



Oraro & Company's Employment & Labour Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a market-leading African law firm established in 1977 with a strong focus on **dispute resolution** and **corporate & commercial law**. With a dedicated team of 12 partners, 13 associates and 41 support staff, the firm is highly respected for its dispute resolution practice in Kenya, and its strong bench of litigators.

We provide specialist legal services both locally and regionally in **Arbitration, Banking & Finance, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, Infrastructure, Projects and PPP, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, governments, regulators, and not-for-profit organisations from target industry sectors including construction, education, energy, financial services, manufacturing & industries and the public sector.

We provide both local and cross-jurisdictional legal services, either directly or through the extensive relationships that we have established with leading firms across the globe, which enable us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

The firm has a robust team of lawyers and has over the years been consistently ranked by **Chambers Global, IFLR 1000** and **Legal 500** as a top-tier firm in Kenya.

Oraro & Company Advocates prides itself in its **deeply rooted client relationships** by providing quality legal services through its **partner-led approach**, drawing from **local knowledge** and **global perspectives**.

"They're very pleasant to work with. They have a very collegiate atmosphere and a great work ethos."

Chambers Global 2019

Our Employment & Labour Expertise

For over 42 years, our Employment & Labour practice has been a key player in Kenya's legal industry and has consistently proven its aptness in offering clients trusted legal advice on Employment and Labour through its team of highly experienced advocates, with a Market-leading dispute resolution practice with formidable expertise in high-profile employment litigation. Moreover, the Employment & Labour practice area advises non-contentious employment matters and has been recognised as the "go-to" team by key industry players and legal directories.

Consistently top-ranked amongst peers, our Employment & Labour practice area advises on a broad spectrum of employment issues including employment contracts, unfair terminations disputes, redundancy, pensions and collective bargaining support. The practice area is completely integrated with our market leading Corporate & M&A, Banking & Finance and Dispute Resolution regularly working alongside our colleagues as part of larger transaction teams find solutions for the most complex matters.

Chambers & Partners have consistently recognised our Employment & Labour practice area one of the market's top practices. In 2019, the directory ranked the practice area Band 2 highlighting the team's presence in the employment court stating, *"They have senior lawyers who are doing some heavy lifting when it comes to employment disputes."* In addition, Legal 500 also ranked the firm tier 1 in employment practice praising the team for *"an impressive mix of contentious and non-contentious work..."* Our Managing Partner Chacha Odera has been highlighted in the recently released Chambers Global 2019 rankings as an esteemed litigator noted for his activity in the employment courts *"when things get very serious."* Also ranked as Band 1 in the same ranking is Walter Amoko who is noted as a pre-eminent employment litigator. The directory reported, *"He's top tier for the high calibre of disputes that he handles and his preparation."* Georgina Ogalo-Omondi continues to garner high praise for her growing practice. Ranked Band 3, she is described as *"energetic and articulate,"* and *"very well versed in employment matters."*

"They have senior lawyers who are doing some heavy lifting when it comes to employment disputes."

Chambers Global 2019

Our Key competences

Our Employment & Labour practice area covers:

- Employment claims both in the magistrates and Employment & Labour Relations Court
- Class action litigation
- Employment agreements/contracts, HR manuals and policies
- Alternative dispute resolution
- Pension funds or schemes
- Redundancy/Restructuring
- Collective Bargain
- Unfair termination
- Compliance audits
- Mergers and acquisitions

“... has an impressive mix of contentious and non-contentious work and is specifically noted for its handling of trade union matters....”

Our Market recognition



Oraro & Company Advocates



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ADVOCATES



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ADVOCATES

Our Employment & Labour Experience

Some of our notable experience includes:

CLAIMS

- Representing a Kenyan bank against a claim for constructive dismissal and discrimination of an employee. The award is set at USD 200,000.
- Representing Kenya Railways Corporation (Kenya's national railway) in a claim worth KES 430 million brought by its former employees to enforce an award made by the Industrial Court and a claim for unfair dismissal after a strike which led to their dismissal.
- Representing the Honourable Attorney General in various claims filed before the High Court and the Employment and Labour Relations Court challenging section 85 of the Finance Act, 2018. The claims sought to introduce an amendment to the Employment Act by inserting Section 31A which introduced a statutory deduction of 1.5% on the gross salary of every employee in an effort to fund a National Affordable Housing Project. The Petitioners are challenging the constitutionality of the said provision on among other grounds lack of public participation and lack of clarity on the legislative framework that would guide the said deduction.
- Representing BIDCO against a class action suit/claim worth USD 2.2 million of over 300 employees who were terminated from employment following a staff organisation process and conversion from casual employees to permanent employees. Those terminated refused to take up the employment contracts and stopped coming to work. The matter value is USD 2.2 million.
- Defending a Kenyan commercial bank in a sexual harassment claim within the workplace worth USD 680,000
- Representing Stanchart in a case involving alleged wrongful dismissal and malicious prosecution (claim value: KES 6 million, excluding the interest).
- Acting and advising a Kenyan pension scheme in defending a judgement by the retirement benefits tribunal for the sum of in excess of KES 7 billion by former employees of Telkom as being the total of their unpaid retirement dues.
- Advised a non-governmental organisation regulated in the United States of America with an office in Nairobi on the termination of contracts of employees on fixed-term contracts that were coming to an end.

