms and of 'development as freedom' to examine participants' opportunities and choices across the three phases to highlight various conversion factors that constrained or enhanced their exercise of agency, as well as achievement of their well-being. The second section interrogates their narratives in order to identify what capabilities they valued across the three phases and how these capabilities and/or functionings were developed or not developed in and through higher education. In other words, the section examines whether and the extent to which being educated contributed to formation, expansion and or contraction of women's valued capabilities and/or functionings. The objective of the chapter is to two-fold. First, to present an understanding of factors that shape gender (in)justice in higher education and highlight those that need to be addressed so that women can have and are able to use educational opportunities and freedoms to achieve their valued educational and life outcomes. Second, the chapter aims to identify a provisional and dynamic set of capabilities that are important for gender justice in higher education, and thus provide a basis for assessing the extent to which these capabilities are being fostered or constrained. But first, I commence by revisiting the concepts of well-being and agency freedoms and achievement in the context of higher education, which form a framework of theorizing in this chapter.

8.1 Educational well-being and agency freedoms and achievements

As I discussed in chapter 4, the capabilities approach is ethically concerned with expanding individual capabilities to achieve well-being and exercise agency. Sen (1992) has highlighted four spaces within which we can evaluate well-being and agency: *well-being freedom*, *well-being achievement*, *agency freedom* and *agency achievement*.⁴⁰ If we map these in the context of higher education, *well-being freedom* would refer to the real opportunities and freedoms both women and men students have to accomplish what they value in and through higher education, while *well-being achievements* would be the realization of outcomes that are considered central in formal educational processes such as being able to access higher education, to actively and effectively participate in learning

⁴⁰ These spaces were discussed in chapter 4.

processes and equally achieve and use benefits associated with higher education. These are valued functionings in educational terms whether or not the students themselves explicitly name each of them. On the other hand, *agency freedom* denotes choice, that is, the opportunities individual students have to exercise their abilities to set, choose and pursue their educational and other goals that are important for the lives they desire to lead, while *agency achievements* are the successfully pursued and realized educational and other goals and aspirations. Agency achievements in education normally intersect and overlap with well-being achievements since they contribute to students' overall well-being. Thus, it is not easy to tease them out (in practice) since they are mutually constitutive and reinforcing. However, it is important to emphasize here that students' freedoms (both agency and well-being) to achieve are affected by various conversion factors that intersect to shape and affect iteratively and cyclically the capability sets of diverse students, and influence the choices they make from any given set of educational opportunities. This is illustrated in table 5 below, albeit in linear form. The process is iterative rather than linear.

Table 5: Agency and Well-being freedoms and achievements in higher education

	Freedoms		Achievements
Educational well-being	<p>Real opportunities and freedoms to achieve educational well-being. Here we examine what capabilities both women and men have to:</p> <ul style="list-style-type: none"> • access university education • engage and participate fully in educational learning processes and activities (this might involve freedom from violence and harassment, freedom to walk freely on campus spaces, freedom to concentrate in class, freedom to access knowledge through appropriate pedagogies) • achieve valued degree qualifications, skills and knowledge • use university education to pursue and achieve valued goals and outcomes (this can include contributing to the well-being of others). 	<p>Conversion factors (Affect individual choices, decisions, and use of capability sets to access, participate and achieve through higher education)</p>	<p>What women and men manage to accomplish in and through higher education. This would include:</p> <ul style="list-style-type: none"> • Being at university • Being able to fully participate in higher educational learning processes and activities • Gaining valued qualifications, knowledge and skills • Being able to use one's education to contribute to one's general well-being (such as gaining decent employment, shelter, nutrition etc), as well as the well-being of others.
Educational agency	<p>Ability to set, sustain and pursue one's valued educational goals. Here we consider what freedoms women and men have to choose and decide:</p> <ul style="list-style-type: none"> • whether or not to go to university • which university to attend • what career to pursue • which activities to participate in while at university • what to do with their university qualifications or skills (including commitment to the well-being of others) 		<p>Realization of valued goals in and through higher education such as:</p> <ul style="list-style-type: none"> • Choosing and deciding to go to university • Choosing and pursuing a preferred career at university • Choosing and deciding to participate in valued educational learning activities • Choosing and using educational skills, knowledge and qualifications to achieve one's valued goals (such as working as a lawyer, engaging in political life) and or enhancing the well-being of others.

Source: Modified based on Vaughan (2007, p. 119).

From the above matrix, we can see the overlap in particular between educational well-being achievements and agency achievements. Often these may look the same except that in agency freedoms, the element of choice and deciding for oneself is crucial. Nonetheless, from a gender justice perspective, the above matrix enables us to examine three things. First, it allows us to examine whether men and women have real and equitable opportunities and freedoms to choose and access university education. Second, once physically in university, whether they have real freedoms (and are able) to choose and use available educational resources and opportunities to successfully participate in educational learning processes. Finally, it allows us to explore whether they have substantive freedoms (and are able) use their university education to contribute to their own well-being and or that of others. In other words, the matrix allows us to examine the dialectical link between educational opportunities, processes (including practices and conditions) and outcomes with wider social and contextual factors. By doing so, we identify what factors contribute to inequalities in women's capabilities to participate, progress and succeed in higher education, and what enabling conditions are necessary.

8.1.1 Women's educational resources, opportunities and freedoms: The role of conversion factors

In this section, I use the above matrix to make inter and intra-personal comparisons of the experiences of the ten women in order to examine what capabilities they had to access, participate and progress through higher education, and whether and the extent to which they were able to choose and utilize these capabilities both to achieve their well-being, and contribute to the well-being of others (a crucial element in Sen's (1992) conceptualization of agency). The aim is to highlight conversion factors that impacted on their abilities to access, choose and convert educational resources and opportunities into valuable educational and life outcomes.

All the ten women had achieved educational well-being, which in this case was attending and graduating from law school with a law degree, which enabled them to gain meaningful employment and exercise control over their lives. However, an analysis of their educational and career choices, their decision-making processes and experiences into, in and after higher education reveal that their freedoms (both well-being and agency) varied, and were constrained and expanded at various stages, pointing to the dynamic nature of capabilities and agency which are not achieved once and for all, and may be more or less secure. Evidence presented in chapter 5 revealed that all participants grew up in societies that did not value women's education. This arose from gendered and biased perceptions that formal education was not necessary for the performance of women's traditionally-ascribed duties of sexual reproduction and home-

keeping. Consequently, most girls and women were either not sent to school at all or did not proceed beyond primary school.⁴¹ Even in cases where girls and women would have preferred to do so, these dominant norms and practices produced a disadvantage that limited their freedoms and opportunities. However, unlike most girls in their societies, participants in this study were able to acquire formal education because their own families valued and supported girls' and women's education. Having experienced and enjoyed the benefits of education themselves, the parents of these women knew the value of education especially in unlocking more and better options for a better future and consequently sent their children to school without any discrimination. This illustrates inter-generational benefits of education where educated parents send their children to school. It also demonstrates the transformative aspect of education where educated parents disrupt existing gendered beliefs, prejudices and practices that discriminate against girls and women and provide them with opportunities. Besides enabling their daughters to access education, evidence showed that most parents (particularly fathers, and other key relatives who were aspirational role models) talked to their daughters about career choices and options. These conversations provided them with necessary information to think about and decide on their careers (although with some limits in some cases). Thus, we can argue, as Okkolin (2013) does, that a family's positive attitude and support for girls' education became a key conversion factor that enabled these particular women to negotiate constraining cultural norms and practices to access education and pursue their educational goals, thus contributing to their educational well-being achievement.

Once in school, teachers and the general schooling environment constituted another key conversion factor that enabled participants to pursue their educational goals and achieve well-being. I presented evidence in chapter 4 and 5 that all participants attended girls-only boarding secondary schools, which were not only supportive of girls' education but also offered a conducive learning environment. For instance, all participants recalled that their teachers believed in their abilities to succeed and thus encouraged and supported them to work hard and remain focused on their studies. This support was crucial in the achievement of their educational well-being. Further, some participants stated that their career guidance teachers advised them to make career choices and decisions based on the abilities and interests they had identified in the

⁴¹ My participants were born in the mid 1980's when girls' access and transition rates in education were lower compared to boys. For instance, Chege and Sifuna (2006) state that 'of the 864,593 pupils who entered Class One in 1984, only 44% reached Class Eight in 1991...The repetition and dropout rates were higher for girls than for boys...[with] 58.4% of girls [dropping] out' (p.45). Although this picture has improved over time, especially after the introduction of free primary education in 2003 and subsidized secondary education in 2008, regional gender disparities still exist and transition rates for girls are lower compared to boys at all levels of education (RoK, 2013, 2014, 2015).

individual participants. Thus, the teachers and schools in general also had an impact on participants' career aspirations, choices and decision making, and expanded their agency freedom and well-being achievement. This evidence illustrates that a supportive pre-university schooling environment can and does contribute greatly, and is rather essential, to women's educational well-being achievement and exercise of agency.

At a personal level, the women had formed aspirations for higher education, which in turn motivated them to work hard in order to obtain the grades required to gain admission to university. From this perspective, aspirations became important inputs to work towards the achievement of better educational and life outcomes. In other words, aspirations augmented their agency in a virtuous circle. However, their freedom to pursue their desired career aspirations in higher education was constrained as well. First, their career choices had to be approved by their parents. From the findings presented in chapter 5, seven of the ten parents (fathers) approved and supported their daughters' career aspirations. This approval and support became an impetus that motivated the participants to work towards their career aspirations and goals, and thus was critical in the achievement of their educational well-being and agency. For the other three participants, parental disapproval limited their agency freedom to pursue their valued careers, which in turn affected their agency achievement at that time. This shows that personal conversion factors always intersect with social conversion factors.

The second constraint on participants' career choices and aspirations was systemic. Their experiences of accessing law school revealed that government-based university admission and selection policies and criteria had an impact on their career choices too. Although all participants had aspired or adjusted their career choices to law, only Lilly was selected to study law in a high status public university. The rest were selected to pursue non-preferred courses. By implication, their educational agency freedoms to choose and pursue a desired career were constrained at this time. What this evidence demonstrates is that while students are encouraged by their parents and/or teachers to set and work towards their educational goals, students' efforts can be frustrated if existing educational policies or practices ultimately determine who pursues what career in higher education. To negotiate the government's decision and control over admission to certain professional degrees, Kari requested an inter-faculty transfer from commerce to law, which was approved. For her part, being inquisitive, resilient and assertive contributed to her well-being achievement (pursuing a valued career). The other eight (most of whom came from middle-class backgrounds) were sponsored by their families to pursue law either in private universities or under the parallel programme of the elite public universities. For these eight, family financial support was crucial in enabling them to pursue their valued career aspirations

and thus achieve their educational well-being. It also confirms that availability of private universities or the parallel programme option in the elite public universities has expanded women's opportunity sets to pursue their desired careers. But, like the eight participants, they need to come from families that could afford to sustain them in these high-cost programmes. Income-based resources therefore matter significantly.

Thirdly, some participants had to negotiate gendered perceptions of a law career as being masculine. As the evidence presented in section 5.1.3 showed, the legal profession was male-dominated and thus perceived to be a male profession. There was also a general perception that women who pursue law become 'big-headed' and 'home-breakers' as they do not conform to the traditionally socialized feminine roles and values. These perceptions almost affected Moore and Yuki's decisions to pursue law. However, availability of and exposure to few successful women lawyers became a positive conversion factor and countered these perception, and thus enabled them to sustain and pursue law as their chosen career.

Moving on to higher education, an examination of the experiences presented in chapter 6 reveals that there were various opportunities for law students to participate and engage in learning and extra-curricular activities in law school. These activities were important as they broadened students' skills and knowledge, as well as their friendships and social capital that were essential for their personal, social and professional development. However, participants' freedoms to utilize these opportunities to pursue and realize their valued educational and life goals and outcomes were affected by various conversion factors. The first conversion factor was the mode of instruction in law school. Participants stated that the classes at law schools were large and consequently most lecturers used *note-dictation* as their main method of teaching. They, however, noted that this teaching environment and mode constrained students' agency to actively engage in and contribute to meaningful intellectual discussions. This was reflected in comments such as 'there were very few opportunities to ask questions or seek for clarifications' or 'we never had a chance to express our views or opinions'. Freire (1972) has criticized this mode of knowledge transmission, arguing that students should be actively engaged in inquiry, which in turn expands their agency. While *debate* contributed to student development and positive growth, from the evidence this mode was used by very few lecturers.

Another conversion factor that constrained educational agency and well-being freedoms in law school related to gender. Participants from the two public law schools noted that, although the number of women students was almost the same as that of men, men dominated in law school activities. Participants attributed this domination to gendered socialization whereby boys and girls are socialized into active and submissive roles and behaviours respectively. Pressure or

expectations to conform to socially accepted behaviours constrained most women students' actions and participation in and outside the classroom environment. For instance, evidence revealed that most women students in public law schools were afraid of raising their hands in class to ask or respond to questions because of their gendered socialization. Thus, gendered socialization constrained most women's freedoms to actively participate and engage in learning processes.

The impact of gender on women students' educational freedoms and well-being was also demonstrated by the prevalent practice of devaluing or non-recognition of women students' abilities and competencies. Participants observed that there were widespread perceptions that most women students were engaging in sexual relations with some of their men lecturers in exchange for good grades. These perceptions implied that women students were 'weak' and 'incompetent' to perform well or obtain good grades and needed 'assistance.' They also generated a certain hostility between men and women students, since men students felt that women were at an unfair 'advantage'. On the other hand, devaluation of women's abilities limited their participation in certain activities such as student governance and leadership and decision-making bodies in law school. For instance, Moore gave an example of a woman whose election to a campus political office was violently disrupted by a group of men students, who were of the view that women are 'emotional' and thus 'incompetent' leaders. This demonstrates that while there were formal opportunities for women to participate and be elected to leadership and decision-making positions in law school, gender was subtly and not so subtly used to constrain women students' freedoms to use these opportunities and consequently, limited their effective participation in law school's leadership and decision-making. Further evidence demonstrated that gender also constrained the agency freedoms of students to make genuine choices from the available course options. Participants recalled that some courses were labelled as 'tough' and 'masculine' or 'soft' and 'feminine', which in turn led to more women than men students choosing the so-called feminine courses, while more men chose the so-called masculine courses. Since the courses students chose at university level have an impact on their area of work after university, choosing courses based on stereotypical labels of femininity and masculinity perpetuates gender inequalities by 'directing' women and men students to 'typically' feminine and masculine areas of the profession respectively.

