

Legal Education and Training in Kenya: Challenges and Prospects

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ABSTRACT

The legal profession has attracted and continues to attract numerous high school and college graduates who aspire to join the profession. This is primarily due to various reasons, which, among other things, relate to the fact that it is one of the courses that offers a multitude of career options, job security, respect, and financial stability. Despite the foregoing, the profession faces myriad challenges. For instance, high standards are set to excel in the profession and/or to accredit legal education service providers. Excessive competition among law schools for the dwindling pool of qualified prospective students, combined with inadequate funding, has adverse effects on staff recruitment, research, and institutional development. It is for these reasons that this paper, employing a doctrinal research method, endeavors to analyze the history of legal education and training, as well as the regulatory framework that facilitates it in Kenya, with a specific emphasis on the Bachelor of Laws and Advocates Training Programmes. Additionally, the paper examines the role, challenges, and prospects of the Council of Legal Education and the Commission for University Education in regulating and supervising legal education in Kenya, with a particular focus on promoting quality in legal education. Finally, in order to enhance quality in legal education in Kenya, the paper proposes two main recommendations: amendment of the Kenya School of Law Act 2012 and the Legal Education Act 2012 to cure the existing superiority contest between the Acts and designing law programmes taking into account the current and future market demands.

Introduction

Over the past two decades, the legal profession, which comprises advocates, academicians, Judges, Magistrates, State lawyers, paralegals, legal researchers, and prosecutors, has attracted and continues to attract a number of high school and other graduates desiring to join the profession.¹ This is primarily due to various reasons, which, *inter alia*, relate to the fact that it is one of the pivotal courses that offers a multitude of career options, job security, respect, financial stability, self-confidence, prestige, exceptional analytical and communication skills, critical thinking, and

¹ Shu Zhang, Jie Luo, and Peng Guo, "Legal Profession in Australia," in *Technology, Legal Education and Legal Profession in China and Australia* (Singapore: Springer Nature Singapore, 2024), 35–69, https://doi.org/10.1007/978-981-96-1639-8_3.

intensive reasoning.² Besides, it is the only profession that remarkably advocates for individual rights and responsibilities. However, despite its compelling benefits, the profession still faces numerous challenges. For instance, under the Kenya School of Law Act 2012 and the Legal Education Act 2012, high standards are set to excel in the profession and/or accredit legal education service providers.³ In addition, excessive competition amongst Law Schools for the dwindling pool of qualified prospective students, the ever-changing market that demands for advocates specialized in specific fields, consistent academic staff turnover, reluctance in adoption of technology particularly in training, closure of Law Schools due to emergence of pandemics (*i.e.*, COVID-19) and inadequate funding that has adverse effects in recruitment of staff, research and institutional development pose challenges to the quality of legal education programmes offered in Kenya.⁴

Several research studies on the legal profession in Kenya have been conducted. However, most of them center on the adoption of technology in legal education training,⁵ the right of legal education through the lens of cultural acceptability and adaptability,⁶ ethics among legal professionals,⁷ political economy of the legal profession⁸, the main economy and lawyers' duty to the legal profession.⁹ There is currently no research on the regulation of legal education providers and the academic progression of students.

It is for the above reasons that this paper endeavours to analyse the history of Legal Education and Training (LET) in Kenya, as well as the regulatory framework that facilitates LET in Kenya, with a specific emphasis on the Bachelor of Laws (LL.B.) and Advocates Training Programmes (ATP). Additionally, the paper examines the role, challenges, and prospects of the Council of Legal Education

² Lynette Osiemo and Anton Kok, "Promoting a Public Service Ethic in the Legal Profession in Kenya: The Imperative Role of Clinical Legal Education," *Journal of African Law* 64, no. 2 (June 13, 2020): 173–98, <https://doi.org/10.1017/S002185532000008X>.

³ Stephen A. Rosenbaum et al., "Clinical Legal Education in Africa," in *Global Clinical Legal Education* (London: Routledge, 2024), 85–105, <https://doi.org/10.4324/9781003348399-8>.

⁴ Nkatha Kabira and Robert Kibugi, "Saving the Soul of an African Constitution: Learning from Kenya's Experience with Constitutionalism During COVID-19," *African Human Rights Law Journal* 20, no. 2 (March 23, 2021): 1–26, <https://doi.org/10.17159/1996-2096/2020/v20n2a4>.

⁵ Vellah Kigwiru, "Emerging Technological Innovations in the Legal Profession and Its Impact on the Regulation of Market Competition: Kenyan Perspective," *SSRN Electronic Journal*, 2019, <https://doi.org/10.2139/ssrn.3355861>.

⁶ Rodgers Otieno Odhiambo, "Placing Access to Justice at the Centre of Legal Education in Kenya," *Egerton Law Journal* 1 (2021): 65–98.

⁷ Michael Hindzano Ngunyo, "An Evaluation of Kenya's Public Relations Practitioners' Understanding of Their Career's Ethical Issues," *International Journal of Academic Research in Business and Social Sciences* 7, no. 6 (August 4, 2017): 896–912, <https://doi.org/10.6007/IJARBS/v7-i6/3048>.

⁸ Matthew Tyce, "Beyond the Neoliberal-Statist Divide on The Drivers of Innovation: A Political Settlements Reading of Kenya's M-Pesa Success Story," *World Development* 125 (January 2020): 104621, <https://doi.org/10.1016/j.worlddev.2019.104621>.

⁹ Purity Mwendwa et al., "Promote Locally Led Initiatives to Fight Female Genital Mutilation/Cutting (FGM/C)" Lessons from Anti-FGM/C Advocates in Rural Kenya," *Reproductive Health* 17, no. 1 (December 28, 2020): 30, <https://doi.org/10.1186/s12978-020-0884-5>.

(CLE) and the Commission for University Education (CUE) in regulating and supervising legal education in Kenya, with a particular focus on promoting quality in legal education. Ultimately, the paper proposes measures to further enhance the quality of legal education in Kenya.

Methods

The study is secondary in nature. It is generally based on a doctrinal research method whereby a comprehensive analysis and review of legal instruments governing legal education and training, as well as relevant literature, is undertaken. This study utilises a conceptual and legislative approach. The conceptual approach is employed because the study aims to redesign the model and system of education and legal education in Kenya. Meanwhile, the legislative approach is employed because this study aims to examine and formulate regulations to address the problems encountered in implementing legal education in Kenya. This study uses a prescriptive analytical method to determine the ideal design for implementing legal education and training in Kenya.

Discussion

History of Legal Education and Training in Kenya

Unlike other professions, LET began earnestly in 1970, seven years after Kenya gained independence.¹⁰ Before independence, advocates who practiced law in Kenya were trained either in London, India, Paris or Brussels.¹¹ The delay in training of advocates was mainly occasioned by the fact that:¹²

- a) Colonial masters were uncomfortable having trained African lawyers to compete with their European and Asian lawyer counterparts;
- b) Right of entry to LET was considerably restricted to persons from affluent Asian and European families who were financially able to send their children to Britain;
- c) The Africans had limited chances to legal education and training, mainly due to the inability to incur training costs and the fact that those who desired to undertake the course had to travel to London, India, Paris or Brussels;
- d) Having trained African lawyers, as a matter of policy, was perceived to be a gateway to the creation of political trouble-makers like Jawaharlal Nehru and Mahatma Gandhi, who would agitate for political independence; and
- e) There were no locally established educational facilities for training lawyers.

