

FACTSHEET

07



PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

# The Committee System Of The National Assembly

2nd Edition

Factsheet No. 7

## THE COMMITTEE SYSTEM OF THE NATIONAL ASSEMBLY

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## Purpose and Acknowledgment

This Factsheet is part of the Kenya National Assembly Factsheets Series that has been developed to enhance public understanding and awareness, and to build knowledge on the work of the Assembly, and its operations. It is intended to serve as a guide for ready reference by Members of Parliament, staff and the public. The information contained here is not exhaustive and readers are advised to refer to the original sources for further information.

This work is a product of the concerted effort of all the Directorates and Departments of the National Assembly and the Parliamentary Joint Services. Special thanks go to the members of the *National Assembly Taskforce on Factsheets, Speaker's Rulings and Guidelines*, namely, Mr. Kipkemoi arap Kirui (Team Leader), Mr. Rana Tiampati, Mr. Kennedy Malinda, Ms. Anna Musandu, Mr. Samuel Kalama, Mr. Salem Lorot, Ms. Fiona Musili, Mr. Benson Inzofu, Ms. Laureen Wesonga, Ms. Anne Shibuko, Mr. James Maina Macharia, Mr. Morrice Shilungu, Mr. Finlay Muriuki, Ms. Rabeca Munyao and Mr. Stephen Omunzi.





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# The Committee System of the National Assembly



## I. Introduction

### (a) Overview of Parliamentary Committees

The Constitution<sup>1</sup> empowers Parliament to establish committees to enable it to perform its functions. A committee is a small group of Members appointed and empowered by the House to perform one or more specific tasks. Its membership typically includes all parliamentary political parties. It examines issues in more detail than is possible if the matter were to be considered in the House. They draw their powers from the House and are required to report their findings to the House.

Committees are one of the tools that assist the Assembly in its functions, namely, to legislate including monitoring and reviewing existing legislation; review administration and expenditure; gather information, conducting investigative inquiries, carrying out vetting of nominees to state and public offices, publicizing key issues, among others.<sup>2</sup> The practice of delegating duties to committees of is part of the established procedure of most representative parliamentary bodies.<sup>3</sup>

The Assembly may refer a particular matter to a committee in various situations including the following cases:

- (a) the matter warrants detailed examination,
- (b) there is need for information to be collected, or
- (c) there is need to receive views of members of the public on a matter.

<sup>1</sup> Article 124, Constitution of Kenya 2010.

<sup>2</sup> Committee System of the Legislative Council and Legislative Assembly, available at <http://www.parliament.wa.gov.au/webcms/webcms.nsf/content/home-committee-system-of-the-legislative-council-and-legislative-assembly>

<sup>3</sup> Ibid.

A committee may also initiate consideration of any matter within its mandate on its own volition.

## (b) Why Committees?

Committees exist for various reasons among them:

- i. **Facilitation of division of labour:** The existence of committees offers an opportunity to the House to deal with several matters simultaneously.
- ii. **More suitable deliberative forum than the House:** By their nature and expertise, committees are able to consider matters in greater detail than the House. Committees can perform functions which a House may not be well placed to perform. Committees may carry out investigations, hear evidence from witnesses, travel for inquiries, seek advice from experts, and deliberate on matters under inquiry before reporting their findings to the House.
- iii. **Bipartisan approach:** Committee proceedings are more intimate and bipartisan than proceedings in the House. Party politics are often less prominent in a committee than in the House. This approach enables a committee to review contentious matters more effectively, and to assist parliamentary debate by clarifying issues and establishing common ground between members of different parties.
- iv. **Avenue of public communication and participation:** Committees are a good avenue of communication between Parliament and the public. They offer a platform for the public to participate in law making and policy review by submission or representation of their views.

## II. Establishment of committees

Parliament and its Committees derive their mandate from the Constitution of Kenya, Statutes and Standing Orders. Article 124 of the Constitution provides that:

- 1) *Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.*
- 2) *Parliament may establish joint committees consisting of members of both Houses and may jointly regulate the procedure of those committees.*

The Constitution, statutes, the Standing Orders and House resolutions, as the case may be, provide for the various types of committees, as well as their mandate, powers, term, composition and the criteria for nomination.

In case of cross-cutting issues between two or more departmental committees, the National Assembly may provide for joint sittings for that particular purpose and upon completion of the exercise, the joint sittings are abolished.

### Categories of committees

The following are the categories of committees established in the National Assembly:

- a) Departmental Committees
- b) Audit and Appropriations Committees

- c) House Keeping Committees
- d) Other Select Committees (Delegated Legislation, Implementation, etc)
- e) *Ad Hoc* Committees
- f) Mediation Committees
- g) Joint Committees

NB: *Please refer to Annex I for the complete list of Committees of the National Assembly*

In establishing committees, the general arrangements include:

- a) Some committees are sessional, which means they serve for only one year, and include the Committee of Parliamentary Powers and Privileges, the House Business Committee, Members Services and Facilities.
- b) The chairperson of committees such as the Public Accounts Committee and the Public Investments Committee has to be a member of the party not forming the national government.
- c) Some committees are chaired by the Speaker, including the House Business Committee, Committee on Privileges, the Procedure and House Rules Committee, and the Committee on Appointments.