Other factors that affected students' freedoms to achieve well-being in law school were lecturer's absences, lecturer's negative attitudes and sexist comments towards students, as well as students' perceptions and worries about sexual harassment. The last two factors had a gender dimension.

Evidence demonstrated that most lecturers spent limited time in law school as they were engaged in other legal professional duties. Their absence deprived most students of the opportunity to interact and learn from them. Even when they were available, some of them exhibited negative attitudes towards students, which in turn deterred some students from approaching them. This constrained the formation and flourishing of healthy pedagogical relationships between lecturers and students. In addition, negative and sexist comments from certain lecturers affected students' concentration in the classroom, especially the victims (who were mostly women) as they felt lonely and isolated in the learning process. As the participants accounts presented in chapter 6 illustrate, most victims of sexist comments experienced humiliation and anxiety, which in turn diminished their self-confidence and esteem and consequently led to withdrawal from active participation in learning processes and activities. All these had a corrosive effect on their educational agency and well-being achievement. In addition to sexist comments, prevailing perceptions of and worries about sexual harassment affected women students' interactions in campus spaces, which in turn limited their opportunities and freedoms to form essential social and professional networks. It also constrained free mobility of women students as most of them felt unsafe walking alone on campus. This affected how and the extent to which a majority of women students converted available educational resources and opportunities (such as the library or lecturers' consulting hours) into valued educational functionings (such as engaging with knowledge or forming meaningful mentoring networks).

Nevertheless, being assertive, determined and focused enabled most participants in this study to actively participate and engage in learning and developmental activities. They stated that they knew what they wanted and were determined to achieve it no matter what. They were not willing to let the 'chilly' climate thwart their success. For instance, some participants in the public law schools stated that they volunteered to ask or answer questions in class despite the fact that other women students were quiet. Others, like Manaana, disregarded widespread perceptions of sexual violence and approached and consulted with their male lecturers. This illustrates that some women students were negotiating and contesting general and socially accepted and sanctioned practices of women's passivity in law school and the wider society. It demonstrates their agency and resilience. In this regard, personal conversion factors of resilience and determination were significant in enabling most participants in this study to navigate the gendered structures and environment under which they operated in order to achieve their educational well-being. However, this is not to assume that all women students could do this, or that resilience alone is sufficient without at least some enabling factors such as the confidence carried over from pre-university school success and family (and social) support. For instance, Lilly and Maryl noted that they were encouraged by their friends and family to persevere and/or

overcome the challenges and succeed in law school. Thus, women students' well-being and agency achievements are both individual and social as Sen (1992) points out.

While most women in this study were agentic, being a part-time working student limited the opportunities some of them had to engage in educationally enriching activities, because they spent less time in law school. This was illustrated by Kari who explained that working part-time affected her involvement in school activities. Further, and particularly for university X, being a regular or parallel student had an impact on students' participation and engagement in law school activities. As opposed to regular students who attended day classes, parallel students attended evening classes. This affected their interactions and involvement in extra-curricular activities which, as we saw in chapter 6, took place in the evening or during weekends when parallel students were either in class or at home. Thus, we can argue that parallel students in university X had limited opportunities and freedoms to take part in extra-curricular activities, which in turn limited their chances of forming meaningful networks and associations that are significant for students' professional opportunities and development.

Their place of residence while in law school also determined how active each student was in law school activities, especially extra-curricular. As I stated above, most extra activities in law school took place in the evening after class hours or during weekends, and thus most students who resided outside campus did not have time to participate. This affected women more than men students because of the added safety issues outside campus. Consequently, their opportunities to form social and professional networks were constrained, and this had an impact on their educational well-being achievement. While living on campus expanded the opportunities most students had to interact with one another and take part in extra-curricular activities, there was evidence that some students were not able to balance between their participation in educational and non-educational activities, especially during the first year of law school. For instance, Coco and Jane noted that they performed poorly in their first year examinations because they spent too little time on educational activities. Therefore, inability to exercise self-discipline among these women had negative effects on their educational advancement. It is important to note that inability to balance between educational and non-educational activities among students, and particularly those in first year, is a common phenomenon. Research in this area demonstrates challenges first-year students face while adjusting to the new learning environment and the support they might need to succeed (see for example Johnston, 2010; Knox & Wyper, 2008; Krause et al., 2005; Pascarella & Terenzin, 2005; Wilson-Strydom, 2015).

Analysis of participants' experiences after law school demonstrates that there were three factors that affected women's professional well-being and agency. These were limited employment opportunities, sexual harassment, and undermining of women lawyer's abilities. First, evidence presented in chapter 7 illustrated that there were limited employment opportunities in the legal profession, which in turn constrained the freedoms of most participants to choose and work in their valued areas of legal practice. However, some of them were able to get jobs by tapping into their friendships and social networks. With regard to sexual harassment, evidence showed that sexual harassment limited some women's opportunities to advance in the profession. Participants observed that some women lawyers, especially the young graduates, were asked for sexual favours in order to get a job or remain in employment or to get a promotion. Rejection of these advances led to the termination of some women's employment, which in turn affected their economic well-being and professional development. Nonetheless, as the experiences of Kari and Maryl showed, support from family and friends became critical in enabling women who had experienced sexual harassment to persevere, remain and progress in the profession. Lastly, with regard to women's abilities, results revealed that undermining women's capacity to discharge their professional duties effectively generated feelings of anxiety. This was particularly the case in male dominated areas of legal practice such as criminal and civil litigation. Yet, confidence and resilience among the participants who were in these areas of practice enabled them to withstand or negotiate these perceptions.

The following table maps all conversion factors that enabled or constrained women's choices and use of resources and opportunities to, in and through higher education.

Table 6: Conversion factors shaping women's capabilities to, within and through higher education.

Capabilities to:	Conversion factors	
	<u>Constraints</u>	<u>Enablers</u>
Access higher education	<ul style="list-style-type: none"> • Gender norms and practices (society devaluation of girl's education) • Individual performance at KCSE • Government-university admission and selection policies 	<ul style="list-style-type: none"> • Aspirations • Individual families' positive attitude and support for girl's education • Individual good performance • Family's financial and emotional support • Pre-university schooling support • Individual resilience and determination
Participate in higher education	<ul style="list-style-type: none"> • Mode of teaching (note-dictation) • Sexual harassment • Unavailability of lecturers • Lecturers' negative attitudes • Sexist comments towards women students • Gender norms and stereotypes • Being a part-time working student • Being a parallel student • Residing off-campus • Inability to balance between educational and other competing activities 	<ul style="list-style-type: none"> • Mode of teaching (debate) • Lecturers' positive attitudes • Social support and networks • Individual resilience and determination • Being a regular student • Residing on campus
Achieve through higher education	<ul style="list-style-type: none"> • High levels of unemployment • Sexual harassment • Gender stereotypes 	<ul style="list-style-type: none"> • Social support and networks • Individual resilience and determination

In summary, I have used a capability lens to examine participants' narratives and highlighted various conversion factors both inside and outside law school that affected the ways women utilized available resources, opportunities and freedoms to achieve their educational and general well-being. Although there are various conversion factors at different stages of women's lives, gender norms, practices and stereotypes cut across the three phases as the main constraint, while resilience and social support emerged across all the phases as the main factor that enabled most participants to in negotiate gendered structural inequalities in pursuit of their well-being. What was surprising from my data was the fact that the type of student one is (parallel or regular) had an impact on their learning experience. I was also surprised by the evidence that the attitude of the lecturer as opposed to his/her gender (sex) affected students' interactions and engagement in the classroom. Furthermore, and most disturbing was the finding that most of the sexist comments against women students were made by female lecturers. I was expecting women lecturers to be gender conscious and thus treat women students well. This notwithstanding, from a gender justice and capabilities perspective, participants' accounts demonstrate that women students are different and each requires different capability sets at different times to pursue and achieve their valued educational outcomes. But they also share certain experiences in common,

suggesting that we also need to look for common or core valued capabilities across lives and across women, and how we can foster the development of these. Evidence in this section demonstrates that educational freedoms and achievements are connected and affect each other. For instance, lack of genuine access opportunities or access to unjust educational opportunities, processes and environment generate disadvantage which, in the end affects educational and life-time outcomes. Thus, we can argue that without genuine freedoms, women students accessing higher education might not be able to actively and successfully participate and progress through higher education, or they might not be able to develop, expand and use their capability sets to achieve well-being. In this respect, we need intentional points of intervention that address the various conversion factors I have identified above with the aim of expanding women students' real opportunities and freedoms to choose, access, participate, and achieve valued educational outcomes that are important to the kinds of lives they value both in and beyond higher education.

8.2 Capabilities for gender justice in and through higher education

In the previous section, I highlighted key conversion factors in educational well-being and agency freedoms and achievements. In this section, I draw on women's narratives and outline core capabilities valued by the participants across the three phases (pre-university, university, and post-university), and how these capabilities were either expanded or contracted in and through higher education. I employed Sen's notion of public debate and deliberations among ten women legal graduates in order to understand what capabilities are specific and important to the kinds of lives they reflexively wish to lead in and after university, after paying attention to their diversity and uniqueness of their context (Sen, 1999, 2006, 2009). I followed Fabienne Peter's (2003) observation that since the capability approach considers people as agents, it should involve them in evaluative process. This is important because engaging in public debate and dialogue that recognizes and includes women's voices and experiences, as well as linking the private and the public is critical in fostering and advancing gender justice policies in education (Dejaeghere, 2012). In this regard, I used a bottom-up process to generate my set of capabilities. My aim was to come up with a provisional and revisable multi-dimensional set of capabilities that need to be secured or fostered so that women students accessing and participating in higher education are able to gain valuable educational outcomes, and use these to contribute to their general well-being, as well as the well-being of other people and their societies at large, if they choose to do so. This was informed by the argument made by both Nussbaum (2003) and Walker (2006) that understanding these capabilities and how they could be promoted or fostered is essential in informing policy interventions that aim to promote just, equitable and inclusive higher education.

By doing so, the section serves to illuminate how the capabilities approach can be operationalized in the specific context of gender justice in higher education.

From my empirical data, I identified all functionings that were valued by the participants in each phase and extrapolated the underlying capabilities (Loots & Walker, 2015; Robeyns, 2003). Thereafter, I regrouped these capabilities to generate a set of core capabilities for gender justice in higher education. This was to ensure that each identified capability was irreducible (Robeyns, 2003). Table 7 maps these capabilities across the three phases. The number after each capability indicates the number of times it was mentioned. These numbers serve as a guide only to our understanding of the relative importance and relevance attached to each capability but not to rank them. This is because my analysis of data revealed instances where certain capabilities were mentioned either because they had been achieved and thus valued or they were valued but not achieved. In both cases, supporting and constraining conversion factors (outlined in the preceding section) were identified.

Table 7: Capabilities in and through higher education

	Core capabilities		
	Pre-university phase	University phase	Post-university phase
1.	Aspirations (10)	Aspirations (5)	Aspirations (10)
2.	Practical reason(10)	Practical reason (10)	Practical reason (10)
3.	Social relations and networks(10)	Social relations and networks (10)	Social relations and networks (10)
4.	Bodily health, integrity and safety (3)	Bodily health, integrity and safety (10)	Bodily health, integrity and safety (5)
5.	Respect, dignity and recognition (4)	Respect, dignity and recognition (10)	Respect, dignity and recognition (10)
6.	Voice (10)	Voice (10)	Voice (10)
7.	Confidence and self-esteem (10)	Confidence and self-esteem (10)	Confidence and self-esteem (10)
8.	Resilience (4)	Resilience (8)	Resilience (5)
9.	Financial security and independence (9)	Financial security and independence (5)	Financial security and independence (10)
10.	Control over one's life (10)	Control over one's life (10)	Control over one's life (10)

8.2.1 Dynamic nature of capabilities

From the table above, the relative weight attached to each capability (in this case measured by the number of times it was mentioned) indicates patterns of continuities and changes across the three phases. The first pattern, which I call *fixed*, represents those capabilities whose relative

weight remained the same across all phases. These are practical reason; social relations and networks; voice; confidence and self-esteem; and control over one's life. The second pattern, which I call *decrease-increase*, represents capabilities whose relative weight was high during the pre-university phase, decreased during the university but increased after university. Aspirations and financial security and independence fall in this sub-category. A third pattern, which I refer to as *increase-decrease*, represents those capabilities whose relative importance was lower during the pre-university phase, increased during the university phase but decreased again during post-university phase. Bodily health, integrity and safety and resilience fall in this sub-category. The final pattern, which I call *increase-constant*, represents those capabilities whose relative relevance was lower in the pre-university phase, increased during the university phase and remained high during the post-university phase. The capability for respect, dignity and recognition belongs to this sub-category. These patterns indicate that individual women may have valued different capabilities at different times and spaces, while there were certain capabilities that were valued by all women and at all spaces. This sub-section highlights these dynamics.

When the numbers attached to each capability in the pre-university phase is analyzed, results show that participants attached more relevance to *aspirations, practical reason, social relations and networks, voice, confidence and self-esteem, financial security and independence, and control over one's life*, while they attached less importance to *bodily health, integrity and safety, respect, dignity and recognition, and resilience*. This could be explained based on their age and individual socio-economic circumstances. First, at this phase, all participants were young. In addition, they were brought up in societies where women's opportunities and freedoms were constrained. However, participants disapproved this state of affairs by imagining and hoping to lead different and better lives than that led by women in their communities. They all aspired to achieve financial security and independence, have a voice in all matters affecting them, as well as exercise control over their lives. All of them demonstrated their confidence and self-esteem by setting their educational, career and life goals and aspirations and discussing them with their fathers. Yet, for them to pursue and realize their goals and aspirations, they needed support from their family, relations and teachers. That could also explain why the capability of *social relations and networks* was highly valued. Second, during this phase, all participants were under the care and protection of their parents or guardians (and teachers when in school). From their accounts, they did not feel discriminated against, or that their bodily integrity and safety was threatened in any way. They might have taken these two capabilities for granted, explaining why they were mentioned by few women in this phase. Given the enormous support these women received from family and school, very few encountered challenges at this phase. For those who did, their challenges were

related to either lack of school fees or death of a parent. This might also explain why the weight attached to resilience is low in this phase.