¹⁰ Gerard McCann, "Possibility and Peril: Trade Unionism, African Cold War, and the Global Strands of Kenyan Decolonization," *Journal of Social History* 53, no. 2 (November 1, 2019): 348–77, <https://doi.org/10.1093/jsh/shz099>.

¹¹ Antoinette Kankindi and Victor Chimbwanda, "Legal Education and Its Contemporary Challenges in Sub-Saharan Africa," *Strathmore Law Journal* 5, no. 1 (June 8, 2021): 145–79, <https://doi.org/10.52907/slj.v5i1.143>.

¹² Kankindi and Chimbwanda.

After independence, the desire for complete self-governance, along with the need for indigenously trained lawyers who would promote and protect the rule of law, and who could be utilized to run newly established Courts and Government bodies,¹³ propelled the need to establish an institution dedicated explicitly to offering LET in East Africa.¹⁴ On Wednesday, 25th October 1961, Julius Kambarage Nyerere, once a Prime Minister and then President of Tanganyika (now Tanzania) facilitated the establishment of the Dar-es-Salaam Law School (DLS), the first such institution to offer LET in East Africa.¹⁵ The DLS was initially one of the academic units of the University of East Africa, which was originally established as an independent external college of the University of London.¹⁶ The first batch of DLS academic staff comprised scholars from Canada, the United Kingdom, Australia, and the United States of America. DLS law curriculum was designed to match that of the University of London except that local content particularly case law was adopted.¹⁷

Apart from the efforts taken by Julius Kambarage Nyerere and to further boost LET in East Africa,¹⁸ the Advocates Ordinance 1961 was passed to implement the Denning Committee recommendations that sought to ensure not only that advocates trained in Africa could match those trained abroad while practicing in certain special territories but also ensure that trained advocates who returned to Africa were not automatically admitted to locally practice law merely based on their British qualifications but had to undergo a further training in Africa to acquaint themselves with necessary skills to handle a myriad of local legal challenges. Skills such as drafting of commercial contracts, wills, mortgages, along with general bookkeeping and conveyancing were merely taught under the British curriculum.¹⁹ The Denning Committee therefore recommended that they be taught particularly to those who studied abroad before they were allowed to practice law in Kenya. It was this demand for further training that gave birth to a two-tier system of LET that essentially involved *first* academic training at the university *then followed by* a postgraduate legal training at a special institution controlled by professional bodies,

¹³ J. B. Ojwang and D. R. Salter, "Legal Education in Kenya," *Journal of African Law* 33, no. 1 (July 28, 1989): 78–90, <https://doi.org/10.1017/S0021855300008007>.

¹⁴ Per G. Svensson and Marion E. Hambrick, "Pick and Choose Our Battles' – Understanding Organizational Capacity in a Sport for Development and Peace Organization," *Sport Management Review* 19, no. 2 (April 1, 2016): 120–32, <https://doi.org/10.1016/j.smr.2015.02.003>.

¹⁵ Janet Kaaya, "Tanzania: Libraries, Archives, Museums and Information Systems," in *Encyclopedia of Library and Information Sciences, Third Edition* (London: CRC Press, 2009), 5110–38, <https://doi.org/10.1081/E-ELIS3-120043540>.

¹⁶ Paul Maharg, *Transforming Legal Education* (London: Routledge, 2016), <https://doi.org/10.4324/9781315235752>.

¹⁷ Michael W. Hansen et al., "The Economics and Politics of Local Content in African Extractives: Lessons from Tanzania, Uganda and Mozambique," *Forum for Development Studies* 43, no. 2 (May 3, 2016): 201–28, <https://doi.org/10.1080/08039410.2015.1089319>.

¹⁸ Conrad John Masabo, "Nyerere and the African Theory of Democracy," *Democratic Theory* 10, no. 1 (June 1, 2023): 36–51, <https://doi.org/10.3167/dt.2023.100104>.

¹⁹ John A. Harrington and Ambreena Manji, "Mind with Mind and Spirit with Spirit: Lord Denning and African Legal Education," *Journal of Law and Society* 30, no. 3 (September 22, 2003): 376–99, <https://doi.org/10.1111/1467-6478.00262>.

commonly referred to as 'Law School'. To this end, the Law Society of Kenya (LSK), the CLE and Kenya School of Law (KSL) were established under the Advocates Ordinance 1961 to regulate LET in Kenya in 1948, 1961, 1963 respectively.²⁰ The three bodies were given distinct mandates. The CLE, for instance, was mandated to vet candidates for admission to the Roll of Advocates, while the KSL had a responsibility of imparting practical training to students who had completed their undergraduate programme and who desired to be admitted as advocates within the Republic of Kenya.²¹ The LSK, on the other hand, was charged with providing advice and assistance to members of the legal profession, the Government, and the public at large in all matters relating to the administration of justice in Kenya.²²

The later split of the University of East Africa led to the establishment of three independent universities, the University of Dar es Salaam, the *University of Nairobi*, and Makerere University in 1970.²³ It was during this period that the Faculty of Law, under the University of Nairobi's School of Law – Parklands Campus, was established to offer LET in Kenya.²⁴

Following the liberalization of education and the need for more trained advocates to cope with the growing population, several public and private institutions have been established and licensed in line with the requirements of the Legal Education Act 2012 to offer LET in Kenya. Public institutions and their dates of establishment include: KSL (1963), Moi University School of Law (1994), University of Nairobi School of Law – Kisumu Campus (2008), Kenyatta University School of Law (2008), Jomo Kenyatta University of Agriculture and Technology (2009), Kisii University School of Law (2009), Egerton University School of Law (2015), University of Embu School of Law (2019) and Chuka University School of Law (2021). Private institutions on the other hand and their dates of establishment are: the Catholic University of Eastern Africa (2005), Mount Kenya University School of Law (2009), Africa Nazarene University School of Law (2010), Kabarak University School of Law (2010), Strathmore University (2012), Riara University School of Law (2012), Daystar University School of Law (2018), Umma University

²⁰ Shelmith Mugo and Hannah Bula, "The Role of Health Benefits on the Performance of Employees in Kenya School of Law," *European Journal of Human Resource Management Studies* 7, no. 2 (January 21, 2024): 36–52, <https://doi.org/10.46827/ejhrms.v7i2.1625>.

²¹ Yohana Ouma and Esther Chege, "Law Clinics and Access to Justice in Kenya: Bridging the Legal Divide," *International Journal of Clinical Legal Education* 23, no. 5 (December 16, 2016): 107–34, <https://doi.org/10.19164/ijcle.v23i5.567>.

²² Wachira Maina, "Kenya: The State, Donors and the Politics of Democratization," in *Civil Society and the Aid Industry* (London: Routledge, 2013), 152–85, <https://doi.org/10.4324/9781315067001-16>.

²³ Samson John Mgaiwa and Johnson Muchunguzi Ishengoma, "Financing Higher Education in Tanzania Through Students' Loans Scheme and Its Impact on Equitable Access," *Heliyon* 9, no. 3 (March 2023): e13943, <https://doi.org/10.1016/j.heliyon.2023.e13943>.