REDUNDANCY

- Acting on behalf of Aga Khan University Hospital, Nairobi (**AKUH, N**) in an appeal challenging the decision of the Supreme Court that held that the client's proposed redundancy exercise and in particular the notices contravened the CBA and Section 40 of the Employment Act.
- Defended AKUH, N (recognised as one of Kenya's and East Africa's leading premier teaching and referral health care facilities) in the ELRC. It was a claim filed by the employee's union – Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (seeking to prevent the institution from proceeding with a redundancy process).
- Representing KQ in a class action for reinstatement of over 440 employees following a redundancy process undertaken wherein the Court was in favour of the employees and ordered reinstatement and back-pay of salary. The matter value is USD 1 million.
- Represented Telkom in an employment dispute arising from a redundancy carried out by the client in 2006 where approximately 2,600 employees were retrenched. The employees numbering filed suit challenging the redundancy package that was offered to them. The matter was litigated at the High Court, Court of Appeal and Supreme Court. The parties eventually entered an out of court settlement on 20th December, 2015 where the same was settled at a cost of approximately USD 18 million.

RETIREMENT BENEFITS

- Acting for the Teleposta Pension Scheme in defending a judgement by the Retirement Benefits Tribunal for unpaid retirement dues of USD 70 million by former employees of Telkom owned by a UK private equity firm operating in Africa.
- Representing the NBK against 3 separate class action claims in the ELRC, for the retabulation of terminal benefits arising from voluntary early retirement taken by the claimants. The claimants are praying for additional payments based on redundancy. The matter value is USD 8 million.
- Advised the Co-operative Insurance Company of Kenya Limited on its Staff Provident Fund Scheme with specific emphasis on the requirements of the Retirements Benefits Act, amendment to their Trust Deed and conversion from a provident fund to a pension scheme.

EMPLOYMENT CONTRACTS

- Advising the International Potato Centre on the restructuring and review of employment contracts and policies.
- Representing Child of God Academy, a faith based community school operating from Mathare Valley (one of Kenya's oldest and largest slums) on employment claims. The matter value is USD 3,000.
- Represented NBK in a class action involving the termination of employment on the basis of performance appraisal.

TRADE UNIONS

- Acting for one of the largest trade unions in Kenya – KNUT in a trade dispute against the employer, the TSC, with respect to the historical 2015/2016 nationwide teachers' strike.
- Representing the Laxmanbhai Construction Limited against two rival unions within the organisation (Kenya Concrete, Structural, Ceramic Tiles, Wood Ply & Interior Designs Workers Union and Kenya Building, Construction, Timber, Furniture and Allied Industries Employers Union). The matter value is USD 50 thousand.
- Advised KNUT in an economic dispute by the teachers' union brought against the teacher's employer - TSC. The dispute revolved around claims by the teachers for better terms and conditions of service, including increments in basic pay and allowances and finalisation of a CBA. The matter value was USD 720 million (amount awarded by the ELRC).
- Represented KNUT in litigation arising out of their 1997 pay deal agreement with the TSC

Our Employment & Labour Lawyer

George Oraro SC, Senior Partner



George (goraro@oraro.co.ke) is the Senior Partner at Oraro & Company Advocates. With over 42 years of experience, he is held in high esteem for his arbitration, mediation and litigation expertise in Kenya. He specialises in administrative and judicial law, banking & commercial litigation, corporate & commercial law, employment and labour disputes, international trade and tax disputes.

He has practised in the International Criminal Court , LCIA, ICC, the Supreme Court of Kenya, Court of Appeal, the High Court, Employment & Labour Court, and various Tribunals.

In 2012, George was conferred with the rank of Senior Counsel for his exemplary service to the legal profession. Similarly, Chambers Global 2019 Guide ranked George a top-tier lawyer, noting that he has a *"brilliant legal mind"* and that he has *"attention to detail and extensive knowledge of law across jurisdictions."* He was also appointed to serve as a Commissioner of Assize to assist in expediting and determining criminal and civil matters.

Aside from his legal practice, George has served as a board member for the Capital Markets Authority in which he was instrumental in the development of the legal and regulatory framework for the Capital Markets in Kenya. He was also a member of the Nairobi Securities Exchange Technical committee. In 2015, George became the first Honorary Consul for the Republic of Lithuania.

Chacha Odera, Managing Partner



Chacha Odera (chacha@oraro.co.ke) is the Managing Partner at Oraro & Company Advocates and practices in the dispute resolution practice area. He specialises in arbitration, alternative dispute resolution and litigation. With over 30 years of experience, he has represented local and international clients in banking, commercial disputes, constitutional law, electoral law, employment and labour law, insolvency, land and property law.

Chacha has been ranked by Chambers & Partners and Legal 500 in dispute resolution and employment. In 2019, The Chambers Global Guide lauded Chacha noting his activity in the employment courts *"when things get very serious."*

Chacha has a Bachelor of Laws (**LLB**) from the University of Nairobi, Kenya and a Diploma in Law from the Kenya School of Law. In addition to being an Advocate of the High Court of Kenya, Chacha is a Commissioner for Oaths and Notary Public.

Georgina Ogalo-Omondi, Partner



Georgina (georgina@oraro.co.ke) is a Partner at Oraro & Company Advocates in the dispute resolution practice group. She specialises in Dispute Resolution and Mediation. With over seven (9) years' experience, Georgina has advised local and international clients in a wide variety of complex employment and labour disputes, commercial and family law.

Georgina recently advised Aga Khan University Hospital- Nairobi (**AKUH, N**) before the ELRC in a challenge against proposed potential redundancies of upto 500 staff. She has also advised BIDCO Africa Limited on their employee restructuring process.

Ranked Band 3 by Chambers & Partners in Employment, the Global Guide in 2019 described her "*energetic and articulate*" lauding Georgina for being "*very well versed in employment matters.*"

Georgina has a double concentration in Bachelor of Commerce in Economics & an LLB from the Nelson Mandela University, South Africa and a Diploma from the Kenya School of Law.



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