At the university phase, the weight attached to each capability is high except for *aspirations* and *financial security*. Unlike the pre-university phase, the relative weight attached to *bodily health, integrity and safety, respect, dignity and recognition*, and *resilience* increases, while that attached to *practical reason, social relations and networks, voice, confidence and self-esteem*, and *control over one's life* remains the same. From their narratives, it was at university that participant's experienced discrimination and disrespect based on their gender. For the first time in their lives, participants were exposed to actual or perceived violence and sexual harassment, and felt uncomfortable and unsafe in a learning environment. They disapproved this state of affairs, demonstrating that valued their *bodily health, integrity and safety*, and that they desired to be *respected* and treated with *dignity*. *Resilience* also comes out strongly at this phase because the participants were exposed to more educational and life challenges as young adults, which they had to persevere or overcome so as to succeed. Unlike the pre-university phase where the weight attached to the capabilities of *financial security and independence* and *aspirations* was high, it diminished at the university phase. This could be attributed to the fact that university was a phase for realizing these capabilities. These capabilities were only mentioned when they were either expanded or contracted. Expansion and contraction of all these capabilities will be explained in sub-section 8.2.2 below.

Finally, the post university phase also shows some dynamics. Like the pre-university phase (and unlike the university phase), the relative weight attached to *bodily health, integrity and safety*, and *resilience* reduces at this phase. Like the pre-university phase, these capabilities were only mentioned when they were either threatened (for the former) or used (for the latter). From this perspective, we can argue that since most participants did not experience many challenges, or unsafety or discrimination in their lives after university, they may have taken these capabilities for granted. Unlike the university phase, the weight attached to *financial security and independence* and *aspirations* increases at post-university phase. This is because after acquiring their university education, all women had achieved their initial aspirations (including financial security and independence) and, in the process of thinking and planning for their post-university life, they formed new aspirations. This demonstrates that when individuals achieve their initial aspirations, they get motivated to aspire to new heights. In this regard, aspirations are both a valuable functioning and a capability. The weight attached to *financial security and independence* increased because all women had achieved and were enjoying the benefits of this capability. Like the university phase (and unlike the pre-university phase), the weight attached to *respect, dignity and*

recognition increased during the post-university phase. This is because after going through university, all women valued the importance of being treated and treating others with respect and dignity.

These changes and continuities notwithstanding, the fact that all these capabilities were valued across the three phases demonstrates that they are all important to gender justice in higher education, and should be fostered. The following sub-section examines these capabilities to illustrate how they were developed, expanded or contracted in and through higher education.

8.2.2 Capabilities formation, expansion and contraction

The first capability that emerged from my empirical data was *aspirations*. This capability refers to having hope for a better life, and being motivated to work towards achieving this life. Evidence presented in chapter 5 demonstrated that all women had aspirations for university education. They were hoping to acquire and use their university education to lead better and decent lives, foster justice, and support other people. Women valued their aspirations as they motivated hard work hard in order to succeed. This capability was developed at the pre-university phase. Evidence showed that women's aspirations were influenced by diverse people that populated their aspirations windows, as well as the information that flowed through these windows (Ray, 2006). This capability was both expanded and contracted in higher education. On the one hand, participants confirmed that the different people they met and interacted with while at university opened their minds to other possibilities, which in turn broadened their aspirational maps. They developed other aspirations such as furthering their studies and advancing their careers. In doing so, they were 'fractur[ing] cycles of adapted preferences in which girls and women settle for less' (Walker, 2006, p. 173) and aim for higher and better outcomes in life. On the other hand, there were some educational practices such as teacher's comments like 'most (students) cannot progress to become ICC lawyers or judges,' or 'are you in the right profession' that had the potential to constrain students' capability to aspire. As July observed, these comments 'lowered their...aspirations. It crushed the dreams of others.' Thus, while higher education provided women with opportunities to cultivate their capability to aspire, certain practices had the potential to contract the development of this capability.

For these women to aspire, they needed the opportunity and freedom to engage in *practical reasoning*. Nussbaum's (2000) defines this capability as the ability 'to form a conception of the good and to engage in critical reflection about the planning of one's life.' She argues that practical reason plays a significant role in the development of other capabilities. This capability was important as it enabled the participants to reflect and make well-reasoned and informed choices about their educational, career and life goals. This capability was partly cultivated in the

families of these women and partly in the pre-university schools they attended. There was evidence that they talked to their parents and teachers about their chosen educational, career and life goals and aspirations. These conversations provided them with relevant knowledge, information and support to shape and or adjust their career and life goals and aspirations. Participants also acknowledged that higher education expanded their capability of practical reason as reflected in statements such as ‘I critically think and analyze facts and situations before making conclusions or passing a judgments,’ or ‘there are three sides of the coin, and I have to consider all before I conclude any matter.’ However, as most women explained, this capability, among others, was developed outside the classroom, especially during their participation in moot courts, legal aid clinics and public interest litigation. This implies that those students who did not have the opportunity to engage in some of these extra-curricular activities (mostly women) may be at a disadvantage. When I inquired from the participants about their future plans with regard to their careers and life in general, their responses suggested that they were all using this capability since they all had made or were making plans about the courses their professional and social lives would take.

Voice is another capability that emerged from the narratives of the ten participants. Voice is the capacity to express one’s concerns, views and interests, and being heard and those views taken into account. From the participants’ narratives, this capability extended to include the capacity to actively engage and participate in shaping discussions, discourse, and decisions that affect their lives and those around them both in the private and public sphere. Participants noted that a majority of women from their communities, including their mothers, had little or no say in family decisions and public deliberations on matters that affected themselves and their communities at large. These matters were discussed and decided upon by men, who in most cases marginalized women’s issues. In essence, the voices of women in these communities were constrained. For their part, participants stated that when growing up they had a voice within their families. Nevertheless, their voice was limited to stating their career goals and aspirations which, either way had to be approved by their fathers.

At university, this capability was both expanded and contracted. On the one hand, participants stated that they were exposed to more knowledge and information at university and they learnt about their rights. They had also gained values such as confidence, which in turn enabled them to articulate their issues well and express their concerns. In addition, most of them took part in educationally enriching activities such as legal aid clinics, public interest litigation and law journal committees, which provided fertile grounds for the cultivation of this capability. On the other

hand, and the evidence in chapter 6 indicates, the main mode of teaching (note-dictation) limited students' opportunities and freedoms students had to engage with lecturers, and also express views on the subjects they were being taught. Further, conformity to gender norms and expectations of women's docility limited the development of this capability among a majority of women students. This was illustrated by low classroom-participation rates among women, especially in the elite public law schools. In addition, women students' voice to report or raise concerns about inequalities in their lives was curtailed. This was demonstrated by their inability to report or seek redress for sexual harassment as a result of male-dominance in law school administrative structures or fear of victimization. Expressions such as 'report to who?' or 'nobody will take you seriously' demonstrate that although sexual harassment complainant mechanisms were in place, women's voices were constrained and they could not utilize these opportunities to seek redress.

Participants continued to exercise this capability after higher education. For instance, Kari and Lilly were able to question the excessive dowry demanded by their relatives in exchange of their marriage. After marriage, they were involved in household decision-making. Other women like Maryl were involved in making decisions that affected their extended families. This evidence suggests that the capacity of women to voice their concerns depends on context-specific and cultural practices of the societies in which they live, the level of gender inclusiveness and consciousness in educational institutions in which they are educated, the social standing and personal attributes of the women themselves, and whether or not diverse and critical opinions are tolerated.

Related but distinct from voice was the *capability of confidence and self-esteem*. This is the ability to believe in oneself including one's decisions and choices in life, and acting on them without fear or shame. The evidence presented in chapters 5, 6 and 7 illustrates that this capability was both developed and constrained at different stages of women's lives. While they were young, this capability was developed when parents of seven of the women approved the career choices and aspirations their daughters had. This was critical as it enabled them to focus and work hard towards the attainment of their career and life aspirations. For three women (Kaya, Coco and Maryl), parental disapproval constrained the development of this capability. As Coco narrated, 'my father's stern rejection of my initial career choice traumatized me. I didn't know what else to think or do.' However, when they got to secondary school, their teachers fostered the development of this capability by giving them information on various career options and guiding them through the decision-making process. At university, this capability was both expanded and

contracted. Results presented in chapters 6 and 7 show that being in university gave these women a different and respected identity which improved their sense of confidence and pride. They ‘walked with their heads high’ and started ‘to believe in their own decisions and choices in life.’ This confidence enabled them to express themselves, and also to confront and challenge some of the inequalities they were experiencing in their lives. However, participants noted that negative attitudes and sexist and humiliating comments from certain lecturers, as well as the devaluation of women’s competencies eroded this capability. Lack of confidence had a negative impact on their learning dispositions.

While talking about their lives after university, all women stated that confidence and self-esteem expanded their voice and agency freedom. For instance, Kari brought a legal action against her employer for sexually harassing her. Further, some women were able to interact with other people with whom they would not interact under normal circumstances. This is because they believed that they were in a position to hold and sustain meaningful conversations with these people as a result of the knowledge and skills they had acquired from higher education. In addition, seven of the eight women who were single chose to delay marriage (while another one had chosen never to marry) so as to advance their careers, further their studies and enjoy their lives. From this perspective, self-esteem and confidence became a necessary precursor for their actions. It nurtured and augmented their capability to aspire because they believed in their abilities to achieve their aspirations and goals. Thus, this capability seems to be foundational to all other capabilities and can be considered a ‘fertile functioning’ (Wolff & De-Shalit, 2007, p. 38).

In addition to confidence, participants valued the capability of *financial security and independence*. From the views of the participants, this is the ability to use one’s education to earn or generate one’s own income and become economically independent. This capability includes but goes beyond the right to seek and get employment on an equal basis with others in the labour market (Nussbaum, 2000; Robeyns, 2003). Commenting on the importance of economic independence in women’s lives, participants stated that financial dependence on men (particularly in patriarchal societies) silences women and subjects them to inequalities and degrading lives because they lack alternatives. They observed that being financially sound and independent opens women to other opportunities and possibilities, which in turn enables them to break from and or address inequalities in their lives. That is why they were all aspiring to achieve this capability. Reflecting on their lives after university, all participants stated that university education equipped them with valuable professional knowledge and skills, which they utilized to secure decent and well-paying

jobs. They were then able to use money/income from their jobs to choose and lead better and decent lives such as having adequate shelter, food, clothing, travelling and so forth. In addition, these women were able to support other people. Thus, financial security and independence expanded their opportunities and freedoms to exercise their agency and achieve their own well-being, and also to contribute to the well-being of other people, illustrating that it was another fertile functioning. However, acquiring this capability after university was not easy among some women since employment opportunities were fewer in the legal labour market compared to the number of people seeking employment. For instance, evidence presented in chapter 7 indicated that it took Lilly three months to secure pupillage while it took July two months to secure new employment after her pupillage. To circumvent the challenges posed by the labour market, most participants used their social relations and networks to secure pupillage and eventually employment.

Another capability valued by the participants was the capability to exercise *control over their lives*. From the narratives of the participants, this is the ability to have the freedom to choose, do or become whatever one reflexively values. That is, having genuine freedoms to plan, make choices and decisions about one's present and future life, material and non-material resources and time, and to act and live accordingly. It denotes empowerment (Walker, 2006). Participants noted that prior to university, this capability was constrained because they were under the care, provision and protection of their parents/guardians and or teachers. However, they were able to exercise control over their lives at and after university. At university, all of them lived away from their parents/guardians and were given some money for their upkeep. This gave them some degree of autonomy. For the first time in their lives, their movements or associations or how they spent their time or resources at university were not monitored. They had to decide when and which classes to attend, when to undertake personal studies or get involved in extra-curricular activities, what to buy and for how much, who to interact with, and so on. The freedom to choose and make decisions regarding these aspects of their university lives cultivated their ability to plan, manage and decide what to do with their resources, time and lives while at university. It also instilled self-discipline among them. As most of them said, when joining university, they were looking forward to enjoying campus freedom but once in university, they realized that this freedom came with responsibility. The responsibility they were referring to was their ability to discern right from wrong, while making their choices and decisions on how to spend their time and resources. They affirmed that this experience was important because it taught them how to plan and manage their time, resources and lives in general. They continued to exercise this capability after university as a result of the financial security and independence they had

achieved, which gave them resources and autonomy to exercise their agency to decide upon and lead the kinds of lives they valued without fear or interference. In the words of Kabeer (2005, p. 15), financial security and independence became a medium through which these women exercised their agency as it freed them from the shackles of silence and passivity, and enabled them to talk, act and live in ways they deemed fit. For instance, all decided to live in the city as opposed to going back to the village because the city offered them better employment and life opportunities. They also decided whether and when to get married, to whom, how many children they would have, and so on. Others (like Lilly, Kari and Manaan) decided to use their economic resources to pursue their masters' degrees. The two who married (Lilly and Kari) stated that they were involved in decision-making about family finances and investments as well as household responsibilities. In essence, all participants experienced some autonomy in controlling their lives, which in turn enabled them to create time, space and opportunity to engage in other activities which were important to their quality of life and thus contributed to their overall well-being. Thus, these findings illustrate that higher education, and particularly a professional degree, is a significant capability multiplier and generative for agency.