²⁴ Michael Mwenda Kithinji, "An Imperial Enterprise: The Making and Breaking of the University of East Africa, 1949–1969," *Canadian Journal of African Studies / Revue Canadienne Des Études Africaines* 46, no. 2 (August 11, 2012): 195–214, <https://doi.org/10.1080/00083968.2012.702084>.

School of Law (2021), South Eastern Kenya University School of Law (2022) and Maseno University School of Law (2023).²⁵

Table 1. Legal education and training timelines in Kenya

| Before 1961 | Advocates Trained |
|-------------|---|
| 1961 | a. Establishment of the Dar-es-Salaam Law School b. Establishment of the Council of Legal Education c. Passage of the Advocates Ordinance 1961 to implement the Denning Committee recommendations |
| 1963 | Establishment of the Kenya School of Law |
| 1970 | a. The start of the LET in Kenya b. Establishment of the first public Faculty of Law under the University of Nairobi School of Law – Parklands Campus |
| 2005 | Establishment of the first private Law School – the Catholic University of Eastern Africa |
| 2012 | Enactment of the Legal Education Act 2012 and the Kenya School of Law Act 2012 |

Source: Compiled by the author based on several references

Legal Education and Training in Kenya: The Legal Framework

The regulatory framework facilitating LET in Kenya, as noted above, can be traced back to the colonial period, when the Advocates Ordinance 1961 was passed to aid the establishment of the CLE, an administrative body mandated to vet candidates for admission to the roll of advocates.²⁶ The Council, under the Ordinance, was required to be composed of the Chief Justice or his/her nominee, who was the chairperson, Attorney General/ Solicitor General, a Judge appointed by the Chief Justice, four advocates nominated by the LSK, and one academic staff member who taught law in East Africa appointed by the Attorney General.²⁷ The Ordinance, however, could not keep pace with the emerging issues.

The Council of Legal Education Act 1995 was therefore passed to seal the loopholes found in the Advocates Ordinance 1961. The Act re-established a new CLE and tasked the body with regulating all aspects of legal education, including accreditation, licensing, and prescribing a core course structure to be administered by university law schools and the KSL. Besides, the Act reviewed the Advocates Training Programme (ATP) by making it a practical, vocational and mandatory training programme. Despite all the steps taken to improve the status of legal education in Kenya, it was, however, deemed necessary to separate the functions of the CLE from those of the KSL for the two bodies to be more effective. This was mainly because most of the CLE's functions were performed by the KSL. To this end, the 2009 Regulations on Accreditation of Training Institutions were passed to

²⁵ Rosenbaum et al., “Clinical Legal Education in Africa.”

²⁶ Odhiambo, “Placing Access to Justice at the Centre of Legal Education in Kenya.”

²⁷ Constance Gikonyo, “The Legal Profession in Kenya And Its Anti-Money Laundering Obligations or Lack Thereof,” *Journal of Money Laundering Control* 22, no. 2 (May 7, 2019): 247–56, <https://doi.org/10.1108/JMLC-01-2018-0010>.

enable the CLE to regulate, accredit, license, and supervise the training of law by higher education institutions, including the KSL. To further boost LET in Kenya, the Government enacted the Universities Act 2012, the Kenya School of Law Act 2012, the Legal Education Act 2012, the Kenya School of Law (Training Programmes) Regulations 2015, and the Legal Education (Accreditation and Quality Assurance) Regulations 2016 that distinctly govern KSL and the CLE.²⁸

A brief analysis of the current regulatory framework underpinning LET is as hereunder:

1) *The Legal Education Act 2012*

The Legal Education Act 2012 is one of the significant Acts of Parliament explicitly enacted to not only promote and maintain the highest standards in LET but also to ensure that all relevant service providers are rendering quality legal education and training services that meet the market demands.²⁹ Additionally, this Act establishes the CLE, regulates all legal education and training service providers, including those offering certificate and diploma courses, establishes the Legal Education Fund and the Legal Education Appeals Tribunal, and outlines other miscellaneous provisions. There are subsidiary regulations that have been enacted to facilitate the full implementation of the Act.³⁰

2) *The Kenya School of Law Act 2012*

The Kenya School of Law Act 2012 is another significant legislation that governs matters of legal education in Kenya. The Act not only provides for the establishment, powers and functions of the KSL but it also lays down candid provisions relating to procedure for admission to the School, academic programmes, examinations and conferment of academic awards and financial matters. The primary objectives of establishing the KSL were to provide professional legal training on behalf of the Government of Kenya, and in doing so, the School trains individuals to become advocates and para-legal professionals. There are subsidiary regulations that have been enacted to facilitate the full implementation of the Act.³¹

3) *The Universities Act 2012*

The Universities Act 2012 is yet another significant piece of legislation in LET that not only provides for governance and accreditation of higher education

²⁸ Anne Kotonya, “Lawyers in Self-Estrangement: Resolving the Challenges of Sustaining University Law Clinics,” *International Journal of the Legal Profession* 30, no. 2 (May 4, 2023): 147–62, <https://doi.org/10.1080/09695958.2023.2168672>.

²⁹ Moses Njoroge Muchiri, “Emerging Issues in Regulation of Legal Education in Kenya,” *SSRN Electronic Journal*, 2020, 1–37, <https://doi.org/10.2139/ssrn.3559309>.

³⁰ Caroline Adhola and Anne Ajulu-Okungu, “Internal Displacement and Education: Overcoming Barriers for Learners in Kenya’s Northern Rift Valley,” *Perspectives in Education* 43, no. 2 (June 10, 2025): 54–68, <https://doi.org/10.38140/pie.v43i2.8296>.

³¹ Georgina Ziita Wabwire, “Assessing the Nature of Regulatory Enforcement by the Council of Legal Education and Its Effect on Corporate Governance of Law Schools in Kenya” (Strathmore University, 2022), <http://hdl.handle.net/11071/13055>.

institutions, but it also facilitates the establishment of three key institutions, *i.e.*, the CUE, the Kenya University and the colleges Central Placement Service Board and the Universities Funding Board, all of whom play a vital role in LET in Kenya.³²

The CUE is charged to specifically: set standards relevant to university education, develop a policy that determines the criteria and requirements for admission of students to universities,³³ Inspect universities regularly to ensure they comply with the set standards of education (*i.e.*, minimum entry requirements for admission to the LL.B. and ATP), and accredit universities that offer LET, *etc.* In performing the foregoing functions, the Act empowers the CUE to delegate any of its functions to any competent person or body, such as the CLE. However, to avoid any conflicts between the functions of the CUE and those of bodies like the CLE, particularly in matters relating to the approval and/or accreditation of academic programs offered by universities, the Act emphasizes that its provisions prevail over the provisions of any other existing enactment in these roles. The Act vests the CUE with discretionary power to consult the CLE before approving LL.B. and ATP programmes developed by legal education providers. Such power extends to matters relating to the inspection of universities that offer LET. This therefore implies that no person or body can purport to accredit, audit, license, inspect, or charge fees to any legal education provider without the approval of the CUE; otherwise, involvement in such an act may attract a fine of two million shillings or imprisonment for a term of two years, or both.³⁴

While the Universities Funding Board is charged with providing funds necessary for financing legal education and training service providers, the Kenya University and Colleges Central Placement Service Board also plays a significant role in matters of LET. It is the only body mandated to coordinate the placement of all qualified students (regardless of their ethnic/social, or other origin, disability, religion, sex, race, culture, etc.) in universities that the Government sponsors.³⁵

Role, Challenges and Prospects of Institutions Charged with Regulation of Legal Education in Kenya

There are two key institutions responsible for regulating LET in Kenya. They are the CLE and KSL. An analysis of their role, challenges and prospects with respect to supervision and/or regulation of LET in Kenya is as hereunder:

³² Elisheba W. Kiru, “Special Education in Kenya,” *Intervention in School and Clinic* 54, no. 3 (January 28, 2019): 181–88, <https://doi.org/10.1177/1053451218767919>.