The criteria for nomination includes the following considerations:

- a) relative proportion of parliamentary political parties in the House
- b) gender balance
- c) regional balance
- d) barring of Committee Chairpersons from being members of any other committee
- e) barring of members of the Parliamentary Service Commission from chairing any committee
- f) inclusion of Independent Members in committees
- g) no two members of the House Business Committee may serve in the same committee

The size of select committees is specified in the Standing Orders or in the specific legislation that authorizes their establishment, for example, the National Government Constituencies Development Fund (NG-CDF) Committee and the Committee of Powers and Privileges.

### **Attendance in select committee meetings**

All select committee meetings are open to the public and the Media/ the Press except in circumstances where the Speaker guides otherwise. The following guidelines are applicable in committee meetings:

- (a) Meetings of select committees are generally open to members of the committee, the committee secretariat, invited witnesses, members of the public and the Press.
- (b) Members who are interested in a matter under consideration by committees to which they are not members may request, in writing and at least twenty-four hours before the meeting, to attend the committee meetings through committee chairpersons, ask questions and contribute to deliberations but may not vote (in line with Standing Order 195).
- (c) Members of the public are at liberty to attend meetings of select committees.

### **Formation of sub-committees**

Committees may appoint sub-committees and refer to such sub-committee matters which the committee is empowered to consider. Sub-committees have the same powers as their parent



committees but cannot report directly to the House. They report their findings to the main committee for adoption and reporting to the House. Sub-committees increase the flexibility of committees and enable them to pursue several tasks simultaneously. Membership of sub-committees is five members.

### **Quorum in committees**

The quorum required for commencement of meetings of main select committees as well as the sub-committees is specified in the Standing Orders. The quorum in select committees is five members whilst that of sub-committees is three members.

If quorum is not realized within thirty minutes of the time appointed for a meeting of a select committee, the meeting is forthwith adjourned.

## **III) Roles of Committees**

### **1. Committees and Legislation.**



- a) Article 95(3) of the Constitution mandates the National Assembly to enact legislation. Committees assist the House in the in-depth consideration of Bills and legislative proposals by incorporating public or stakeholder participation in the legislative process as well as consider and make recommendations including proposed amendments.
- b) Treaties, protocols and conventions emanating from international agreements are also considered by relevant committees.
- c) In addition, the Committee on Delegated Legislation considers subsidiary/ delegated legislation in form of Regulations, Rules, Guidelines and related legislation.

### **2. Committees and Representation.**



Article 95(2) of the Constitution mandates the National Assembly to deliberate on and resolve issues of concern to the people. Similarly, Article 153(4)(b) requires Cabinet Secretaries to provide Parliament with comprehensive and regular reports concerning matters under their control. Subsequently, committees ascertain that the work carried out by the Executive is in public interest and ensures that they present to the Executive the wishes and priorities of the people. Further, committees cause the Executive, Constitutional Commissions, and Independent Offices to respond to Parliamentary Questions, Statements and Public Petitions submitted on behalf of the people.

### 3. Committees and Financial Oversight:

In a bid to guarantee prudent use of public resources as well as value for money, committees undertake financial oversight in the following ways:–



- (i) Review of the National Government Budget and related processes such as the consideration of the Budget Policy Statement (BPS), Budget Estimates, Supplementary Budget Estimates, and the Medium Term Expenditure Framework (MTEF).
- (ii) Consideration of financial legislation including the Appropriations Bill, Supplementary Appropriations Bill, Finance Bill, Division of Revenue Bill, County Allocation of Revenue Bill and the Consolidated Fund Bill.
- (iii) Undertaking budget implementation oversight based on the approved budget, regular reports of the Controller of Budget on implementation of the budget of the national government, and through project inspection visits.



### 4. Committees and Administrative Oversight:

In fulfilment of this mandate committees undertakes the following–

- i) Vetting of nominees for appointment to state and public offices including Cabinet Secretaries, Principal Secretaries, Ambassadors and High Commissioners, Boards of state corporations, Constitutional Commissioners, among others,
- ii) Consideration of petitions for the removal of state and public officers.

## CATEGORIES OF COMMITTEES

The National Assembly has developed different types of committees to perform different functions. The categorization of committees varies in each parliamentary jurisdiction.

### (a) Departmental Committees

- i. They are appointed at the beginning of each Parliament under the National Assembly Standing Orders and work until the end of a term of Parliament.
- ii. The mandate of Departmental Committees generally mirror the structure and mandate of the National Government.
- iii. Departmental Committees can also investigate matters of public interest that are not necessarily linked to the National Government.
- iv. Departmental committees consider and review legislation.
- v. They investigate and inquire into matters relating to the mandate, management, operations, administration, programs and policies of line ministries.