Social relations and networks is another capability that emerged from the narratives of the participants. It denotes the ability women have to interact and form associations among themselves and also with diverse people (Nussbaum, 2000). It extends to include the ability to support and also receive support from other people (Robeyns, 2003; Walker, 2006). In essence, this is the ability to participate fully in society. From the findings of chapter 5, all participants were supported by their families to acquire education. However, they attended girls-only boarding secondary schools implying that their pre-university interactions were limited to people similar to themselves. From school, they went home where their interactions with their immediate communities were also limited. This curtailed the fostering and expansion of the capability of social relations and affiliations. That is why, as evidence in chapter 6 illustrated, participants were looking forward to a university environment where they would meet and interact with diverse people. This capability was expanded at university since they were able to interact with and learn from diverse students, as well as their lecturers and invited speakers. These interactions exposed them to different aspects of life and cultures, and knowledge and information, which expanded their aspirational maps. They also formed meaningful friendships and social networks, which increased their social and professional capitals. As most of them explained, they used the social networks they had formed while at university to secure pupillage and employment opportunities. Others stated that their friends or social networks were important in times of crisis such as when they were depressed and needed comfort, or needed to

borrow money. However, we should note that formation of social networks had a gender dimension. Most women stated that worries of sexual harassment limited their mobility and interactions at university, which in turn constrained their agency freedom to form meaningful social networks. Further, men students dominated participation in extra-curricular activities where most of these interactions occurred. Thus, we can argue that more men than women students had opportunities to form social networks, which in turn gave them an upper hand in the labour market in terms of securing job placements. With regards to receiving support, evidence revealed that these women would not have pursued or realized their educational goals and aspirations were it not for the support of their families, teachers and social networks. This is what motivated them to offer support to other people. For instance, after completing university and achieving financial security and independence, some participants were involved in supporting their families and siblings, others in educating other girls back in the village, while others like Kaya started development projects in their villages. They valued this capability because it not only contributed to the achievement of their own well-being but also to the well-being of those around them and their communities at large.

The capability of *bodily health, integrity and safety* emerged as a valued. It refers to the ability to be physically healthy and to be secure from harm and violence of any sort in and outside school, such as sexual harassment and violence (Nussbaum, 2000; Robeyns, 2003). It also includes the ability to move freely and to live in a safe environment both in and outside school (Ibid), and being free from fear and anxiety. Further, it encompasses having a choice and voice in matters of sexual reproduction (Walker, 2006). All aspects of this capability were valued by all participants. As table 7 shows, this capability appears to be least valued in pre-university life as these women might have taken it for granted, given the fact that they were in friendly girls-only boarding schools and were always under the protection and care of their parents when not in school. It comes out strongly during and after university life because this is where substantial aspects of this capability were contracted. As evidence in chapter 6 and 7 illustrated, many women students/legal professionals were exposed to actual and perceived sexual harassment and violence, as well as sexist comments. This constrained their mobility and interactions within higher education and also within the workplace, because they felt uncomfortable and unsafe. Feeling unsafe generated fear and anxiety and thus affected their well-being. Participants' disapproval of this state of affairs implied that they valued their bodily health, integrity and safety. However, certain aspects of this capability were also expanded through higher education, since most women had gained confidence and were able to exercise control over their sexual reproductive lives. This was illustrated by the choices they had made with regard to their

marriage whereby most of them chose to delay marriage, while those who were married had the freedom to choose when to marry, to whom and how many children they would have. They also had a voice in their marital homes. This was explained above.

In addition to bodily health, integrity and safety, the women valued *respect, dignity and recognition*. This capability refers to the ability to respect and to be respected by diverse others. It also includes the ability to treat and be treated with dignity by diverse others, not diminishing or being diminished or degraded because of your gender, class or any other difference (Nussbaum, 2000; Robeyns, 2003; Walker, 2006). This extends to involve the ability listen to and take into account diverse points of view in dialogue and debate in different settings (Walker, 2006). That is, to recognize and value diversity. Participants recalled that when they were growing up they witnessed that most women in their societies were not respected or recognized as they were excluded from decision-making or in leadership positions. However, participants observed that they were respected and treated with dignity within their own families because they were given equal opportunities to go to school like their brothers. Further, they shares household chores with their brothers. In school, they were involved in all learning activities implying that they were respected and valued. However, they noted that this capability was constrained at university. For instance, although there were opportunities for all students to take part in leadership and decision-making positions in law school clubs, most women students did not do so because of prevailing gender norms that devalued women's abilities and competencies to lead. Secondly, certain practices such as sexist remarks directed towards women students illustrated disrespect. Further, the widespread practice of questioning whether women's good grades were earned or exchanged over sex demonstrated misrecognition of women's abilities to perform well. Non-recognition or disrespect towards women was also experienced in legal practice. As I illustrated in chapter 7, participants noted that most young women lawyers were subjected to sexual harassment from their male colleagues either to maintain their jobs or get promotions. In addition to sexual harassment, most men lawyers especially those in litigation would 'tease' women litigation lawyers and question their abilities to effectively argue their clients' cases. However, it is important to note that, compared to women who had not gone to university; all participants felt that they were more respected. This was illustrated by their involvement in decision making in their own families and also when people sought legal advice from them. In addition to being respected, the women noted that they also respected and treated other people with dignity. They attributed this to their exposure to diverse people while at university, which in turn gave them the opportunity to learn how to listen to, deal with and accommodate different views and actions. This shows that they had developed the ability to imagine and understand

other people's situations and empathize. They were not quick to judge people until they understood why they acted or did not act in certain ways. This was crucial for their personal, social and professional lives.

The last capability that emerges from my data is *resilience*. This is the ability to negotiate or persevere and succeed despite being faced by adverse conditions, circumstances or outcomes. This capability was crucial for women's success. Most participants stated that they had made progress in their educational and professional lives despite experiencing various challenges at different stages of their personal, social and economic lives. For instance, Kari was able to pass and join university despite experiencing financial problems during her secondary school education. She was also able to transfer to and acquire a degree in law after being selected to study commerce at university by JAB. For their part, Lilly and Coco were able to go back to school after experiencing financial constraints as a result of the death of their fathers. At university, most of these women demonstrated resilience by actively engaging in and outside class activities, despite negative practices such sexual harassment and devaluation of women students' competences, as well as negative comments from certain lectures. Some of them continued to demonstrate resilience in the legal profession. For instance, Mary and Kari were able to go back to legal practice after experiencing grave sexual harassment from their male employers. Yuki and Lilly never gave up on litigation as a career choice despite constant acts of devaluation and misrecognition from their male counterparts. This evidence demonstrates that women can, and they do, exercise their agency to navigate or negotiate gendered norms and practices and achieve well-being. However, they need other capabilities to do so. As I illustrated in chapters 5, all participants had aspirations for better and alternative lives which they hoped to lead, which in turn inspired them to work hard despite the challenges. Through practical reason, they engaged in personal and social reflection on the possible ways of attaining these imagined alternative futures. This enabled them to be aware of the potential obstacles and also devise ways of overcoming them. They also had support (both financial and emotional) from their families, teachers and friends (social relations and networks). This shows that capabilities are multi-dimensional as they intersect and affect each other, whereby achieving one capability fosters the development or flourishing of other capabilities. Thus, resilience should not be extracted from other capabilities or social arrangements and presented only as an individual quality, as the 'grit' literature claims (See for example Duckworth et al., 2007; Perkins-Gough, 2013; Tough, 2012).

Overall, examination of capabilities development, expansion or contraction in women's lives across the three phases reveal is that in a gendered society, women's valued capabilities are never quite secured since they can be expanded in one site and diminished in another. Thus, there is a

need to identify and secure all capabilities which women value as they contribute to the development of other capabilities and achievement of other functionings.

The purpose of generating this provisional set of capabilities from individual experiences and insights is show what capabilities need to be developed, secured or expanded so as to enhance or promote gender justice in and through higher education considering individual students' well-being and agency. In this regard, my ten capabilities dimensions provide a different language for thinking and talking about gender justice in higher education. They move the gender justice debate beyond formal equality to focus on the creation and expansion of students' capabilities for : a) just and equitable access to educational opportunities and freedoms; b) effective and successful participation in just, equitable and inclusive educational processes and environments that recognize and respect students' diversity; and c) achievement of valued educational outcomes that enable each and every student to choose and lead meaningful and productive lives. Further, by illustrating how each of ten capabilities dimensions was augmented or diminished, I draw attention to various conversion factors that support or impair students' capabilities to function within and beyond higher education. By highlighting these factors, I intend to open and stimulate debate on possible interventions or points of action aimed at promoting or fostering students' well-being and agency.

8.3 Engaging my set with other capabilities sets

The reason for engaging with other sets is to draw on wider debates and other empirical evidence to explore the similarities and differences, and also to see whether there is anything I can learn from those sets that can be applied either to inform or promote gender justice in higher education in a Kenyan context. This follows Sen's (2004) advice that we should consider other capability sets even if they were developed for other purposes. In this section, I compare the capabilities dimensions on my set with those in the sets of Nussbaum (2000), Robeyns (2003), Walker (2006) and Loots and Walker (2015). Table 8 below juxtaposes the capabilities dimensions on these sets.

Table 8: Comparing my set of capabilities with other sets

Nussbaum (2000)	Robeyns (2003)	Walker (2006)	Loots and Walker (2015)	Ongera (2016)
Life	Life and physical health	Autonomy	Bodily integrity and safety	Aspirations
Bodily health	Mental well-being	Knowledge	Dignity and respect	Practical reason
Bodily integrity	Bodily integrity and safety	Social relations	voice	Voice
Senses, Imagination and Thought	Social relations	Respect and recognition	Knowledge and education	Confidence and self-esteem
Emotions	Political empowerment	Aspirations		Financial security and independence
Practical reason	Education and knowledge	Voice		Control over one's life
Affiliation	Domestic work and non-market care	Bodily integrity and health		Social relations and networks
Other species	Paid work and other projects	Emotional integrity and emotions		Bodily health, integrity and safety
Play	Shelter and environment			Respect, dignity and recognition
Control over one's environment	Mobility			Resilience
	Leisure activities			
	Time-autonomy			
	Respect			
	Religion			

Starting with Nussbaum's (2000) set, there are five capabilities in my set that are similar to or overlap with hers. These are *practical reason*; *bodily health, integrity and safety*; *social relations and networks*; *affiliation (respect, dignity and recognition)*; and *control over one's life*. Although Nussbaum emphasizes that all capabilities in her set are important, she assigns more importance to *practical reason* and *affiliation* arguing that 'they both organize and suffuse all the others' (Nussbaum, 2000, p. 81). Participants in my study placed more importance on *financial security and independence* than other capabilities as it gave them autonomy to choose and exercise control over their lives. This can be attributed to the fact that they came from deeply gendered societies where women's lives (personal, social, economic and political) were under constant control by men. This finding illustrates the important role context and social/environmental experiences/conditions play in informing and shaping valued capabilities. Nonetheless, what we learn from Nussbaum is that whether one capability is valued more than the others, all capabilities are important and should be secured in order to ensure that women have substantive freedoms to choose and lead flourishing and fully dignified lives in and beyond higher education.

Moving to Robeyns' (2003) set, I stated in chapter 3 that her list was drafted to conceptualize and assess gender inequalities in post-industrialized western countries. Difference in context and objective of the list notwithstanding, I identified six similar or overlapping capabilities: *bodily health, integrity and safety; voice; financial security and independence (which she narrowly calls paid work); control over one's life (which includes her time-autonomy); respect, dignity and recognition; and social relations and networks*. An important capability in her set which, although it does not appear in my set, informs this research is her capability dimension of *education and knowledge*. She argues that analysis of gender equality in education should go beyond formal access to consider how gendered practices, processes and conditions in educational institutions enable or constrain women from achieving and benefiting from their education. My research considered and identified various conversion factors that have an impact on women's equitable access, participation and achievement in and outside higher education institutions, because they all have a bearing on gender justice in education. The 'beyond formal access' focus underscores the importance of ensuring two things. First, that men and women have equitable opportunities to access to higher education. Second, that educational process, practices and conditions are not only just, equitable and inclusive, but also expand the capability sets and agency of men and women participating in higher education to achieve (and benefit from) their valued educational and life outcomes. These two dimensions are critical for promoting gender justice in higher education and in contributing to broader social justice and development goals.

Walker's (2006) set is relevant to my research for two reasons. One, she used Robeyns' (2003) five criteria to formulate her capabilities; and two, her set focuses on gender equity in education in South Africa, a country in sub-Saharan Africa like Kenya. In this respect, the list provided a good starting point for my understanding of what capabilities for gender justice need to be promoted and secured in education. However, I was aware that contextual differences between these two countries (in terms of location, history, culture, social, economic and political conditions) might influence the capabilities women students in these two contexts value. That notwithstanding, six capabilities in my list were similar to Walker's. These were *aspirations; voice; respect, dignity and recognition; social relations and networks; bodily health, integrity and safety; and control over one's life*. As I have indicated above, certain aspects of Walker's list are different from mine. For instance, *respect, dignity and recognition* and *self-confidence and esteem* appear as one capability in Walker's list but as separate and distinct capabilities in my list. Secondly, the capability of exercising *control over one's life* is broader than Walker's capability of *autonomy*, although it embodies her notion of empowerment. These similarities and differences notwithstanding, Walker's formulation of her set offers two insights to my set. First, she underscores the importance of

focusing on the specificities of education in order to form a basis for arguing for pedagogic approaches that promote capabilities and equality. This informed my focus on the specific aspect of gender (in)justice in higher education in Kenya to examine which capabilities women student's value and how these are or can be developed or fostered to promote a more just, equitable and inclusive higher education. Secondly, Walker states that her capability set is not conclusive as it can be revised and adapted as the context may require after engaging in democratic participation and dialogue. In this regard, I used the empirical voices of my participants to develop a provisional set of capabilities that is specific to promote gender justice in higher education in Kenya. Like Walker's set, my set is not fixed. It is open to revision in light of any emerging qualitative evidence based on intense public deliberations and or change in circumstances.