³³ Chiedza Simbo, “Comprehending Education: A Compelling Case for Prioritizing Education Within National and International Development Agendas,” *International Journal of Research in Business and Social Science* (2147- 4478) 14, no. 4 (July 15, 2025): 419–27, <https://doi.org/10.20525/ijrbs.v14i4.3934>.

³⁴ Austine Ouma, “Future of Legal Education in Kenya: Integrating Technology Law and Research,” *Kenya Law Review* 9, no. 1 (2019): 1–27, [https://cms.icta.go.ke/sites/default/files/2022-04/Kenya Digital Masterplan 2022-2032 Online](https://cms.icta.go.ke/sites/default/files/2022-04/Kenya%20Digital%20Masterplan%202022-2032%20Online.pdf).

³⁵ Michael Mwenda Kithinji, “History of Higher Education in Kenya,” in *Oxford Research Encyclopedia of African History* (London: Oxford University Press, 2023), <https://doi.org/10.1093/acrefore/9780190277734.013.1272>.

1) *The Council of Legal Education*

The Nairobi based CLE is a body established under the Legal Education Act 2012. It is a body corporate with perpetual succession. It is composed of a chairperson who is appointed by the President (but must be a person who meets the minimum set criteria of fifteen years professional experience), Chief Justice, Attorney General, two Principle Secretaries - one from the Ministry of Finance and the other from the Ministry responsible for legal education, two advocates nominated by the Law Society of Kenya, two law lecturers nominated by a public and private university and the council secretary.³⁶ These members are formally appointed by the Cabinet Secretary in charge of legal education, but based on the principle of gender equity.³⁷ Climate, though the Legal Education Act 2012 specifies that the chairperson, the two law lecturers, and the council secretary hold office for a term of three years and may be eligible for re-appointment for one further term, the Act does not precisely specify the tenure of the remaining council members.³⁸

The CLE is empowered to control, supervise, and administer its assets/ the legal education fund. It is also authorized to receive and disburse any donations, gifts, grants, or endowments, open bank accounts for its fund, enter into associations with other institutions within or outside Kenya, and invest its fund in any lawful project. The council is also empowered to require any person to furnish it with any returns or information relating to LET.

The CLE on the other hand is charged with regulation of LET, licensing, inspection and supervising of LET service providers, recognizing and approving student qualifications obtained from foreign universities for purposes of admission to the roll of advocates, advising the State on matters relating to LET as well as recognition and equation of legal education qualifications awarded by foreign institutions, collection/analysis/publication of information relating to LET, administration of professional examinations, *etc.* By regulating LET service providers, the council is specifically mandated to, *inter alia*, set and enforce quality standards touching on admission of prospective students, administration of examinations, transfer of credits between LET service providers, accreditations of institutions, curriculum, harmonization of legal education programmes and manner of monitoring and evaluation of LET service providers and programmes.³⁹ In

³⁶ Osiemo and Kok, “Promoting a Public Service Ethic in the Legal Profession in Kenya: The Imperative Role of Clinical Legal Education.”

³⁷ Claire Robertson, “Trade, Gender, and Poverty in the Nairobi Area: Women’s Strategies for Survival and Independence in the 1980s,” in *EnGENDERing Wealth and Well-Being* (London: Routledge, 2018), 65–87, <https://doi.org/10.4324/9780429500800-6>.

³⁸ Lars Otto Naess et al., “Climate Policy Meets National Development Contexts: Insights from Kenya and Mozambique,” *Global Environmental Change* 35 (November 2015): 534–44, <https://doi.org/10.1016/j.gloenvcha.2015.08.015>.

³⁹ Anne Kotonya, “A Review of the Social Justice Function of Clinical Legal Education in Africa,” *African Journal of Legal Studies* 14, no. 1 (January 24, 2022): 93–115, <https://doi.org/10.1163/17087384-12340088>.

discharge of the foregoing functions, the CLE is, however, required to collaborate, consult, and cooperate with the LSK, CUE, and other relevant State agencies.

The mandate of the CLE has been challenged in several cases. For instance, in *Joseph Gachigua Kaman v Council of Legal Education*, the petitioner had been barred from registering for the bar examination for the 2018/2019 academic year for reasons that he had failed to submit evidence to the council indicating that he had undertaken Commercial Law, a core unit under Part II of the Second Schedule of the Legal Education Act 2012 while studying at Uganda Pentecostal University. The petitioner claimed that he was admitted to the Diploma in Law and later LL.B. degree programme at the said university before the enactment of the Kenya School of Law Act 2012 and the Legal Education Act 2012, and completed his studies on 15th February 2013. Thereafter, he completed the Master of Laws Programme and pre-bar examination from the University of Nairobi and KSL, respectively. He therefore alleged that the council's decision not to allow him to register for the examination violated his constitutional rights and fundamental freedoms as enshrined in Articles 27, 28, 29, 35, 43(1)(f), and 47(1) of the Constitution of Kenya, 2010.

The CLE on its part averred that it is mandated to recognize and approve foreign qualifications and its decision to reject the petitioner's request was in line with Sections 8(1)(e)(f) and 23 of the Legal Education Act 2012 as read with the Second Schedule of the Act as well as Regulation 7 of the Legal Education (Accreditation and Quality Assurance) Regulations 2016. Upon consideration of the evidence adduced before the Court and agreeing with the petitioner's claim, Korir J. of the High Court of Kenya at Nairobi held that the two Acts of Parliament could not be applied retrospectively to the petitioner as he enrolled for the LL.B. programme before the Acts were passed by Parliament.⁴⁰ Even though the petitioner did not qualify to pursue LL.B. degree under the new regime, according to the Judge, the proper applicable laws were the repealed Council of Legal Education Act, Cap.16A and its supplementary regulations, the Council of Legal Education (Kenya School of Law) Regulations 2009 which permitted him to enroll for ATP by virtue of having completed the LL.B., Diploma in Law and the pre-bar examination.⁴¹ Furthermore, the repealed laws did not require Commercial Law to be a core unit that the petitioner had to undertake when he commenced his studies. Finding that the CLE violated the petitioner's right to education, the Judge ordered the council to register him for the bar examination immediately.⁴²

⁴⁰ Anne Kotonya, "Defining the Role of the University Law Clinician: Perspectives from Kenya," *The Law Teacher* 55, no. 4 (October 2, 2021): 448–66, <https://doi.org/10.1080/03069400.2020.1840054>.

