



## Kamau Karori MBS, SC, C. Arb

Senior Partner & Head, Dispute Resolution Practice Group  
DLA Piper Africa, Kenya (IKM Advocates)

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Kamau Karori is a Senior Partner and lead of the dispute resolution practice group at DLA Piper Africa, Kenya (IKM Advocates) with over twenty-five years post qualification experience. He has been involved in numerous matters that have formed and developed jurisprudence in Kenya. In recognition of his exemplary service to the legal practice, the President of the Republic of Kenya conferred on him the title and rank of Senior Counsel. He was also conferred the award of Moran of the Order of the Burning Spear (MBS) by the President in recognition of his distinguished service to the country.

Karori is a Chartered Arbitrator, a status conferred by the Chartered Institute of Arbitrators, UK on the basis of his immense contribution to the practice of arbitration and other forms of Alternative Dispute Resolution in Kenya. He is an active member of the Chartered Institute of Arbitrators, Nairobi Centre for International Arbitration (NCIA), the Kigali Centre for International Arbitration (KCIA), the Africa Arbitration Association (AfAA) as well as the International Chamber of Commerce Kenya (ICC Kenya). He is also the current representative of Kenya in the International Centre for Settlement of Investment Disputes (ICSID) panel of arbitrators and conciliators.

Based on his extensive experience in the field, he has been retained by several multinationals, State Law Office, State Corporations, and individuals to advise and/or act as counsel and arbitrator in various dispute resolution matters.

He has regularly received accolades both from clients, peers and from leading international directories including Chambers Global where he has been consistently ranked in tier 1 in dispute resolution and is recognized as one of the leading lawyers and arbitrators in Africa. In a recent edition of the Chambers Global Guide, he is described as being revered for his: "outstanding litigation and arbitration skills" and "for the prominent work" he undertakes. Legal 500 have also listed him in the Arbitration Private practice Powerlist: Africa.

Karori's expansive practice covers a wide range of matters that include corporate and commercial disputes, Banking and Finance, Tax, Mining and Extractives, Construction, Infrastructure, Energy, Consumer Goods, Constitutional and Electoral disputes amongst a multitude of other areas. In recognition of his status and expertise, Karori is regularly invited by the Kenya Judicial Training Institute to train Judges of the High Court and Court of Appeal.

### CREREDENTIALS

#### Education

Chartered Arbitrator (2020)

Fellow, Chartered Institute of Arbitrators (2013)

Kenya School of Law: Diploma in Law (1995)

The University of Nairobi, Bachelor of Laws (LLB) Degree (1993)

Certified Public Secretary (CPS)

#### Professional Qualifications

Senior Counsel, Law Society of Kenya

Chartered Arbitrator, Chartered Institute of Arbitrators

Post Admission experience: 27 years

Institute of Certified Public Secretaries of Kenya

In appreciation of his expertise, Karori is often invited to speak and train in various domestic and international arbitration conferences by leading and diverse institutions including the Chartered Institute of Arbitrators (CIArb), the German Arbitration Institute (DIS) the East Africa International Arbitration Conference, the International Chamber of Commerce (ICC) and the Nairobi Centre for International Arbitration (NCIA).

#### **AREAS OF PRACTICE**

- Dispute Resolution
- Commercial Litigation
- Domestic and International Arbitration

#### **MEMBERSHIPS**

- Law Society of Kenya
- The Chartered Institute of Arbitrators UK
- International Chamber of Commerce Kenya (ICC Kenya)
- Africa Arbitration Association (AFAA)
- Kigali Centre for International Arbitration (KCIA)
- Nairobi Centre for International Arbitration (NCIA)
- International Bar Association

#### **EXPERIENCE**

##### **Arbitration Matters**

- Was engaged as co-counsel and successfully defended the Republic of Kenya in investment arbitration proceedings filed by Cortec Mining Kenya Limited at the International Centre for Settlement of Investment Disputes (ICSID). The claim arose from the cancellation of mining licenses which the Claimant asserted was done in violation of the 1999 UK- Kenya Bilateral Investment Treaty (BIT) and consequently claimed compensation for alleged unlawful expropriation and violation of various BIT protections regarding fair and equitable treatment. The Tribunal rendered its Award on 22 October 2018 in which it upheld the objections raised by the Republic of Kenya and dismissed the claim with costs. The amount claimed was in excess of USD 2.58 Billion. The claim (Cortec Mining Kenya Limited, Cortec (Pty) Limited and Stirling Capital Limited v. Republic of Kenya (ICSID Case No. ARB/15/29) remains the highest value and most strategically important investment treaty claim Kenya has ever faced.
- Currently engaged as co-Counsel representing the Government of Kenya in a claim filed by CMC Di Ravenna Societa Cooperativa, Itinera S.P.S. and CMC Di Ravenna – Itinera JV S.C.P.A at the International Chamber of Commerce (ICC) arising from the, Arror and Kimwarer dam projects. The amount claimed is in excess of USD 114 Million. He is also representing the Republic of Kenya in a claim filed by CMC Di Ravenna Societa Cooperativa in the High Court arising from the enforcement of guarantees calling for sums in excess of USD 63 Million issued with respect to the Itare dam project. The dispute arises from a FIDIC Contract.
- Was part of the legal team that advised and represented the Republic of Kenya in relation to a Petition for enforcement of the arbitral awards filed in the Southern District of New York. The enforceability of the awards was successfully challenged on the basis of the Kenyan law and the proceedings in New York were consequently stayed on the grounds that the Kenyan Courts were

already seized of the matter. The High Court of Kenya ultimately issued orders staying the enforcement of the awards other than in accordance with the laws of Kenya.

