



ORARO & COMPANY
ADVOCATES

Oraro & Company's Employment & Labour Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a full-service 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, 16 associates and 40 support staff, the firm has been consistently ranked by leading legal directories such as Chambers Global, IFLR 1000 and Legal 500 as a top-tier firm in Kenya.

We provide specialist legal services both locally and regionally in **Arbitration, Banking & Finance, Capital Markets, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, Infrastructure, Private Clients, Projects and PPP, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, private clients, governments, regulators, and not-for-profit organisations from target industry sectors including retail, 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.

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.

"...professional, bold, reliable and personalised service....all-round superior legal firm that can cover a client in all possible respects."

Chambers Global 2020.

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. The firm was ranked Band 1 during the 2020 rankings. 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 noting our strength in handling both contentious and non-contentious employment matters and our experience in handling redundancies, retrenchments, employee benefits and collective bargaining arrangements. Chacha was commended by Chambers for his expertise in land, employment and constitutional disputes with market commentators highlighting that he has a *"very sharp mind,"* and other sources saying he is *"a man full of wisdom; courteous, respectful, hard-working and a team player."* Georgina Ogalo-Omondi, on the other hand, continues to excel in the Employment practice area. Georgina received praise from the interviewees for being *"ambitious, very hard-working and a team player,"* also adding that *"she is fearless."*

"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:

- Class action litigation
- Employment agreements/contracts, HR Manuals and Policies
- Alternative Dispute Resolution
- pension funds or schemes
- Redundancy
- Collective Bargain
- Unfair termination
- Compliance Audits

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

Legal 500 2019

Our Market Recognition



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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

Chacha Odera, Managing Partner



Chacha (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 leading international legal directories such Chambers & Partners and Legal 500 in dispute resolution and employment practice areas. In the 2020 rankings, the Chambers Global Guide lauded Chacha as a **"highly efficient"** lawyer, quoting market commentators who commended his *"very sharp mind,"* and further agree that *"he is a man full of wisdom; courteous, respectful, hard-working and a team player."*

Chacha was recognised as the overall lawyer of the year in 2019 at the Nairobi Legal Awards, hosted by the Law Society of Kenya, Nairobi branch.

Chacha has a Bachelor of Laws (LLB) from the University of Nairobi, Kenya and a Post-graduate Diploma in Law from the Kenya School of Law. In addition to being an Advocate of the High Court of Kenya, Chacha is a member of the LCIA African Users' Council, and a Commissioner for Oaths and Notary Public.

Aside from his legal practice, Chacha is an adjunct lecturer at the Strathmore Law School; he has chaired two adhoc committees of the Law Society of Kenya namely, the committee for In-house Counsel and the Code of Conduct for lawyers. He has also served in various capacities in the Political Parties Disputes Tribunal and the Council of Legal Education.

Chacha is a passionate philanthropist and is currently an honorary member of the Rotary Club of Milimani as well as a Paul Harries Fellow. He serves as a trustee of the Matibabu Foundation and Msaada Kenya Trust.

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 ten (10) 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 Employment and Labour Relations Court in a challenge against proposed potential redundancies of upto 500 staff. She has also advised BIDCO Africa Limited on their employee restructuring process.

Leading global legal directories consistently recognise Georgina as a leading employment lawyer. Ranked by Chambers & Partners in Employment, the Global Guide in 2020 lauded Georgina quoting sources who praise her for being "*ambitious, very hard-working and a team player,*" adding, "*She is fearless.*" She was also ranked Next Generation Partner by Legal 500 during its 2020 rankings and recognised as an '*employment specialist*'.

Georgina has a double concentration in Bachelor of Commerce in Economics & a Bachelor of Laws (LLB) from the Nelson Mandela University, South Africa and a post-graduate diploma from the Kenya School of Law.



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