⁴¹ Maurice Oduor, "The Export of Legal Education: Its Promise and Impact in Transition Countries," in *The Export of Legal Education* (London: Routledge, 2016), 9–20, <https://doi.org/10.4324/9781315558325-3>.

⁴² Asha Mikinyango and Judith Nguru, "Law Schools as Legal Aid Providers in Kenya: Challenges and Lessons Learnt from Practice," *International Journal of Clinical Legal Education* 28, no. 2 (October 22, 2021): 117–48, <https://doi.org/10.19164/ijcle.v28i2.1185>.

Similarly, in *Daniel Ingida Aluvaala and Another v Council for Legal Education and Another*, Mativo John J. declined to grant permission to allow two students who had failed some units in their ATP examinations to register and re-sit for the pending units after exhausting the five years period within which they were to complete their studies as provided under Rule 9(5) of the Council of Legal Education (Kenya School of Law Regulations) 2009 for reasons that such act could undermine/overstep on the legal mandate entrusted on the CLE.⁴³ However, a Court is empowered to interfere if the CLE acts outside its legal mandate, or acts unreasonably, or acts without supportive evidence or giving an opportunity a person to be heard. The Judge proceeded to state that the five years begins from the time a student enrolls at the KSL and not from the time the student sits for the first ATP examination.⁴⁴

The mandate of the CLE has equally been questioned in *Eliakim Bunde Okayo v Council of Legal Education*.⁴⁵ In the matter, the petitioner who was an bonafide advocate of the High Court of Rwanda had claimed that the CLE had arbitrarily declined his request to be processed for admission as an advocate of the High Court of Kenya despite the Republic of Rwanda being a partner State of the East Africa Community and the fact that Section 12 and 13(1)(b)(d) of the Advocates Act Cap.16 allows such admission.⁴⁶ The petitioner specifically claimed that failure by the council to recognize and approve his professional qualifications on account that he was ineligible to be admitted to the roll of advocates in Kenya as he had not practiced in Rwanda for a minimum five years amounted to violation of provisions of Articles 10, 27, 41, 43, 47, 73 and 232 the Constitution of Kenya 2010, the Treaty Establishing the East African Community, the Fair Administrative Action Act 2015, Advocates Act Cap.16 and the principles of public policy and rules of natural justice. The CLE on its part averred that admission of candidates to the Roll of Advocates in Kenya is majorly guided by the provisions of Sections 12, 13 and 15 of the Advocates Act Cap.16 and Section 8 of the Legal Education Act 2012, the provisions of which the petitioner failed to follow. Upon examination of the evidence adduced before the Court, Ogola J. of the High Court of Kenya at Mombasa affirmed the CLE's contention and held:⁴⁷

⁴³ Anne Kotonya, "A Systematic Quantitative Review of Literature on Social Justice and Clinical Legal Education in Africa," *International Journal of Clinical Legal Education* 30, no. 3 (December 20, 2023): 9–50, <https://doi.org/10.19164/ijcle.v30i3.1362>.

⁴⁴ Buluma Bwire, Migai Akech, and Agnes Meroka-Mutua, "Conceptual Framework for Assessing the Performance of Kenyan Courts Undertaking Judicial Review of Legislative Action," *Strathmore Law Journal* 6, no. 1 (November 17, 2022): 107–33, <https://doi.org/10.52907/slj.v6i1.158>.

⁴⁵ Ouma and Chege, "Law Clinics and Access to Justice in Kenya: Bridging the Legal Divide."

⁴⁶ Victoria Miyandazi, "The Role of Kenyan Courts in Tackling Persistent Inequalities: Navigating Deference and Accountability," *German Law Journal* 26, no. 2 (March 1, 2025): 234–54, <https://doi.org/10.1017/glj.2025.2>.

⁴⁷ Anneke Osse, "Police Reform in Kenya: A Process of 'Meddling Through,'" *Policing and Society* 26, no. 8 (November 16, 2016): 907–24, <https://doi.org/10.1080/10439463.2014.993631>.

“Admission to the Bar in Kenya is a process controlled by law which must be strictly adhered to. ... [P]ursuant to Section 8 of the Legal Education Act 2012, [the CLE] oversees the process [of admission] in two ways: first, it verifies the qualifications of the applicant to be correct, secondly, under Section 15(3) of the Advocates Act Cap.16, the applicant must petition the Chief Justice of Kenya for admission. A copy of that petition is to be availed to the Council of Legal Education and the Law Society of Kenya, both of which bodies have a right to be heard on the petition. ... There is no evidence that the petitioner has complied with Section 15 of the Advocates Act Cap.16. The petitioner has not petitioned the Chief Justice for admission with a copy to the Council of Legal Education. ... [T]he petition is [therefore] dismissed”.

In *Moi University v Council of Legal Education and Another*, the mandate of CLE with respect to regulation and accreditation of legal education providers *vis-avis* that of the CUE was subjected to scrutiny by the High Court of Kenya at Nairobi.⁴⁸ In the matter, the CLE had ordered closure of Moi University School of Law for failing to address issues of resources and infrastructure. The University contended that the decision taken was illegal, arbitrary and unconstitutional by dint of Articles 10(2), 27, 43(1)(f), 47 and 55(a) of the Constitution of Kenya 2010. This was based on the fact that the University was making tremendous efforts in addressing concerns the CLE had raised in particular, construction and stocking of library, addition of lecture/ICT rooms, recruitment of staff and reduction of student numbers to meet the required student, staff ratio.⁴⁹ Besides, the University claimed that in processing its application for renewal of license, the CLE not only applied unpromulgated draft 2015 regulations instead of the 2009 accreditation regulations but it also failed to invite the stakeholders to make representations before the intended closure of the school as required by Section 5(a) of the Fair Administrative Action Act 2015.⁵⁰

The CUE, on its part, averred that the impugned decision was *ultra vires* the provisions of the Universities Act 2012. In that context, the CUE asserted that the powers bestowed upon the CLE by the Legal Education Act 2012 are purely advisory and technical in nature and do not therefore include the power to suspend or close down a legal education provider without consulting it. In addition, the CUE was of the view that by applying the doctrine *Leges posteriores priores contrarias abrogant*, the Universities Act 2012, which came into force on 13th December 2012, takes precedence over the Legal Education Act 2012, which came into force on 28th

⁴⁸ T. Ojienda and M. Oduor, “Reflections on the Implementation of Clinical Legal Education in Moi University, Kenya,” *International Journal of Clinical Legal Education* 2 (July 18, 2014): 49, <https://doi.org/10.19164/ijcle.v2i0.123>.

⁴⁹ Wilfred N Konosi and Fred M Ratemo, “Recognition of Qualifications in Law Earned in an East African Community Partner State,” *African Journal of Commercial Law* 1, no. 1 (November 5, 2021): 125–48, <https://doi.org/10.58216/ajcl.v1i1.145>.

⁵⁰ Ayub N. Gitau and Duncan O. Mbugu, “Curriculum Design and Application in ABE Education,” in *Agricultural, Biosystems, and Biological Engineering Education* (Boca Raton: CRC Press, 2024), 53–61, <https://doi.org/10.1201/9780429150111-8>.