Finally, the capabilities dimensions on Loots and Walker's (2015) set were generated to inform gender justice policy in higher education in South Africa. Like Walker (2006), these authors used a bottom-up approach to identify capabilities for gender justice in higher education. However, unlike my study, their empirical data included both male and female students' voices and experiences, making their dimensions 'thick' and more inclusive. Nonetheless, there are three capabilities in my set that are similar to or overlap their capabilities dimensions. These are *bodily health, integrity and safety; and respect, dignity and recognition; and voice*. Although the capability of *knowledge and education* does not appear on my set, it informed my research. When conceptualizing my study, as it focused on the capabilities to, in and through higher education. In other words, I sought to understand what opportunities and freedoms women have to access higher education, what capabilities they have to actively participate in equitable educational processes, and what value they attach to their higher education. My set identifies capabilities women value in and through higher education which, need to be secured in order to promote gender justice in and beyond higher education. The major contribution of these two authors lies in their use of the capabilities approach to inform policy development in the context of gender justice in higher education. They identify few but most significant capabilities in order to open and encourage debate aimed at reducing gender inequities in higher education. They also acknowledge that their capabilities dimensions can be expanded or added to in different contexts. From this perspective, my study expanded their capability of *knowledge and education*.

Taken all together, the following three capabilities from my set appear on the other four sets: *voice, bodily health, integrity and safety; and respect, dignity and recognition*. My set has three additional capabilities that do not appear as independent capabilities on any of the sets. These are *financial security and independence; resilience; and self-confidence and esteem*. What this comparison suggests is that

what is included or excluded from any set of capabilities depends partly on one's method and the empirical evidence obtained from public discussions about the specific issue under consideration, and the uniqueness of a specific context. My selection was informed by Sen's (1992) notion of engaging in democratic deliberative process in a diversified setting to identify valuable capabilities. My findings illustrate that different students will value different capabilities at different stages of their lives depending on their respective capitals and/or (dis)advantages. Since policy works at a macro and collective level, it is impossible for policy to address each and every individual's capability set. In this regard, certain trade-offs are necessary if they expand capability sets that promote more gender justice as opposed to retarding it (Unterhalter, 2012b). This is based on Sen's (1992) argument that having more of those capabilities that people agree as valuable can contribute to a more (gender) just (higher education and)society. The capabilities on my set should be seen as a first step in the process of developing a capabilities-informed gender justice policy in legal education, and higher education more generally. They give policy makers and planners tangible goals to work towards, aimed at expanding valued capabilities and achievement of valued functionings in and through higher education. Thus, they provide a starting point for policy debate and discussions regarding what capabilities need to be secured in an effort to promote or enhance gender justice in and through higher education in Kenya.

Conclusion

This chapter has drawn on the capabilities approach to analyze the opportunities and freedoms a selected number of women legal graduates had to access, participate and progress through higher education. My intention was to show how different conversion factors intersect at various stages of women's lives to enhance or impair their opportunities and freedoms to exercise their agency and achieve their well-being. The aim was to identify what constraining conversion factors (personal, social and environmental) need to be eliminated and what enabling factors need to be expanded so that women are able to have equitable access to higher education, and once in university, to successfully and confidently engage in a more just and inclusive educational learning environment, and acquire an education that expands their capability sets to function and contribute towards their own well-being, as well as transforming existing social injustices. This framework of analysis reveals that gender injustices are not located in higher education institutions only but in different sites and spheres that connect to affect women's well-being and exercise of agency in and beyond higher education. It underscores the importance of paying attention to the particular and unique local conditions and lived realities of women in their different sites and contexts, which in turn extends analysis of gender justice beyond groups and institutional structures to consider how different women within these groups and structures interact or act to challenge or reinforce existing injustices. In other words, this analytical

framework links individual agency and structures (economic, social, cultural and political), and the complexity of situated local practices, power relations and attitudes in our framing of gender justice in higher education.

The chapter also identified a provisional set of capabilities that were valued by the participants and highlighted how these capabilities were either contracted or fostered in and through higher education. This analysis demonstrated that capability formation and expansion among women is complex and dynamic as certain capabilities are enhanced in one site and diminished in another. For instance, while education seemed to foster certain capabilities such as voice and social relations, it also provided a space where some capabilities such as respect and recognition were contracted. Nonetheless, the analysis illustrated that all capabilities in my set are important for fostering gender justice in higher education. From this perspective, my set forms a basis for making a policy argument on what capabilities for gender justice need to be expanded or secured in and through higher education if higher education is to contribute to the well-being of its students, and to a more just and equitable society. This evaluative analysis phase (of identifying valued capabilities) is crucial and informs the prospective analysis phase, which focuses on formulating and implementing policy interventions to expand the identified capabilities (Loots & Walker, 2016). My set could also be used to assess how well higher education institutions are doing in expanding student's capability sets to achieve well-being and exercise agency. Thus, the chapter has shown how we can use the capabilities-informed framework to evaluate or assess gender (in)justice in the context of higher education in a low-income country.

CHAPTER 9: TOWARDS A MORE GENDER JUST, EQUITABLE AND INCLUSIVE HIGHER EDUCATION

Introduction

This chapter provides a summary of the study. It commences by reflecting on the aim of the study and research questions and highlights key findings. Based on the findings, the chapter then makes recommendations for educational policies and practices aimed at promoting gender justice in higher education in Kenya. Further, the chapter explains the contribution of this study to existing scholarship. It concludes by outlining what the study has not been able to do and thus suggests areas for further research.

9.1 Revisiting the research aim and questions

When conceptualizing this study, my concern was that most research on gender and higher education in Kenya focuses on women's numerical under-representation in higher education and aims at increasing women's formal access to all spheres of higher education from learning to employment to leadership and decision-making, again in terms of numbers. Little attention is paid beyond formal or distributive equality, important though this is, to investigate the experiences, insights and subtleties of gender inequality in women's lives as they access, participate and progress through higher education. My argument is that although widening women's access to various areas of higher education is important, it is insufficient to address inequalities in women's lives, both in and outside higher education. Thus, there is a need to consider how differences in contexts, social and cultural structures, practices and discourses intersect with individual biographies to shape women's experiences and lives in and beyond higher education. Using the capabilities approach as the analytical framework, and women legal graduates in Kenya as a case study, my study sought to investigate the experiences of ten women in accessing, participating and progressing through higher education so as to understand what supports the construction of their educational and career goals and aspirations, as well as achievement of their well-being and agency. I was guided by the following questions:

1. How do diverse women come to choose to study law? What role, if any, do their family, schooling and social and political environments play in making this decision?
2. What are their experiences in law school?
3. How do these experiences contribute to or influence their educational and career aspirations, and achievement of their well-being and agency?
4. What valued capabilities for their early professional careers and lives do they say they aspired for and/or achieved in and through higher education?

5. Based on the findings, what can be done both to theorize and to promote a more just, equitable and inclusive higher education?

This section summarizes the key findings in each question.

9.1.1 Choosing to study law

The aim of this question was to interrogate the opportunities and freedoms women had to exercise their agency in choosing and deciding what careers to pursue in higher education. It sought to address the critical questions often raised by researchers in gender and higher education: equitable access by whom, to what and how? Results revealed that all women had set their educational goals for university level. Six wanted to pursue law, while four wanted to pursue other careers. They hoped to use their university education to lead better lives, to foster justice and help the disadvantaged in their communities, as well as to gain status and earn respect. Although their higher educational aspirations and career choices were personal, they were defined and shaped by the lives, experiences, achievements, or ideals of people with whom they interacted. However, the freedom of the women to access higher education and pursue their desired careers was constrained and enhanced at various stages. Firstly, they needed parental support to pursue their education because they came from deeply gendered and patriarchal communities that did not value women and girls' formal education. In this regard, the family's positive attitude towards and support for girls' education was a critical resource in women's educational and career choices and decision-making process. Secondly, their parents had to approve their career choices because they were supporting them financially to acquire their education. As we saw in chapter 5, three women changed their career aspirations to law because their fathers had rejected their initial choices. Save for one woman whose parental disapproval was based on gender, parental influence on career choices of these women was based on their perception of possible future freedoms a given career would open to their daughters. Thirdly, after parental approval, participants had to work hard in their secondary school education to obtain the required grades to gain admission to university to pursue their approved careers. This shows the critical importance of secondary school performance on progression to higher education (Sifuna, 2006). However, obtaining the required grades was not a guarantee for them to pursue their desired or adjusted careers at the university level. Participants also had to go through the university JAB selection process, which has a greater impact on the higher educational and career pathways of students in Kenya. Of the ten women, only one was selected by JAB to study law at university. To navigate JAB's decision, one of the nine women exercised her agency and applied for an inter-faculty transfer to law, which was granted. The other eight

were funded by their families to pursue law either in private universities or under the parallel programme of the elite public universities.

These findings demonstrate that while most young women aspire to higher education and better life outcomes, they experience challenges in sustaining and achieving these aspirations (Tafere, 2014). Therefore, it is crucial to expand their opportunities and freedoms to choose, pursue and realize their educational goals and aspirations. Further, the findings illustrate that a majority of women who access higher education to pursue their desired careers (usually the elite and high-status careers) are either those bright enough to obtain the high and competitive grades required by JAB to pursue these careers, or those who don't obtain these grades but can afford to sponsor themselves (in one way or another) under the parallel programme or in private universities (Oketch, 2009). Evidence presented in chapter 1 showed that the percentage of women students in private universities and parallel programmes in public universities in Kenya is larger than that of women students in the regular programme of public universities (Oanda, 2005). Thus, we can argue, as Sifuna (2006) does, that a majority of women accessing higher education to pursue their desired careers are those that are already advantaged. This suggests that while the government has widened women's access to higher education, most women especially those who come from gendered societies and those from poor socio-economic backgrounds have limited opportunities and freedoms not only to access higher education, but also to pursue their valued degree choices. These findings are important when thinking about interventions to increase just and equitable access to higher education in Kenya.

9.1.2 Experiences in law school

Having gained admission to law school, the aim of this question was to give participants a platform to voice their contextualized experiences. These experiences were divided into: participation in and outside classroom activities. The aim was to examine whether and to what extent law school environment was 'chilly' for women students. The findings were presented in chapter 6.

Participants' experiences in the classroom revealed that participation was voluntary, implying that students had the freedom to choose and take part in activities that they found valuable. However, they noted that overall participation in classroom activities was limited firstly, by the mode of teaching (note-dictation) that did not allow students' active engagement, and secondly, by the size of their classes. This notwithstanding, a closer analysis of their accounts showed that when there were opportunities to participate, this participation was gendered. Participants from the elite public law schools stated that more men than women students volunteered to ask or respond to questions or comment in class, while those from the private law school observed that

more women than men students asked questions or volunteered to respond or make comments in class. However, participants' perceptions of their own participation showed that a majority of them (eight) took part in classroom activities. They were eager and willing to learn and this motivated them to actively engage in classroom activities, suggesting that they enjoyed access to knowledge. Other findings on experiences in the classroom environment revealed that certain courses were gendered by virtue of being concentrated by either men or women students. Further, there was evidence that some lecturers used negative comments or remarks in the classroom. Some of these comments had a gender dimension because they were directed only towards women students. What was surprising was that most of the sexist remarks were made by women lecturers. It was not possible to discern from my data why this was the case; this is an area that needs further research.

Moving on to experiences outside the classroom, evidence demonstrated that there were opportunities for all students to undertake extra-curricular activities and interact with each other and with their lecturers outside the classroom. However, participation in these activities was dominated by men students across the three law schools (Guinier et al., 1994). Yet, membership in certain clubs was gendered with more men students belonging to leadership-oriented clubs such as politics and leadership, while more women students belonged to service or care-oriented clubs such as public interest litigation. When it came to interactions with lecturers, findings illustrate that compared to men, women students formed a disproportionate minority of students who engaged with their lecturers, especially men lecturers, outside the classroom (Cassman & Pruitt, 2005). The low level of interaction between women students and their men lecturers was attributed to sexual harassment in law school. Unlike the majority of women students, eight of the ten participants formed part of the minority group of women students who actively engaged in club activities, and who interacted with their lecturers outside the classroom.

One experience that permeated classroom and outside classroom environments was the experience of being trained as a lawyer. Evidence illustrated that the traits, values and skills that were transmitted to students in law school were masculine in nature. These conflicted with most women's socialized feminine traits and behaviours (Mertz, 2007). Participants noted that most women had difficulties balancing their dual identities of women-lawyers, as they had to be lawyers in one space and women in other spaces.

In aggregate, findings on law school experiences indicate that, compared to men students, women students had a negative experience of law school as most of them suffered alienation from and silence in learning environment (Caroll & Brayfield, 2007; Guinier et al., 1994; Mertz et al., 1998). However, these experiences were not homogenous to all women students. Some

women students were more or less affected than others depending on their respective capitals. This was illustrated by the eight participants who were able to participate in law school activities despite the prevailing challenges, thus demonstrating resilience. Instead of pathologizing women students as victims of injustices, evidence illustrate how women can use their agency to resist or negotiate gendered structural inequalities and succeed. But they need other resources and capabilities such as self-confidence, esteem and social and financial support. Nonetheless, since most women students experienced exclusion from within (Herden, 1994), their experiences demonstrate that widening women's access to institutions that are deeply gendered is insufficient for gender justice and women's empowerment. They suggest the need to interrogate educational processes and conditions under which students are being educated to ensure that these contribute to a positive and enriching educational learning experience.

9.1.3 Relationship between law school experiences and achievement of well-being and agency

Question three drew on the capabilities approach to analyze women's experiences in law school and how these experiences affected their well-being and agency. The aim of the question was to identify various conversion factors that shape women students' experiences and influence the choices they make from any given set of opportunities in and after law school (higher education). The secondary aim was to illustrate whether, and the extent to which, higher education disrupts or reinforces inequalities in women's lives.

Analysis of the different participation patterns observed in classrooms revealed that most women students' freedom to actively and effectively engage in classroom activities was influenced by various conversion factors. In the public law schools, these were conformity to socialized gendered norms, lack of confidence among a majority of women students, and non-encouragement from the lecturers. Firstly, gendered norms and practices which had a negative impact on women students' classroom participation included compliance to socially sanctioned actions and behaviours of girls and boys in public. These norms and practices are learnt from a very young age. They seem to put girls and women in a subordinate position relative to boys and men. For instance, obedience to socialized practice of girls being quiet and calm translated to most girls being inactive in class while most boys used their gendered socialization of being active and speaking out to actively participate in classroom activities. This gave men students an educational advantage. For instance, because men students spoke out regularly, most of them were easily noticed and known by lecturers and this made the formation of mentoring relationships with their lecturers easy. Secondly, lack of confidence among most women students arose from the fear of being embarrassed if they gave incorrect answers or comments in public.

