THE LEGISLATIVE CONSTITUTIONAL FUNCTIONS OF PARLIAMENT AND THE LEGISLATIVE PROCESS IN THE SENATE

The 2010 Constitution of Kenya has created a strong Senate in a presidential system. Unlike in other presidential systems, the Kenyan Senate is unique in terms of the specificity of its functions. Key among these is:-

a) performing legislative and oversight authority over matters that exclusively affect the county governments (Article 96); and,

b) determining any resolution to impeach the president or deputy president (Article 145).

It is an organ created for the protection of county interests, while the National Assembly is supposed to represent the people of the constituencies and special interests (Article 95 (1)).

The bicameral system of Kenya, therefore, presents a scenario where the Senate represents a geographical area called a county, which is the unit of devolution, while the National Assembly represents a geographical area called a constituency which is the unit of population representation (Article 89(5)).

The Senate represents the counties, and serves to protect the interests of the counties and their governments.

It is important to note that the Constitution of Kenya has devolved agriculture functions and powers to the county including:

a. crop and animal husbandry;

b. livestock sale yards;

c. county abattoirs;

d. plant and animal disease control; and,

e. fisheries

The Constitution retains Agricultural policy and Veterinary policy in the National Government. The Senate Agriculture Committee of Kenya is keen on ensuring proper and effective policy by the Cabinet Secretaries and the implementation by the County Governments.
Parliamentary Committees

- Parliamentary Committees are important features in the structure and functioning of a legislature. Committees are formed to look into matters more closely than in full chamber.

- The Sessional and Standing Committees play a very crucial role and have greater responsibility just like the whole house; Committees legislate on crucial matters within their jurisdiction.

- Committees propose legislations, review existing legislations and policy framework on matters under their respective mandate.

- Committees also conduct prepublication scrutiny of legislative proposals referred to it by the Speaker before they are published, conduct public participation on legislation after the first reading and submits a report with recommendations to amend clauses.

The Senate play a vital role in formulating policies and legislation on various aspects including the functions and/or mandate of the county institutions of governance like the county assemblies, of county executives; accountability of public officials; monitoring the funds allocated to the county government; and delivery of services like agriculture, livestock development, fisheries development among others.

- The Standing Committee on Agriculture, Land and Natural Resources is established under the provisions of Standing Order 206(1) and mandated under the Second Schedule of the Standing Orders to consider all matters related to agriculture, livestock, fisheries development, lands and settlement, environment, forestry, water resource management and development, veterinary services.

- The Committee has a membership of nine (9) Senators

- The Ministries that fall under the Mandate of the Committee include:
  I. Ministry of Agriculture, Land and Natural Resources
  II. Ministry of Lands, Housing and Urban Development
  III. Ministry of Environment, Water and Natural Resources; and,
  IV. Ministry of Mining.
The Parliament of Kenya performs many functions including that of representation of the people and oversight. In essence, the Senate in this case cannot fulfill all its functions as stipulated in the constitution to the large volumes of business in the house. Standing Committees therefore handle matters that would have otherwise be handled at the plenary:

The Committees of Parliament of Kenya have been given powers and privileges by the Senate Standing Orders 193; to exercise all the powers and privileges bestowed on Parliament by the Constitution and Statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and public.

Pursuant to Article 125(1) of the Constitution of Kenya, the Senate and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information. The Constitution provides that parliament and any of its committees has the same powers as the High Court to enforce the attendance of witness and examine them on oath, affirmation or otherwise; to compel the production of documents; and to issue a commission or request to examine witnesses abroad.

Article 153 of the Constitution require Cabinet Secretaries to be accountable they are required to attend before committees of Senate when required by the Committee, and answer any question concerning a matter for which he/she is responsible. Article 153(6) requires that Cabinet Secretaries provide Parliament with full and regular reports concerning matters under their control.

The Committee if concerned over a matter e.g food shortage in the country it can resolve to summon the Cabinet Secretary, responsible to explain

1. His/her Ministry's policy decisions and actions on matters food production and management by explaining how the ministry has implemented its role of ensuring food security in the country;
2. the Committee in its recommendations can direct that an audit of the status of the Strategic Grain Reserve be done including the quantity and quality of the grain and production of other foods;
3. The Committee can recommend that a food assessment report be done and tabled in the House within a certain timeframe.
4. The Committee is tasked with the mandate to assess policy and recommend policy change in all matters under its mandate; and.
5. takes a lead in proposing amendments and reviewing legislations that are not sector facilitative.

The Standing Committee on Agriculture has proper legal framework and power to execute its work; this is one of the greatest strengths of Kenya’s Parliamentary Committees.

- It's therefore highly recommended that the Agriculture Committee’s in all legislative jurisdictions be founded on a strong legal basis to enable them execute their functions with authority.
- The Committee lacks in serious expert research considering its wide mandate and understaffing. It is recommended that development partners attach research expert to this committees and capacity building be extended to the Committee members to sharpen policy scrutiny, oversight and legislative skills.
- The Committee funds are limited this has inhibited the performance of the Committee. This is an area the donor community should consider funding.

Other notes:
- Cabinet Secretaries are not members of Parliament. Therefore Statements are sought by Senators in the House from the Chairman of the Standing Committee on Agriculture, Land and Natural Resource, liaison with the relevant ministries have been strengthen. Ministries have established internal parliamentary relations offices to prepare responses asked by the Committees of Parliament.
- Public hearing is a constitutional requirement
- Petitions are send to Senate and referred to the Committees who conduct public hearing and respond to the petition through a report to the house.