September 2012.⁵¹ In response to the allegations, the CLE averred that the mandate of the CUE as enshrined under the Universities Act 2012 is ‘general’ as compared to the ‘specific’ mandate of regulation and accreditation of legal education providers bestowed upon the CLE under the Legal Education Act 2012. To that end, the CLE relied on the maxim *lex specialis derogat legi generali*, which means a law governing a specific subject matter overrides the one governing general matters. Moreover, the CLE pointed out that Parliament saw it fit by inserting Section 8(4) of the Legal Education Act 2012 that expressly provides that where a conflict arises between the provisions of any other law and those under the Act, the provisions of the Act prevail. Upon considering the evidence presented to the Court, Odunga J. held that, with respect to accreditation, the CLE’s role is limited to setting and enforcing standards related to the accreditation of legal education providers for licensing.⁵²

In other words, the overall power to accredit universities or legal education providers lies with the CUE. In contrast, the power to set and enforce standards relating to accreditation rests with the CLE.⁵³ This implies that once the CLE sets the standards, it is the only duty of the CUE to take appropriate action (including withdrawal of accreditation) if such are not adhered to. On the issue of the application of subsidiary rules, Odunga J. held that subsidiary legislation cannot override the express provisions of the Universities Act 2012 by virtue of Section 31 of the Interpretation and General Provisions Act, Cap. 2. Regarding the question on the implied repeal of an old statute after enactment of a new ordinance, the Judge held that new Statutes are generally given preference over older laws.⁵⁴ This was demonstrated by the fact that Parliament was very much aware of the existence of the Legal Education Act 2012 when it deliberately conferred powers of accreditation on the CUE by enacting the Universities Act 2012 three months later. Such an act, therefore, subsequently repealed any provision that previously conferred accreditation powers to the CLE, and the result was that the CLE could not purport to exercise the power of accreditation or suspension/ withdrawal of accreditation upon Moi University, an institution of higher learning, without consulting the CUE.

2) *The Kenya School of Law*

The Kenya School of Law is yet another institution that was established under the Kenya School of Law Act 2012 to provide specialized training in any specific legal sector.⁵⁵ The School admits qualified students to the ATP, conducts

⁵¹ Bett Rickcard, “Lawyers of the 21st Century; Reforming Legal Education in Kenya,” *SSRN Electronic Journal*, 2021, <https://doi.org/10.2139/ssrn.3811397>.

⁵² Robert Machatha Kibugi, “Training Lawyers for The Sub-Saharan African Market: What Role for Academics? Perspectives from Kenya,” *The Law Teacher* 43, no. 1 (March 6, 2009): 37–48, <https://doi.org/10.1080/03069400802703136>.

⁵³ Agnes K. Meroka and Duncan Ojwang, “A Critical Analysis of Legal Research in Kenya: The Nexus between Research Funding, Academic Freedom and Social Responsibility,” *Asian Journal of Legal Education* 5, no. 2 (July 29, 2018): 109–21, <https://doi.org/10.1177/2322005818768682>.

⁵⁴ Wabwire, “Assessing the Nature of Regulatory Enforcement by the Council of Legal Education and Its Effect on Corporate Governance of Law Schools in Kenya.”

⁵⁵ Kankindi and Chimbwanda, “Legal Education and Its Contemporary Challenges in Sub-Saharan Africa.”

examinations, develops curricular/ training manuals, confers academic awards and undertakes projects, research and consultancies. For a number of years, the School has faced a number of challenges that, *inter alia*, include application of conflicting Acts of Parliament,⁵⁶ inadequate budgetary allocation by the State and prolonged policy development processes that impacted its mandate of service delivery.⁵⁷

In regard to matters admission to the ATP, it is a requirement under the Kenya School of Law Act 2012 that any person seeking admission to the programme must be a holder or is eligible for conferment of a LL.B. degree from a recognised university and must have attained a mean grade of C+ in Kenya Certificate of Secondary Education or its equivalent and obtained a minimum grade of a B (Plain) in either English or Kiswahili.⁵⁸ In addition, the person must have sat and passed the pre-bar examination administered by the School. According to Odunga J. and Mwita J. of the High Court of Kenya at Nairobi in *Republic v Kenya School of Law and Council of Legal Education ex-parte Daniel Mwaure Marai and Peter Gathaiga Munyekei v Kenya School of Law respectively*, the forgoing requirements are mandatory and a person should be ready to be locked out of ATP admission if s/he does not meet the criteria.⁵⁹

Mwita J. has in *Peter Githanga Munyekei v Kenya School of Law* stressed that the minimum eligibility criteria is only designed to promote and maintain high standards in the training and practice of the law. It is however significant to note that, due process must be observed in carrying out the admission exercise. To that effect, the School Director is mandated to first publish a notice in the Kenya Gazette as well as in a newspaper with a national circulation and the School's website inviting eligible persons to apply for admission to the ATP.⁶⁰ Prospective students are thereafter required to submit their applications along with all required documents and prescribed admission fees to the School. After submission, the School is mandated to vet the applications to ensure they meet the requirements and then issue admission letters to the eligible prospective students. It is the duty of the School to subsequently register any person who has accepted the offer for admission for the ATP, submitted all required documents and has paid the prescribed fees for the programme.⁶¹

The Kenya School of Law (Training Programmes) Regulations 2015 also empowers the Director to permit any student who is unable to continue with ATP to defer registration to the programme for a period of not more than three years.

⁵⁶ Sofia Gruskin et al., "Access to Justice: Evaluating Law, Health and Human Rights Programmes in Kenya," *Journal of the International AIDS Society* 16, no. 3S2 (November 13, 2013), <https://doi.org/10.7448/IAS.16.3.18726>.

⁵⁷ Flora Bidali, "Evolution of Legal Aid in Kenya," *Egerton Law Journal* 1, no. 1 (2021): 1–13, <https://eujournals.egerton.ac.ke/index.php/elj/article/view/43>.

⁵⁸ Rosenbaum et al., "Clinical Legal Education in Africa."

⁵⁹ Martha Gayoye, "'Constitutions Without Constitutionalism' and Judicial Leadership in Kenya," *Journal of Eastern African Studies* 18, no. 3 (July 2, 2024): 345–65, <https://doi.org/10.1080/17531055.2024.2375076>.

⁶⁰ Ouma, "Future of Legal Education in Kenya: Integrating Technology Law and Research."

⁶¹ Rosenbaum et al., "Clinical Legal Education in Africa."

Any student who desires to register him/herself for ATP after the lapse of the said period is mandated to sit for the pre-bar examination afresh.⁶²

After completion of the registration process, the School is required to issue each student an admission number and student identification card which must, at all times, be displayed by the students whenever they are the School premises.