This had a root in the gendered perception that girls and women are not supposed to air their opinions in public. It was also attributed to the perception that most lecturers would not take their answers or comments seriously. This was a form of systemic misrecognition (Fraser, 2009), which in turn created inequalities in women students' learning experiences. Lastly, failure by the lecturers to encourage women students to participate in classroom activities in the public law schools reinforces gender stereotypes of women passivity. This illustrates how certain pedagogical practices in the classroom perpetuate our gendered upbringing to the detriment of women students' educational well-being and agency (Chege & Sifuna, 2006). In the private law school, women students' dominance in classroom activities was attributed to their large numbers, the desire and determination to learn among most of them, as well as the perception that many men students were disinterested in educational activities. This implies that a numerically women-dominated environment may generate a greater sense of belonging and thus improves or encourages women's participation. However, from a gender justice perspective, we need conditions and processes that are just and inclusive for all students, both men and women.

Another factor that affected student's agency and well-being in the classroom was the use of negative and sexist comments by some lecturers (Herden, 1994). These comments left students feeling less confident about their abilities to succeed. They also constrained the relationship between these lecturers and students which in turn, limited students' opportunities to form flourishing and productive mentoring relationships, which were crucial for their professional development. Besides, sexist remarks against women students led to discomfort and humiliation. This in turn constrained their well-being and agency as most victims withdrew from active engagement in the classroom. Furthermore, sexist comments were inertly used to keep gender relations in place instead of disrupting them. For example, by criticizing women students because of the way they dressed, some women lecturers were reinforcing gendered expectations and stereotypes of what is appropriate for women to wear. In addition, they were unconsciously passing messages to students in the classroom that it was acceptable to ridicule women who go against this norm and dress the way they please.

Analysis of experiences outside the classroom illustrates that women students' participation and interactions were affected by worries about sexual harassment, as well as gender norms, practices and stereotypes. On the one hand, findings indicate that most women students felt uncomfortable and unsafe around campus spaces as a result of worries sexual harassment, which in turn affected their freedom of movement and interaction. Constrained mobility translated to limited freedoms to access and or use most educational opportunities or resources such as the

library, and consequently led to underachievement of educational well-being. In addition, limited interactions with peers and/or lecturers constrained women's opportunities to form and benefit from social support networks that were available in law school. This confirms Sifuna's (2006) argument that sexual harassment curtails women students' freedoms to actively participate in higher education. There was evidence of permissive attitude towards certain incidents of sexual harassment which continued to reinforce the gendered ideology of girls and women's inferiority and subordination. For example, participants observed that women students never talked back to men students who were teasing or making sexist jokes about women, either because they did not want to attract negative attention or they disregarded those jokes as 'boys being boys'. By not confronting the actions of these men students, women were putting men students in a socially powerful position. There was also evidence of an ongoing culture of senior men students luring first-year women students into relationships and leaving them soon after engaging in sexual activity with them. Turning a blind eye to these gendered and sexist practices meant that both students and school administration were giving them tacit approval in law school, and thus putting women at an educational disadvantage.

On the other hand, gender norms and stereotypes affected women students' interactions and engagement in learning activities outside the classroom. For example, stereotyping of certain activities as masculine or feminine led to gendered membership and participation in extra-curricular clubs. In particular, most women students did not take part in student governance and leadership activities as a result of gendered perceptions and attitudes that perceive women as 'emotional' and thus 'unsuitable' and incompetent' as leaders. Internalization of these gendered perceptions and attitudes excluded women students from most leadership positions in law school, although there were some women who defied these perceptions and sought to be elected into students' governance offices albeit with resistance. This illustrates the need to challenge and eliminate gendered perceptions and attitudes towards women's capabilities and roles in society, both at the individual and social level. Further, there was evidence that certain courses were labelled as either 'soft and feminine' thus a preserve of women or 'complex and masculine' thus a preserve of men. These gendered labels and stereotypes constrained the ability of most students to make genuine choices from available course options. This is because a majority of men students and a majority of women students ended up choosing masculine and feminine courses respectively. From this perspective, gendered labelling of courses not only affected students' well-being and agency, but also contributed to gender inequalities in the profession. In addition to gendered labelling of courses, results also revealed that most women students were not comfortable approaching their male lecturers outside the classroom because they feared being

asked for sexual favours. Those who rejected sexual advances from male lecturers were failed or threatened with failure, and those who sought redress from the school administration were ridiculed and not taken seriously. There was also the perception that women students who were seen with male lecturers outside the classroom were soliciting for good grades in exchange for sex. As the evidence presented in chapter 6 demonstrated, women's achievement was always being dismissed as a product of sexual favours. Overall, these gendered practices and attitudes put a majority of women at an educational disadvantage compared to men students since most women students could not consult or establish mentoring relationships with their male lecturers. Nonetheless, there were few women who used their agency to defy these gendered perceptions and actively engage in law school learning and development activities.

To sum up, analysis of the relationship between women's law school experiences and their well-being and agency indicates that although law schools are admitting more women students than before, they are still 'chilly' for a majority of women students. However, the degree of chilliness varies from one woman to another based on individual characteristics and or (dis)advantages. Nonetheless, identification and analysis of different conversion factors and how they contribute to or 'warm' up this chilly climate is important in our assessment or evaluation of gender justice in law school, and higher education in Kenya more broadly. It enables us to detect what negative factors need to be addressed or limited to make law schools (and higher education institutions in general) in Kenya more just and inclusive so that all students, especially women, are able to choose, pursue and achieve their desired higher educational and life outcomes.

9.1.4 Valued capabilities in and through higher education

The aim of research question 4 was to identify which capabilities for personal, social and professional lives participants valued and aspired to achieve or develop in and through higher education, and to examine whether, and the extent which, these were achieved or developed. This is because education is a fertile capability that also fosters the development of other capabilities that are important for individual and social well-being (Robeyns, 2006; Sen, 1999), although there are cases where educational processes and conditions contract the development of these capabilities. These findings were presented in detail in chapters 7 and 8.

In summary, analysis of women's narratives shows that they valued the following capabilities in and through higher education:

1. *Aspirations*. The ability to identify and set goals for the future, while being inspired in the present to work toward those goals. It includes the motivation to learn and succeed, to have a better life, to hope.

2. *Practical reason.* The ability to form a conception of the good and to engage in critical reflection about the planning of one's life.
3. *Voice.* The ability to express one's concerns, views and interests. It includes the ability to be heard and one's views taken into account. This also includes the capacity to actively engage and participate in shaping discussions, discourse, and decisions that affect one's life both in private and public sphere.
4. *Self-confidence and esteem.* The ability to belief in oneself including one's life decisions and choices, and acting on them without fear or shame.
5. *Financial security and independence.* The ability to earn or generate own income and become economically independent. It includes having opportunities to seek employment and work in the labour market on an equal basis with others.
6. *Control over one's life.* Having total capacity and freedom to do or become whatever one reflexively values. That is, having genuine freedoms to plan, make choices and decisions about the present and future lives with regards to one's material and non-material resources and time, and to act and live accordingly. It denotes empowerment.
7. *Social relations and networks.* The ability to interact and form associations with diverse people. It also includes the ability to give and also receive support from other people.
8. *Bodily health, integrity and safety.* The ability to be physically healthy and to be secure from harm and violence of any sort such as sexual harassment and violence. It extends to being able to move freely and to live in a safe environment. It also encompasses having a choice and voice in matters of sexual reproduction.
9. *Respect, dignity and recognition.* The ability to respect and to be respected by diverse others. It also includes the ability to treat and be treated with dignity by people around you, not diminishing or being diminished or degraded because of your gender, class or any other difference. It also includes the ability listen to and take into account diverse points of view in dialogue and debate in different settings.
10. *Resilience.* The ability to negotiate or persevere and succeed despite being faced by adverse conditions, circumstances or outcomes.

It is important to note that the formation or contraction of above capabilities was not linear as certain capabilities were fostered or achieved in one area while being diminished in another. For instance, on the one hand, participation in extra-curricular activities fostered students' confidence, voice and social relations. On the other hand, incidents and worries about sexual harassment limited the opportunities of women students to form social networks and relations. It also affected their capability of bodily health, integrity and safety. Further, gendered practices

of devaluing women's abilities and competences deprived most women of their capability for respect, dignity and recognition. These findings show that capabilities are inter-dependent, whereby securing one fosters the development of others; or constraining one leads to the contraction of others. They also demonstrate the importance of using a capabilities-informed framework to assess gender justice in higher education as it brings out these complex nuances. The table below shows each capability and the conversion factors that constrained or fostered its development or achievement.

Table 9: Capabilities to, in and through higher education and the underlying conversion factors

Valued capabilities	Conversion factors	
	Enhancing	Constraining
Aspirations	<ul style="list-style-type: none"> • Family's positive attitude and support for girl's education • Role models • Pre-university schooling support • Individual performance at KCSE (good) • Government-university admission and selection policies • Individual determination and resilience • Exposure and interactions at university 	<ul style="list-style-type: none"> • Gender norms, practices and stereotypes • Individual performance at KCSE (poor) • Government-university admission and selection policies • Lecturers' negative comments • Father's disapproval of career choice
Practical reason	<ul style="list-style-type: none"> • Exposure to knowledge and information • Exposure and interactions at university 	<ul style="list-style-type: none"> • Gender norms, practices and stereotypes • Lack of knowledge and information
Voice	<ul style="list-style-type: none"> • Confidence • Exposure to knowledge and information • Mode of teaching (debate) • Participation in educational activities 	<ul style="list-style-type: none"> • Gender norms, practices and stereotypes • Mode of teaching (note-dictation) • Sexual harassment • Lack of confidence
Confidence and self-esteem	<ul style="list-style-type: none"> • Exposure to knowledge and information • Parental approval of career choices • Teachers' support • Lecturers' positive attitude • Participation in educational activities • The identity of 'being at university' 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes • Lack of knowledge and information • Parental disapproval of career choices • Lecturers' negative comments
Financial security and independence	<ul style="list-style-type: none"> • Professional knowledge and skills • Social relations and networks 	<ul style="list-style-type: none"> • Employment opportunities in the labour market • Sexual harassment
Control over one's life	<ul style="list-style-type: none"> • Being (and living alone) at university • Financial independence and security • Voice • Practical reason • confidence 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes • Being under parental care and protection • Being under school care and protection
Social relations and networks	<ul style="list-style-type: none"> • Family support • Pre-university schooling support • Exposure and interactions at university • Financial security and independence 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes • Sexual harassment • Pre-university schooling (girls-only)
Bodily health, integrity and safety	<ul style="list-style-type: none"> • Parental care and protection • Pre-university schooling (friendly) • Control over one's life 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes • Sexual harassment

Respect, dignity and recognition	<ul style="list-style-type: none"> • Family's positive and gender-egalitarian attitudes • Being educated (having the identity of a university graduate) • Exposure and interactions at university 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes • Sexist and humiliating comments • 'Sex for grades' culture
Resilience	<ul style="list-style-type: none"> • Personal determination • Social support and networks • Confidence • Practical reason 	<ul style="list-style-type: none"> • Gendered norms, practices and stereotypes

The above table shows which capabilities for gender justice need to be fostered or secured in and through higher education, and what negative conversion factors need to be eliminated, in order for higher education to contribute to the well-being of its students, and also to a more just and equitable society. What I need to emphasize is that all capabilities in this set are important and they shape and affect each other. Thus, they should all be fostered and/or secured. This set of capabilities offers a starting point for a different kind of thinking about gender justice in higher education. It moves the gender justice debate beyond simple distributive equality to focus on the creation, fostering and expansion of capabilities that are crucial for just and equitable access, participation and achievement through higher education. It is essential nevertheless to stress that this set is not conclusive. It can be revised based on new evidence that could emerge from intense public deliberations and/or change in circumstances.

9.1.5 What can be done to both theorize and to promote a more gender just, equitable and inclusive higher education in Kenya

The aim of this question was to use evidence from the findings to suggest possible ways of promoting gender justice in higher education, particularly law school. This was informed by the principle that feminist research should not only focus on and make women's experiences of gender visible, but also use the knowledge generated from their experiences to inform policy so as to improve women's lives and conditions (Acker, 1994; Weiner, 1994). In this regard and based on my empirical data, this section seeks to highlight various areas that need intervention so as to address the injustices in women students' lives as identified in my study. The decision on how to formulate and implement specific interventions is left to the different key stakeholders I identify hereinafter.

Participants' experiences and perspectives presented and analyzed indicate that conceptualizing gender justice as equality of either opportunity or outcomes masks other inequalities in and outside higher education that have an impact on women students' well-being and agency. This is because injustices in women's lives are complex and multi-dimensional, and are shaped and influenced by positions different women occupy in other social categories such as class, culture,

ethnic group etc. This implies that we cannot talk of one quick fix solution or intervention to address injustices in women's lives. What is needed is a multi-dimensional approach that is committed to improving women's overall well-being. In chapter 2, I conceptualized gender justice in higher education as the expansion of students' capabilities, especially women, not only to access higher education, but also to participate in a more just and inclusive educational learning environment, and to achieve valued educational outcomes that enable them to choose and lead the kind of lives they have reason to value. Using this conceptualization to analyze participants' narratives, I identified a set of ten capabilities for gender justice in higher education, as well as various conversion factors that constrain or enhance the formation and expansion of these capabilities (see table 9 for a summary). From the participants' valued capabilities, promoting gender justice in higher education would entail providing equitable opportunities and freedoms for all students to: (a) choose and access higher education, and pursue their valued educational goals and aspirations; (b) participate in safe and friendly educational learning processes and conditions where all students (diverse as are) are recognized, respected and treated with dignity and also treat others as such, and are able to express themselves and their concerns taken into account; and (c) develop valued capabilities through higher education such as relevant professional knowledge and skills, confidence and self-esteem, critical thinking and practical reason; and being able to use these capabilities to achieve their own well-being, such as having financial security and independence and exercising control over their lives, and also contribute to the well-being of other people, especially the disadvantaged. This requires a comprehensive and long-term approach, and also a full commitment and political goodwill of other relevant stakeholders besides higher education institutions, such as the Ministry of Education, Law Society of Kenya (LSK), Council of Legal Education (CLE) and the feeder secondary schools. However, my argument is that the starting point for promoting gender justice in higher education, and law schools in particular, is to put in place mechanisms or measures aimed at promoting those factors that foster the development of the identified capabilities, and limit, eliminate or transform those conversion factors that impair the formation or expansion of these capabilities.