- Represented the Chartered Institute of Arbitrators in the Supreme Court in the case of Nyutu Agrovet Limited and Airtel Networks Kenya Ltd, where the Supreme Court finally settled the question as to whether there is a right of appeal from a decision of the High Court on an application for setting aside of an arbitral award under Section 35 of the Arbitration Act.
- Leading the team comprising three counsels that is defending a leading hotel in arbitration proceedings filed by a contractor in which the Contractor is alleging that the hotel breached the terms of the construction agreement. The Contractor is claiming payment in excess of USD 7.5 Million. The hotel has filed a counterclaim for breach of contract, delay in completion and cost of taking over the works and is claiming compensation in the sum of USD 13 Million.
- Successfully represented Telkom Kenya at the High Court in Nairobi Kenya in proceedings seeking to set aside an arbitral award arising from a dispute in respect of a sale agreement between Telkom Kenya and Postel Housing Corporation. The Arbitrator had directed Telkom to transfer the property to which is public land to a private entity. The High Court found that the arbitrator misconducted herself in directing Telkom to transfer public land valued to Kshs.1.1 Billion to a private entity. The complex issue arising was what amount to misconduct.
- Successfully represented National Oil Corporation of Kenya in defending an award arising from the failure by a supplier to deliver a consignment of fuel within the period contracted. The value of the subject matter was approximately USD 5,000,000.00.
- Representing a client in an Appeal pending before the Court of Appeal which seeks to resolve the issue of the scope of intervention by the High Court when determining an application for setting aside an arbitral award. We are challenging the High Court decision that found that it is not bound by the grounds for setting aside an award under Section 35 of the Arbitration Act and that it has an expanded jurisdiction to confirm whether the award is in conformity with the Constitution and all the laws of the land. The case seeks to resolve the question whether arbitrations, both international and domestic are autonomous or subject to local courts.
- Acted as Sole Arbitrator in a claim regarding a significant insurance claim. The resulting award was upheld by the High Court and contains the guiding principles on terms that can be implied into insurance contracts.
- Acted as Sole Arbitrator in a dispute for an amount in excess of USD 1,000,000.00. The resulting award was upheld by both the High Court and Court of Appeal and is a leading authority on the power of an arbitral tribunal and the limited scope of intervention by the High Court in arbitration awards.

### **Dispute Resolution**

- Represented Kenya's electoral body, the Independent Electoral and Boundaries Commission (IEBC) and its Chairman before the Supreme Court of Kenya in the Petitions that resulted from the March 2013, August 2017, October 2017 and August 2022 Presidential Elections where various Petitioners had sought to challenge the presidential election results as announced by the IEBC.
- Representing Kenya Breweries Limited at the Supreme Court of Kenya in a dispute over distribution of beverages by Kenya's leading beer manufacturer. The novel issue arising is whether the

Supreme Court can entertain an appeal challenging the decision by the Court of Appeal to refer a suit to arbitration. The indicated value of the business is about USD30 million.

- Represented the Hon Attorney General in two petitions filed at the High Court challenging the appointment by the President and Cabinet Secretaries of chairpersons and members of boards of state corporations and parastatals respectively. A three-judge bench of the High Court partly upheld one argument that positions of chairpersons and members of boards of state corporations and parastatals are not offices in the public service. This is an important finding with a public connotation because it protects those offices from future challenges and attempts to interfere with the management of parastatals. The two cases are of immense significance as they seek to remove uncertainty as to who between the President and the Public Service Commission is responsible for the appointment of chairpersons and members of the boards of state corporations.
- Successfully represented a client in a dispute involving the refusal by the Kenya Revenue Authority (“KRA”) to pay VAT refunds on grounds that it did not have funds. The Court issued an order of mandamus and directed KRA to pay the client approximately USD421,686 being the unpaid VAT refunds. This was a landmark decision as no taxpayer had previously successfully sued KRA to compel payment of refunds.

#### **PUBLICATIONS**

- “Courts in Arbitration the Attitude of Kenyan Courts towards Arbitration”, in E. Onyema (Ed.) Rethinking the Role of African National, Kluwer Law International, 2018.
- Promoting Professionalism in ADR Practice, Chartered Institute of Arbitrators Journal. Vol 3 Issue 1, 2015.
- Emerging Perspectives and Challenges in Arbitration Practice, Chartered Institute of Arbitrators Journal 2014.
- “A Momentous Step: Kenya establishes international arbitration centre”, International Arbitration Newsletter 20th December 2013.
- Invited as Speaker and moderator in many conferences organized by regional arbitration Centres including the Chartered Institute of Arbitrators (CIArb), the Nairobi International Arbitration Centre, the East African International Arbitration Conference and the International Chamber of Commerce, Kenya (ICC).
- Invited as Speaker by the Judicial Training Institute to train Judicial officers on arbitration practice, Challenges, Opportunities and Emerging Issues”.
- Karori was invited as a trainer and speaker in the ICC Institute Training on the Conduct of ICC proceedings and Case management hosted by the ICC Institute of World Business Law.

#### **EMPLOYMENT RECORD**

- April 2002 – Date: DLA Piper Africa, Kenya (IKM Advocates), Senior Partner & Head of Dispute Resolution
- July 1996 – March 2002: Kamau Karori & Co. Advocates, Partner
- January 1996 – July 1996: Kariuki Muigua & Co. Advocates, Legal Assistant.



## LANGUAGES

	<b>Speaking</b>	<b>Reading</b>	<b>Writing</b>
▪ <b>English</b>	Excellent	Excellent	Excellent
▪ <b>Kiswahili</b>	Good	Good	Good

## REFEREES

1. Prof. Githu Muigai, S.C.  
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