The requirements of and procedure for admission to the KSL has been contested in a number of incidences. For instance, in *Pauline Anna Benadette Onyango v Kenya School of Law*, the petitioner alleged that the KSL had declined to admit her for the ATP despite having been earlier admitted to the programme twice in 2005/2006 and 2010/2011 Academic Years and having passed the Proficiency Test in English administered by the School. She had deferred her studies in the said two Academic Years due to lack of tuition fees. When she managed to raise the fees and applied for the ATP in 2015/2016 Academic Year, her application was rejected because deferment is permitted only once and that she was not eligible to join the programme for having attained a mean grade of C (Plain) and a C (Minus) in English at the Kenya Certificate of Secondary Education examination,⁶³ way below the minimum requirements under the Kenya School of Law Act 2012. The KSL also averred that the petitioner submitted her new application for the 2015/2016 ATP after the Act had come into force.⁶⁴ This was refuted by the petitioner who claimed that her grades were in total conformity with Part II(ii) of the First Schedule of the Council of Legal Education Act (Kenya School of Law Regulations) 2009 on admission requirements to the ATP and to that extent, the provisions of the Kenya School of Law Act 2012 could not be applied retrospectively to her. Upon considering the evidence adduced by parties, Mwita J. of the High Court of Kenya at Nairobi held that:

“... [I]t is clear that qualifications for admission to the ATP are now different from those of Pre-2012. In particular and of relevance to this petition is qualification under (1)(d), where one who has an LLB degree, grade C (Minus) in KSCE, and C (Minus) in English could be admitted to the School if the person passed the pre-bar examination. The current regulations [under the Second Schedule to the Kenya School of Law Act 2012] removed that particular qualification [and they therefore supersede the 2009 regulations] The petitioner, however, obtained her academic qualifications way before the law was amended to introduce new admission requirements for the ATP. ... It would therefore be unreasonable to subject the petitioner to a law that was not in place or did not exist when

⁶² Toyin Afolabi Majekodunmi et al., “Issues and Challenges Concerning Access to Justice in Nigeria: Clinical Legal Education Aid as a Panacea,” *NIU Journal of Legal Studies* 10, no. 2 (September 30, 2024): 37–50, <https://doi.org/10.58709/niujs.v10i2.2007>.

⁶³ James R. Faulconbridge and Daniel Muzio, “Valuation Devices and the Dynamic Legitimacy-Performativity Nexus: The Case of PEP in the English Legal Profession,” *Accounting, Organizations and Society* 91 (May 2021): 101224, <https://doi.org/10.1016/j.aos.2020.101224>.

⁶⁴ Rebecca Adawo, “Influence of Paralegal Medical Services on Children’s Right to Education in Kenya, A Case of Migori County,” *International Journal of Elementary Education* 5, no. 3 (2016): 28, <https://doi.org/10.11648/j.ijeedu.20160503.11>.

she obtained her law degree, a qualification that allowed one to join the School. It is a cardinal rule of statutory construction that a retrospective operation should not be given to a Statute so as to impair an existing right or obligation, except with regard to procedure. ... The law looks to the future of the present case. ... In short, the petitioner qualifies to apply for admission to the ATP at the School”.

Equally, in *Bishar Adan Mohamed v Kenya School of Law*, Bishar sued the School for failing to admit him to the ATP despite being in possession of an LL.B. degree from Mount Kenya University, which he attained in 2017 after four years of study. He claimed that by requiring him to sit and pass the pre-bar examination before admission, the institution had acted unlawfully and in breach of his fundamental rights as enshrined in Articles 27 and 47 of the Constitution of Kenya, 2010.⁶⁵ The KSL averred that Mr. Bishar had only attained a mean grade of C (Plain) with a D+ in English and C (Plain) in Kiswahili at the Kenya Certificate of Secondary Education, which could not enable him to get admission to the programme. In addition, the School contended that there were no provisions for academic progression to facilitate his admission to the programme. Moreover, the School stated that only students who had enrolled in the LL.B. programme before the enactment of the Kenya School of Law Act 2012 were eligible for admission.⁶⁶ Upon considering the evidence adduced by parties, Korir J. of the High Court of Kenya at Nairobi held that the Second Schedule of the Kenya School of Law Act 2012 provides a set of qualifications equally applicable for admission into the LL.B. programme for students who enroll for the programme in both foreign and local universities. Bishar, having failed to attain the required qualifications as enshrined in the Second Schedule of the Kenya School of Law Act 2012, could not therefore qualify to join the School for the ATP Programme.⁶⁷

Similarly, where there are notable differences between provisions in subsidiary rules and those in Statutes in matters admission to the ATP, John Mativo J. of the High Court of Kenya at Nairobi in *Republic v Kenya School of Law ex-parte Victor Mbeve Musinga*, has held that the provisions of the Legal Education (Accreditation and Quality Assurance) Regulations 2016 cannot override the express provisions of Section 16 as read with the Second Schedule of the Kenya School of Law Act 2012 that lay down various admission requirements to the ATP.⁶⁸

Another issue that has arisen regarding admission is the question of which body, between the KSL and the CLE, is mandated to admit students to the Advocates Training Programme. In response, reference can be made to *Nabulime*

⁶⁵ Gayoye, “‘Constitutions Without Constitutionalism’ and Judicial Leadership in Kenya.”

⁶⁶ Ouma and Chege, “Law Clinics and Access to Justice in Kenya: Bridging the Legal Divide.”

⁶⁷ John Munyui Muchira et al., “Implementing Competency Based Curriculum (CBC) in Kenya: Challenges and Lessons from South Korea and USA,” *Journal of Education and Learning* 12, no. 3 (April 27, 2023): 62, <https://doi.org/10.5539/jel.v12n3p62>.

⁶⁸ Kibugi, “Training Lawyers for The Sub-Saharan African Market: What Role for Academics? Perspectives from Kenya.”

Miriam and Others v Council of Legal Education and 5 Others, in which Justice Odunga held:

“The [only institution] with the legal mandate to determine the qualifications for admission, registration of applicants to the [KSL] is the [CLE] but the actual admission of students to the School is to be undertaken by the School. That the body with the legal mandate as between [KSL] and the [CLE] to set, supervise or mark [ATP] examinations is the [CLE]”.

Does possession of a first degree entitle one to get ATP admission at the KSL despite failing to meet the minimum requirements for admission? To answer the issue, reference can be made to *Peter Gathaiga Munyeki v Kenya School of Law* case. The petitioner in the matter scored a mean grade of B- with a B- in English and C (Plain) in Kiswahili in the Kenya Certificate of Secondary Education in 2003. He subsequently enrolled for a Bachelor of Commerce degree at the Catholic University of Eastern Africa and graduated in 2007. He was thereafter admitted to Mount Kenya University in April 2013 to pursue the LL.B. degree, which he completed in July 2017. Armed with the two degrees, he applied to enroll for ATP at the KSL, but the School rejected his application. Dissatisfied with the School’s decision, he filed a suit claiming that he is qualified to be admitted to the ATP and his constitutional rights as enshrined under Articles 19(2), (3)(e), 21(1)(3), 24(1), 43(1)(f) and 55 as well as his legal rights under the Kenya School of Law Act 2012, Legal Education Act 2012 and the Legal Education (Accreditation and Quality Assurance) Regulations 2016 had been violated.⁶⁹

The KSL rejected the claims and averred that the petitioner did not meet the requirements of Section 16 as read with the Second Schedule of the Kenya School of Law Act 2012 for admission to the programme. Besides, the KSL deposed that since its operations are guided by the Kenya School of Law Act 2012 and its subsidiary regulations, the Legal Education (Accreditation and Quality Assurance) Regulations 2016 enacted under the Legal Education Act 2012 are not applicable to admissions to the ATP.⁷⁰ Upon considering the evidence adduced by parties, Mwita J. of the High Court of Kenya at Nairobi held that since the petitioner was admitted in 2013 for the LL.B. Programme, he must meet the minimum criteria of mean grade of C+ with a B (Plain) in English or Kiswahili or its equivalent to qualify for ATP admission.⁷¹ According to the Judge, this position was in contrast to the decision in *Kevin K. Mwiti and Another v Kenya School of Law and 2 Others* where the Court permitted persons who had sought admission to pursue LL.B. Programme prior to the enactment of the Kenya School of Law Act 2012 to enroll for ATP as they were not bound by the new ATP admission requirements under the 2012 Act. The petitioner

⁶⁹ Wabwire, “Assessing the Nature of Regulatory Enforcement by the Council of Legal Education and Its Effect on Corporate Governance of Law Schools in Kenya.”