Focusing specifically on law school, the capabilities to choose and access higher education seem to be out of the realm of law school. This is because evidence demonstrates that the choices and decisions of different students with regard to what universities to attend and what courses to pursue are influenced by various factors outside law school. However, this does not mean that there is nothing law schools can do. From the findings, selection by JAB (which has the ultimate say on what public universities students in Kenya attend and what courses they pursue) is based not only on students' performance in KCSE but also on the capacity of different public

universities to accommodate the number of students wishing to study law. Thus, public law schools could expand their capacity to absorb more students under the regular programmes. This expansion would create more access opportunities for those students desiring to pursue law degrees so long as they obtain the required grades at KCSE. Outside law schools, there is a need to establish and strengthen the capacity of career departments in different primary and secondary schools. This would ensure that students in these schools have access to relevant knowledge and information regarding different career options, as well as the support needed to enable them make genuine careers choices and decisions and work towards attaining them. Further, participants' experiences of access illustrate that there are some communities in Kenya that do not value women's education, which in turn limits the opportunities and freedoms of most girls and women from these communities to access formal education. Thus, national and county governments, through the ministries of education, could identify these communities and raise awareness about the importance of girls' and women's education. This awareness should also include educating these communities on the importance of allowing girls and women to pursue educational and life career paths that are important and beneficial to women and girls' valued lives.

Moving on to capabilities to participate and progress in law school, participants' experiences show that students accessing law school are diverse and thus they need different capability sets to achieve their well-being and agency. In this regard, law school could put interventions aimed at expanding the opportunities and freedoms of these students-diverse as they are- to meet their needs and achieve their goals, aspirations and expectations. This is important because these students are in a new environment and thus need support and direction to adjust to this environment. From this perspective, law schools should interrogate the learning environments and conditions to ensure that all students, regardless of their differences, are able to participate in equal, just and quality educational processes. These would include reducing the number of students per class; employing different modes of teaching that encourage students' active and effective engagement with the lecturer and collaboration among themselves without fear or being harassed; lecturers observing and reflecting on their teaching styles, behaviours, comments and attitudes so as to limit those that affect students' engagement in a negative way (for instance, lecturers should avoid making negative and sexist comments about women students as these makes them uncomfortable and discourages them from active class participation. Further, lecturers should identify students who seldom participate in their classes and devise various strategies to improve their participation); and deconstructing the gender labelling of courses and encourage students to choose courses based on their career interests and aspirations (this could

address some of the gender inequalities experienced in legal profession such as concentration of men and women lawyers in masculine and feminine areas of legal practice respectively).

Outside the classroom, there is a need to improve campus security so that women students feel safe while on campus. In addition, law schools could provide equity and support mechanisms for those students who are exposed to or experience gender inequalities and discrimination. For instance, they could encourage students to report cases of sexual harassment and once these cases are reported, the administration should pursue them and punish the perpetrators without re-victimizing the victims or the whistle-blowers. With reference to gender norms, practices and stereotypes, law schools could raise awareness because these norms and practices are deep-rooted in culture and beliefs and often pass as 'normal'. Awareness through education could lead to changes in gender ideology and practices, both at the individual and institutional level, which in turn could promote recognition and respect for women students and thus enable participation of men and women in law school activities as peers. It could also improve self-confidence and esteem among individual women students. This will enable them to not only recognize that they are entitled to equitable educational opportunities and freedoms, but also for them use these opportunities to achieve their valued goals. More broadly, there is a need for greater awareness about the 'chilly' climate and factors or actions that contribute to this climate. This awareness might prompt students and lecturers to engage in critical self-reflection on their actions, behaviours, attitudes or prejudices against women students. They might end up changing those that negatively affect women students' well-being and thus make law school 'warm' and 'receptive' to women students.

What is striking about most participants in this study is that they were able to participate and progress through law school despite the existence of gendered practices and cultures. This indicates that individual students can exercise their agency and navigate gendered environment as they pave their way to educational success. In this regard, we can argue that while it is important for legal education policy makers and planners to transform institutions and structures to enhance women's access to equal educational opportunities and freedoms, it is also crucial for them to put in place measures that support girls' and women's abilities to act. This would include fostering women students' resilience, eliminating factors that constrain women's abilities to act, such as gendered norms and practices which require girls and women to be docile, addressing gender-based discrimination practices such as those disparaging women in public as well as those barring women from participating in leadership activities based on their sex, and providing resources and support for women to work hard in the pursuit of their educational goals and aspirations.

With regard to capabilities through higher education, findings illustrate that participants gained valuable capabilities for their lives in and after higher education (in this case law school) since they were able to voice their concerns, make decisions regarding their lives and also exercise control over their lives. However, evidence also suggested that law schools do not prepare students adequately for legal practice. For instance, participants were critical of what they learnt in law school, stressing that they were not equipped with the practical and procedural aspects of the law that were important in solving everyday problems they encountered as they discharged their legal professional duties. Further, there is evidence that law schools seem to principally equip students' capacities to enter private and or corporate legal practice. However, Kenyan society needs more than private and corporate legal practitioners: it also needs lawyers with skills and expertise to work and sustain the country's economic, social, cultural and political lives. In this regard, the CLE and LSK need to re-think what the role of law school in the contemporary Kenyan society is. Answering this question might inform changes to the required knowledge, skills, values and attributes they recommend to law schools to transmit to students. Adaption of these recommendations by law schools will ensure that law students, both men and women, acquire knowledge and skills that are relevant in the discharge of their professional duties in their societies, and that they are able to venture into and practice in various areas of legal practice that they value.

Once students graduate from law school and enter the legal profession, they fall under the ambit and regulation of LSK. Yet, evidence indicates that most women legal graduates continue to experience gender-based injustices in the legal profession. The most salient ones include sexual harassment and the practice of undermining women's abilities to perform based on their sex. As the evidence presented in chapter 7 indicated, these factors have a negative impact on women lawyers' personal, social and professional lives. Thus, just like law school, LSK should raise awareness on the negative impact gender norms, stereotypes and practices have on women lawyers' well-being. In addition, women lawyers should be encouraged and supported to report injustices in their lives such as sexual harassment and once these cases are reported, the complaint department of LSK should pursue and redress them.

In summary this section has suggested various ways of promoting gender justice in higher education in Kenya, particularly law school, based on my empirical data. It has shown that pursuit of a more gender just, equitable and inclusive higher education requires different actions from various stakeholders. In my study, these include law schools, the feeder secondary schools, the CLE, the LSK and the ministry of education. The set of ten capabilities identified from my empirical data would provide a unique tool to commence debate and discussions within and

between these institutions on what can be done at each level and in partnership to ensure that law schools contribute to the well-being of its students, as well as social justice in the broader society. What I need to emphasize here is that these institutions need to work both at the individual level (by expanding students' capabilities to, in and through higher education) and institutional level (by putting in place mechanisms or interventions aimed at disrupting gendered cultures and practices, and raising awareness about the negative impact gender inequalities has on women's lives, and also on overall development and social justice). Working at both the individual and institutional level is important because substantive gender justice can only be achieved if individuals' capabilities are expanded and social and institutional structures that perpetuate inequalities addressed concurrently. I hope that the suggestions I have outlined here based on the findings of my study, would provide a basis for formulating and implementing interventions aimed at improving gender justice in and through higher education, and law schools in particular, by expanding students' capabilities to choose and lead meaningful and productive lives both in and after higher education. The following section outlines the contribution of my study to the existing literature.

9.3 Contribution of the study

This is an original study that uses the capabilities approach from a feminist perspective to analyze gender justice in higher (legal) education in Kenya. It is the first of its kind to examine women's experiences of accessing, participating and progressing through law school in the Kenyan context. Thus, the study is original in the sense that it examines the trajectory of selected women's lives, experiences and perspectives across three phases in order to understand what opportunities and freedoms they have to choose and lead valued lives in and beyond higher education. This examination reveals various conversion factors that enable or hinder women from accessing and using available educational and other resources to achieve their well-being and agency. Based on the findings, the study has recommended different actions and measures that could be put in place to improve women's exercise of agency and achievement of well-being in and through higher education, and particularly law school. In this regard, this is the first capabilities-informed feminist research on gender justice in higher education in Kenya. The study makes the following contributions.

First, it offers a new language for thinking about gender justice in higher education in Kenya, and more specifically in law school. As I highlighted in chapter 1, gender justice in higher education in Kenya is largely informed by human rights and human capital approaches and focuses on increasing women's numerical representation in all spheres of higher education. This approach to gender justice homogenizes women and pays little attention to how personal, social, and

contextual differences affect each woman's actions and choices. Evidence emerging from my study shows that (re)distributing numbers is important, but it is not sufficient to address gender injustices in higher education because it does not address entrenched gendered ideologies and practices within and outside higher education that continue to reproduce inequalities in women's lives. The capabilities approach used in this study offered me a normative framework for assessing gender justice beyond simple access to interrogate the opportunities and freedoms women students have effectively participate and progress through higher education, and the underlying conversion factors that enhance or impair their freedoms to use these opportunities to achieve their well-being and agency. Analysis of these factors directed my attention to differences in women student's lives and their contextual conditions and how these affect their capabilities to function. In other words, I was able to interrogate and analyze the interplay between individual women's agency and structures, and the achievement of well-being. These cannot be captured if we only assess parity of numbers. Further, my research brought out the critical role public dialogue plays in fostering gender justice. For instance, although my analysis revealed that women students are different and they need different sets of capabilities at different times to exercise their agency and achieve their well-being, it also revealed that women (as a group) value certain capabilities collectively and these are the capabilities that need to be secured so as to promote a more gender just and equitable higher education, and also contribute to social justice. From this perspective, the capabilities approach frames gender justice in higher education as expanding opportunities (and resources) to all students but goes beyond these to consider which conversion factors need to be addressed so that all students (especially women) are able to use available educational opportunities to choose and lead reflexively valued lives both in and outside higher education.

Second, my study contributes to literature on gender, higher education and capabilities and human development. On the one hand, like many studies (see for example Alkire, 2002; DeJaeghere & Lee, 2011; Kabeer, 1999; Loots & Walker, 2015; Murphy-Graham, 2012), my research has shown that higher education can be empowering for women by expanding their opportunities and freedoms to choose and live their desired lives. For the ten women, higher education enabled them to break away from some negative and gendered cultural norms and restrictions that constrained women's well-being in their different communities. They gained financial autonomy which enabled them to make decisions and exercise control over their lives. Most of them chose to delay their marriage in order to pursue other goals, while those who were married had a bargaining voice within their families. Higher education also expanded their social networks and interactions with the outside world, which in turn opened them up to other possibilities in life. In this regard, my study shows the critical role higher education plays in

disrupting the reproduction of gender inequalities. On the other hand, evidence also indicated that certain practices and culture in higher education can reproduce or perpetuate gender inequalities. For instance, sexual harassment, sexist comments and devaluation of women students' abilities and competences marginalized most women students from educationally enriching activities and processes, which in turn constrained achievement of their well-being and agency. Therefore, although higher education opened more opportunities and freedoms for women to achieve their well-being, it also failed to address gendered practices and norms that constrained the use of these opportunities. Based on these findings, I suggested various interventions that could be put in place so that the processes and conditions under which formal education occurs are women-friendly, and that they foster the development and achievement of women's valued capabilities and functionings.

The final contribution this study makes is with regards to the operationalization of the capabilities approach in the specific context of gender justice in higher education in a Kenyan context. First, I used the capabilities concepts of well-being, agency and freedoms to interrogate my participants' experiences to assess whether they had substantive opportunities and freedoms to access, participate and achieve their valued educational and life outcomes. In the process, I was able to identify various conversion factors that reinforce or interrupt inequalities in women's lives both in and outside higher education. This was important in informing policy on specific interventions that could be needed to address these inequalities. Second, from my empirical data, I identified all functionings women aspired to achieve. From these functionings, I generated a provisional set of capabilities that could be expanded or secured in order for women to achieve their valued functionings. This set of capabilities can be used as a normative framework to guide analysis and evaluation of gender justice in higher education in Kenya, and particularly in legal education. It could be argued that a set of ten capabilities is a lot for policy makers to operationalize. While this might be true, my aim is to use this set to open and stimulate debate and discussions on which capabilities matter for gender justice in higher education. In this respect, my set of capabilities lays a foundation of informing higher educational policy makers and planners what gender justice in higher education should look like, and offers them a platform to commence and engage in debates and discussions on how to expand these capabilities. It is my hope that through these debates and engagements, more qualitative and quantitative researches will be carried out to identify which of these capabilities are more significant and how they could be operationalized to not only promote gender justice in higher education, and but also contribute a more just and equitable society.

Having outlined the contribution of my study, I conclude the chapter by highlighting limitations of my study and make recommendations for further research.

9.4 Limitations of the study and suggested areas of further research

This study is context and discipline specific. It focuses on the experiences of a selected small number of women legal graduates in Kenya. Thus, no claim is made that these women speak for all women legal graduates in Kenya. However, findings of this study seek to inform our understanding about the intricacies of women legal graduates' experiences while in higher education and thus contribute to our knowledge and reasoning on gender justice issues in higher education in Kenya. Further, the experiences presented in this study are not generalizable to other women graduates from other disciplines who might experience different or other inequalities than those experienced by my participants given that they were a privileged group (lawyers who are generally empowered and who know, and can claim, their rights). In this regard, there is a need to carry similar research in other disciplines so as to capture the voices and lived realities of women students in these disciplines.

Related to the above limitation, I do acknowledge that the participants in this study were constructing a particular kind of account that conformed to received discourses. Usually with small groups of participants for qualitative studies, there are additional complementary methods used such as observations, re-interview, document analysis and group discussions (Ritchie, 2003; Yin, 2009). Future research will consider some of these complimentary methods so as to examine gender injustices from a range of different perspectives to help uncover a closer sense of the participants' construction and understanding of events.