⁷⁰ Kotonya, “Defining the Role of the University Law Clinician: Perspectives from Kenya.”

⁷¹ Ngepathimo Kadhila and Eugene Lizazi Libebe, “Policy Issues in the Harmonisation of Quality Assurance Systems for Higher Education in Africa,” in *Routledge Handbook of Public Policy in Africa* (London: Routledge, 2021), 423–34, <https://doi.org/10.4324/9781003143840-43>.

having enrolled in 2013 for the LL.B. Programme could not therefore benefit from the decision arrived at in *Kevin K. Mwiti case*. The Judge proceeded to hold that minimum admission requirements for ATP admission at the KSL can only be found under Section 16 as read with the Second Schedule of the Kenya School of Law Act 2012 and no other legislation. For this reason, the Judge pointed out that the Legal Education (Accreditation and Quality Assurance) Regulations 2016, which allowed holders of any other degree certificate to enroll for the LL.B. degree, were in conflict with the Kenya School of Law Act 2012 in matters of ATP admission, and such regulations cannot override the provisions of the Act. By permitting a person to join the ATP based on holding a degree prior to joining the LL.B. degree programme, this would circumvent the clear provisions of the Kenya School of Law Act 2012.⁷²

Several individuals wish to pursue the LL.B. degree programme; however, some of them do not meet the required minimum grades in the Kenya Certificate of Secondary Education or its equivalent.⁷³ It is at that point that they opt to first enroll for a Diploma in Law before joining the LL.B. degree programme. The moot question in that respect is whether, through academic progression, a person is eligible for admission to the ATP at the KSL? To answer the issue, reference can be made to *Maina and Another v Kenya School of Law; Council of Legal Education (Interested Party)*. In the matter, the appellants were holders of a Diploma in Law and an LL.B. degree from KSL and Kenyatta University, respectively. When they sought admission to the KSL, their applications were rejected because they had not met the entry requirements for the LL.B. degree. Dissatisfied with the school's decision, the appellants filed a complaint with the Legal Education Appeals Tribunal.⁷⁴ The KSL averred that the Kenya School of Law Act 2012 does not envisage academic progression as a means of gaining admission into the ATP. Moreover, the School asserted that it is bound by the Act in matters of admission to the ATP. Taking into account the evidence adduced, the Legal Education Appeals Tribunal held that Section 8(3)(a)(c) of the Legal Education Act 2012 mandates the CLE to not only make regulations for admission to Diploma in Law, LL.B. degree or Postgraduate Diploma in Law but it also lays a ground for the Council to formulate a system that recognizes prior learning and experience in law to facilitate progression in legal education from lower to higher levels of learning. Considering the fact that the appellants were admitted to the LL.B. programme in 2017 when the Legal Education (Accreditation and Quality Assurance) Regulations 2016 were in force, the Tribunal held that the KSL could not deny them admission to the ATP. Besides, the Tribunal pointed out that the appellants were only to be subjected to Section 1(a) of the

⁷² Kotonya, "A Review of the Social Justice Function of Clinical Legal Education in Africa."

⁷³ Fredrick Otiye and Ágnes Hajdu Barát, "Roles and Emerging Trends of Academic Libraries in Kenya," *Library Hi Tech News* 38, no. 7 (December 1, 2021): 19–23, <https://doi.org/10.1108/LHTN-09-2021-0058>.

⁷⁴ Cassadee Orinthia Yan, "Manufacturing Statelessness Through Exclusionary Citizenship Law: A Comparative Study on Kenya and South Africa," *International Comparative Jurisprudence* 10, no. 1 (2024): 94–106, <https://doi.org/10.13165/j.icj.2024.06.007>.

Second Schedule of the Kenya School of Law Act 2012 as opposed to 1(b) of the said Schedule that provides:

“A person shall be admitted to the [KSL] if having passed the relevant examination of any recognised university in Kenya or of any university, university college or other institution prescribed by the [CLE], holds or becomes eligible for the conferment of the LL.B. degree of that university, university college or institution”.

The tribunal finally quashed the decision taken by the KSL and directed the School to admit the appellants.

In *James Muchiri Gachoki and 2 Others v Kenya School of Law; Council of Legal Education (Interested Party)*, the Legal Education Appeals Tribunal has equally held that even though academic progression is not anchored in the Kenya School of Law Act 2012, Section 8(3)(c) of the Legal Education Act 2012 provides for the same and as such, the fact that the appellants had a Diploma in Law from a recognised institution before admission to the LL.B. degree programme, they were eligible for admission to the ATP programme.⁷⁵ Therefore, it signifies that the KSL, as pointed out by Mwita J. in *Peter Githanga Munyeki v Kenya School of Law*, has a duty to ensure that it follows the law as enacted by Parliament regarding matters of admission to the ATP.

Conclusion

As pointed out above, legal education service providers in Kenya are mandated to offer quality legal education but have consistently faced several challenges, including multiplicity and increased competition among providers. To counter such challenges, they must design and enhance their programs, taking into account both current and future market demands. Besides, their niche area and methodology of delivering their programmes should resonate with the continuously changing environment. To produce our qualified advocates, there must be a paradigm shift from relying solely on traditional methods in teaching LL.B. and ATP to adopting clinical/experiential learning methodologies. Besides, legal education service providers should continuously build scholars’ capacity for e-learning delivery to maintain the standards set for legal education.

In addition, uniform standards should be established to guide legal education service providers in delivering programs during pandemics. It is equally significant to address socio-economic challenges among continuing and prospective law students to facilitate online learning. In this context, the Government should devise means of incorporating funds into the University loan programs that will facilitate all students, particularly those from marginalized communities, to acquire online learning gadgets. Legal education service providers should also invest more in ICT infrastructure to equip students with practical ICT knowledge that will aid them in

⁷⁵ Muchiri, “Emerging Issues in Regulation of Legal Education in Kenya.”

legal research.⁷⁶ Given the ongoing debate on the qualifications for admission to the LL.B Programme, both in and out of court, it is high time that the Government amends the Kenya School of Law Act 2012 and the Legal Education Act 2012 to resolve the existing conflict between the two Acts. The CLE should be given the sole mandate of determining the criteria for admission to LL.B. and ATP. The CLE should also be the exclusive administrator for pre-bar examinations.

Acknowledgement

None

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⁷⁶ Olasunkanmi Habeeb Okunola, "Beyond Institutional Silos: Rethinking Multilevel Disaster Risk Governance in Africa a Decade into the Sendai Framework Implementation," *International Journal of Disaster Risk Science* 16, no. 3 (June 6, 2025): 321–32, <https://doi.org/10.1007/s13753-025-00646-1>.

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