Secondly, women's experiences presented in this study were limited to participation in classroom activities and extra-curricular activities. I did not explore women's experiences in residences, as well as other campus facilities such as health centre, library, computer laboratories and dining hall. Experiences in these environments matter because they affect students' well-being. A complementary research is needed on these areas. In addition, my research did not examine any curriculum or policy documents. Therefore, additional research on content of curriculum, as well as policy and practice need to be carried out to determine how and to what extent they each shape and affect students' well-being and agency.

An interesting finding that emerged from my study was non-participation of most men students in the private law school. Further research on this area is needed to discern which men access private law school; how they experience law school; and how their experiences affect their well-being both as students and as aspiring legal professionals. This is important for a gender justice

agenda since we aim to make law schools (and higher education institutions) more inclusive, equitable and gender just. As Shefer et al. (2010, p. 513) argue, ‘ the focus on the subjectivities, experiences and practices of boys and men, and the changing and contextually-specific social constructions of these, is an imperative if we are to meaningfully address gendered inequalities that simultaneously privilege men and marginalise women.’

Finally, my research purposely excluded the voices and perspectives of men legal graduates. In chapter 4, I argued that my exclusive focus on women was to give them a platform to voice their complex experiences so as to gain knowledge and understanding about the form and dynamics of the gender systems and practices that shape women legal graduates’ lived realities. Although this was achieved in my study, and for reasons presented in the preceding paragraph, future research should include the voices of men students. As my findings revealed, just like women, men are diverse (age, class, ethnicity, sexuality, race, religion) and these differences might affect their experiences and social positioning in relation to gendered power and privilege. Therefore, future research should include men so as to provide a broader, comparative and relational perspective of students’ experiences and lives in law school. As Loots and Walker (2015, p. 365) observe, ‘men have also been socialised into gendered roles and identities and excluding men may reproduce normative inequalities.’

Conclusion

This marks the conclusion of what has been a challenging but exciting study. While findings have enabled me to achieve the objective of my study, they have also raised some questions that need further research. These include conducting a similar research in other disciplines of higher education; expanding research to cover experiences in other campus facilities such as health centre, library, computer laboratories and dining hall; involving men in research; and interrogating the attitudes of women lecturers. It is my hope that the findings of this study will influence future policy measures taken by various stakeholders mentioned herein, so that legal education can be more just, equitable and inclusive.

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Appendices

Appendix A: Ethics Clearance Letter issued by the Education Ethics Committee, UFS



Faculty of Education Room 12
Ethics Office Winkie Direko Building
Faculty of Education
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21 November 2014

ETHICAL CLEARANCE APPLICATION:

GENDER JUSTICE, HIGHER EDUCATIONAL PATHWAYS AND THE CAPABILITY APPROACH: A CASE STUDY OF WOMEN LEGAL GRADUATES IN KENYA

Dear E Ongera

With reference to your application for ethical clearance with the Faculty of Education, I am pleased to inform you on behalf of the Ethics Board of the faculty that you have been granted ethical clearance for your research.

Your ethical clearance number, to be used in all correspondence, is:

UFS-EDU-2014-057

This ethical clearance number is valid for research conducted for three years from issuance. Should you require more time to complete this research, please apply for an extension in writing.


We request that any changes that may take place during the course of your research project be submitted in writing to the ethics office to ensure we are kept up to date with your progress and any ethical implications that may arise.


Thank you for submitting this proposal for ethical clearance and we wish you every success with your research.

Yours sincerely,

Andrew Barclay
Faculty Ethics Officer




REPUBLIC OF KENYA


**National Commission for Science,
Technology and Innovation**

**RESEARCH CLEARANCE
PERMIT**


Serial No. A **3834**

CONDITIONS: see back page.

THIS IS TO CERTIFY THAT:
MISS. ELIZABETH MOKEIRA ONGERA
of UNIVERSITY OF THE FREE STATE,
SOUTH AFRICA, 0-9300
Bloemfontein, has been permitted to
conduct research in Nairobi County

on the topic: GENDER JUSTICE, HIGHER
EDUCATION, AND THE CAPABILITIES
APPROACH: A CASE STUDY OF WOMEN
LEGAL GRADUATES IN KENYA

for the period ending:
28th December, 2015


.....
**Applicant's
Signature**

Permit No : NACOSTI/P/14/4480/4413
Date Of Issue : 3rd December, 2014
Fee Recieved :Ksh 2,000




.....
Secretary
National Commission for Science,
Technology & Innovation

HD/4/2435



**NATIONAL COMMISSION FOR SCIENCE,
TECHNOLOGY AND INNOVATION**

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P.O. Box 30623-00100
NAIROBI-KENYA

Ref: No.

Date:

3rd December, 2014

NACOSTI/P/14/4480/4413

Elizabeth Mokeira Ongera
University of the Free State
SOUTH AFRICA.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "*Gender justice, higher education and the capabilities approach: A case study of Women Legal Graduates in Kenya*," I am pleased to inform you that you have been authorized to undertake research in **Nairobi County** for a period ending **28th December, 2015**.

You are advised to report to **the Chief Executive Officer, Law Society of Kenya, the County Commissioner and the County Director of Education, Nairobi County** before embarking on the research project.

On completion of the research, you are expected to submit **two hard copies and one soft copy in pdf** of the research report/thesis to our office.


DR. S. K. LANGAT, OGW
FOR: SECRETARY/CEO

Copy to:

The Chief Executive Officer
Law Society of Kenya.

The County Commissioner
Nairobi County.

COUNTY COMMISSIONER
NAIROBI COUNTY
P. O. Box 30124-00100, NBI
TEL: 341666



National Commission for Science, Technology and Innovation is ISO 9001:2008 Certified

Appendix D: Sample of a signed Consent Form



Researcher: Elizabeth Ongera
Centre for Research on Higher
Education and Development (CRHED)
University of the Free State, South Africa.

Research title: Gender Justice, Higher Educational Pathways and the Capability Approach: A Case Study of Women Legal Graduates in Kenya

CONSENT FORM

This is to confirm that Miss Elizabeth Ongera of the Centre for Research on Higher Education and Development, University of Free State, has approached and requested me to participate in her research project. Miss Ongera has provided me with the information sheet about this research, which I have read and understood. She has also given me the opportunity to ask questions about the research, which she has answered to my satisfaction. I hereby:

- voluntarily agree to participate in this research,
- agree to have my interview tape-recorded,
- agree that any information from the interview can be used for research purposes only on condition that my privacy and confidentiality are respected by use of a pseudonym.

I also understand that I am under no obligation to take part in this research and that I have the right to withdraw at any stage.

Signature of the participant.....  Date 

Signature of the researcher.....  Date 

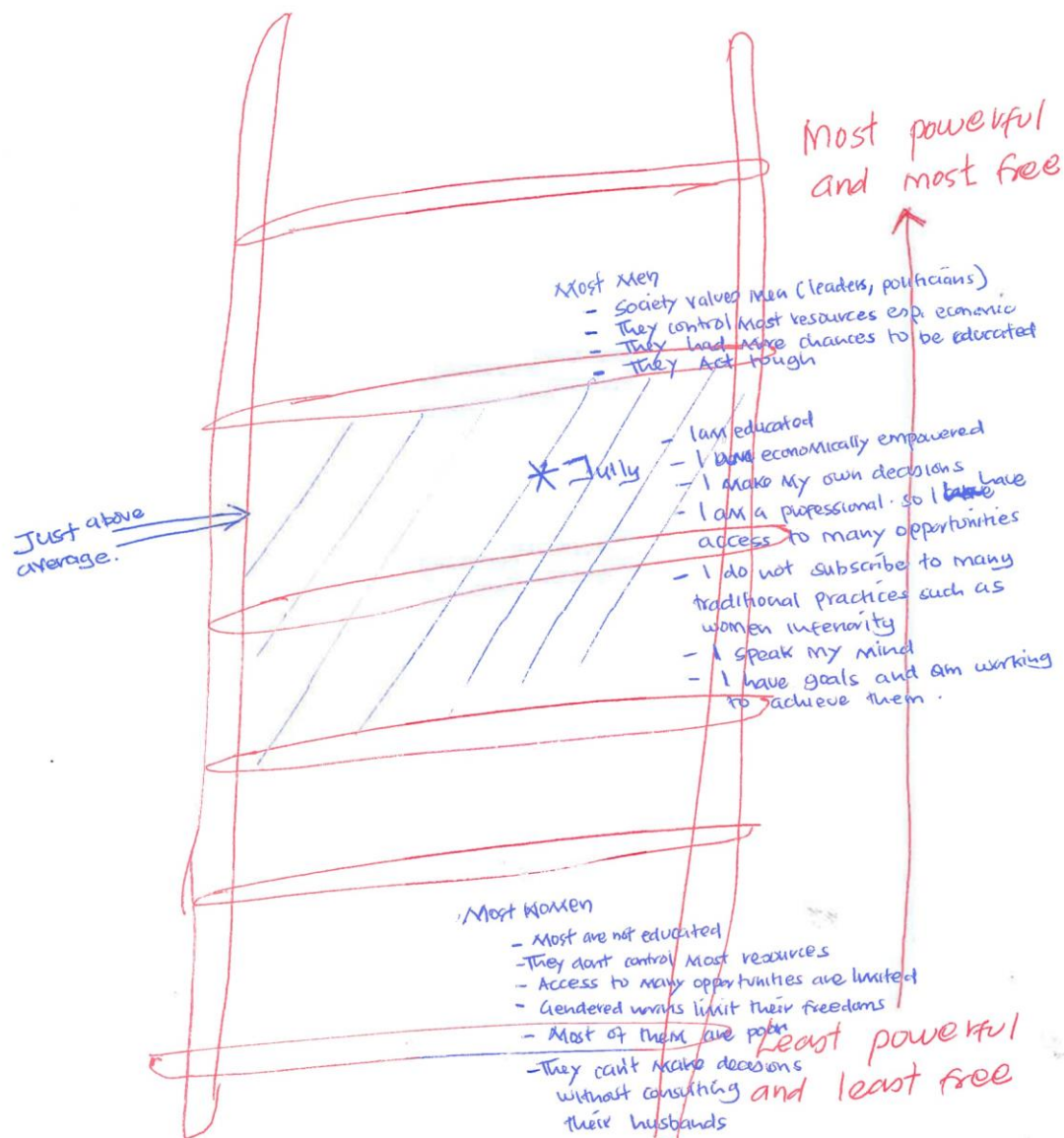
Appendix E: Interview guide

Interview guide

Theme	Guiding questions
Power and freedom exercise	<p>Place men and women from your society/community in the power and freedom ladder (give reasons)</p> <p>Place yourself in the power and freedom ladder (give reasons)</p> <ul style="list-style-type: none"> • How can you describe a typical Kenyan woman? • What aspects of this description do you like/dislike? Any reasons? • Can you describe yourself as a typical Kenyan woman? Why/ why not?
Decision and motivation to study law	<ul style="list-style-type: none"> • At what point did you decide to pursue a career in law? • What factors influenced your decision? • What motivated you? • What were your expectations then? • Given a chance, would you have chosen a different discipline? Why/why not? • Which university did you apply for admission? Why?
Experiences in law school	<ul style="list-style-type: none"> • Law school environment <ul style="list-style-type: none"> ➢ Tell me about your initial days at law school: What did you dis/ like ➢ How did this affect your initial expectations? ➢ Did this change over time? If so, how? ➢ What was the gender composition of the student body and staff? ➢ How safe was law school environment, generally? • Teaching and learning <ul style="list-style-type: none"> ➢ What was the mode of teaching in law school? ➢ What did you dis/like about this model? ➢ Course choice-any gender dynamics? ➢ Did this affect your teaching and learning experience? Please explain. <ul style="list-style-type: none"> -Between men and women students, who participated more in class? Why was this so? -Did this affect you in any way? Please explain. ➢ Can you remember how the image of a legal professional projected to you? Do you mind sharing? <ul style="list-style-type: none"> -What did you dis/like about this projection? Reasons? -As a woman lawyer, were you able to reconcile this image with that of a typical Kenyan woman? Please explain. • Social/Outside class experience <ul style="list-style-type: none"> ➢ What activities do law students undertake outside the class-room? Please elaborate. ➢ Between men and women students, who participates more in these activities? Why is this so? ➢ Were these activities valuable to you as an aspiring lawyer? Please explain ➢ How easy was it for law students to approach lecturers after class hours? ➢ How often did you consult with your lecturers outside the classroom? Reasons. ➢ How about other students? ➢ Did the sex of the lecturer matter when it came to consulting them outside classroom hours? Please elaborate. • Generally speaking, what was your best experience in law school (of both

Interview guide

	<p>teaching and learning)?</p> <ul style="list-style-type: none"> • What about your worst experience? • How did you overcome or manage this experience? • Generally, how can you describe your feelings during law school (happy, anxious, mixed, etc.)? Please elaborate.
Life after law school	<ul style="list-style-type: none"> • Tell me about your pupillage experience? • In your view, how well did law school prepare you for your duties as a lawyer? • Tell me about your first job after pupillage? • Are you working in an area of legal practice you always aspired? Please explain if this changed. • Do you intend to change your area of practice in the future? Why? • Now lets talk about your personal and social life. Are there any other aspects of your life that has changed as a result of you going through university? Please elaborate.
Capabilities/ Functionings developed as a result of legal education	<ul style="list-style-type: none"> • Reflecting back, what opportunities, knowledge, skills and values did you achieve/gain as a result of your legal education? • Which ones do you value most? Why? • Are there any important opportunities, skills and values that were not developed in law school? If yes, which ones are they? Why are they important?
Value of higher education	<ul style="list-style-type: none"> • After going through university, what value and meaning do you attach to education and higher education in particular (As a woman, what has higher education enabled you to do and to achieve)? -Will you encourage other women to pursue higher education? Why? • Based on your experiences, what can you recommend to improve the experiences of women students in law school and higher education in general? • Anything else you would like to share about law school experiences and life after law school?



Power + Freedom Ladder
for July