### (b) Audit and Appropriations Committees

There are four audit and appropriations committees in the National Assembly, namely the Public Accounts Committee, the Public Investments Committee, the Special Funds Accounts Committee and the Budget and Appropriations Committee.

Audit committees are responsible for the examination of accounts showing the sums appropriated by the House to meet public expenditure, public investment, various funds established, as audited by the Auditor-General; and control and monitoring of national budget policies and programmes.

### (c) *Ad Hoc* Committees

*Ad hoc* committees are established for a specific purpose and task that needs to be executed within a defined time frame.

They usually do not draft legislation. Examples of *ad hoc* committees include: the *Ad Hoc* Committee to Investigate the Death of Hon. J. M. Kariuki; *Ad Hoc* Committee Investigating the Death of the Late Dr. Robert Ouko; *Ad Hoc* Committee to Investigate the Death of Hon. Tony Ndilingi, *Ad Hoc* Committee on Khat (Miraa), *Ad Hoc* Committee Investigating the Decline of the Shilling,; among others.

They are established by a resolution of the House with specific terms of reference and dissolved when the task is complete.

### (d) House Management Committees/ House Administration Committees/ Internal Affairs Committees/ House-Keeping Committees/ House Operations Committee

This category of committees deals with internal matters of the National Assembly which include operations, procedures, privileges, provision of welfare and facilities in Parliament, among others. also Mof Parliament

The committees in this category are the House Business Committee, the Committee on Privileges, Committee on Appointments, Committee on Selection, Procedure and House Rules Committee, Liaison Committee, and the Committee on Members Services and Facilities.

**(e) Other Select Committees**

These include the Committee on Delegated Legislation,

**(f) Joint Committees**

A joint committee is a committee comprising of members drawn from the National Assembly and the Senate. The National Assembly may pass a resolution and seek the concurrence of the Senate in establishing joint committees. Generally, each House nominates equal number of members to the joint committee.

Joint committees may be established to handle cross-cutting matters that require to be considered by both Houses.

The mandate, powers and proceedings of joint committees are determined by resolutions of both Houses.

In addition, select committees of the National Assembly may hold joint sittings with counterpart committees of the Senate.

**(g) Mediation Committees**

They are established when either House of Parliament does not agree to whole or part of a Bill that requires consideration of the two Houses or when a House rejects a motion for the second or third reading of a Bill originating from the other House.

A mediation committee is established to reconcile different versions of the same Bill. Each House Speaker appoints equal number of members to the mediation committee.

Quorum consists of a third of the members from each House. The chairperson and vice-chairperson are appointed by members but both will not be members from the same House. A mediation committee ceases to exist once it reports the mediated version of a Bill.



## ANNEX I

### III COMMITTEES OF THE NATIONAL ASSEMBLY

The National Assembly currently has forty three (43) select committees that are appointed for the life of a Parliament or per Session. They are as follows:

#### A. HOUSE KEEPING COMMITTEES



1. **House Business Committee:** The Committee is established under S.O. 171. It prepares and adjusts Parliamentary Calendar, undertakes scheduling or programming of the business and may issue directives and guidelines to prioritize or postpone any business of the House.



2. **Procedure and House Rules Committee:** The Committee is established by S.O 208 and it proposes rules for the orderly and effective conduct of the House and committee business including amending the Standing Orders.



3. **Liaison Committee:** The Committee is established under S.O. 217. It comprises of all Chairpersons of committees. It guides and coordinates the operations, policies and mandates of all committees including allocation of committee budgets.



4. **Committee on Selection:** The Committee is established by S.O. 172. It is responsible for nominating members to serve in various committees.



5. **Members Services & Facilities Committee:** The Committee is established under S.O. 212B and is responsible for receiving and considering views of Members of Parliament on the services and facilities provided for their benefit and well-being and advising & reporting on all matters connected to the services and facilities provided for Members.

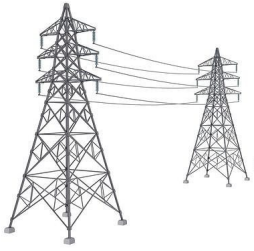
6. **Committee of Parliamentary Powers and Privileges:** The Committee considers matters of members' powers and privileges.

#### B. AUDIT AND APPROPRIATIONS COMMITTEES



7. **Public Accounts Committee:** The Committee is an audit committee established by S.O. 205. It is responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts as audited and reported on by the Auditor General.

8. **Public Investments Committee on Governance and Education:** It is established by S.O. 206 and is responsible for examining the reports, accounts and audit reports of public investments in the education, defence, governance, justice and law, and order sectors.



9. **Public Investments Committee on Commercial Affairs and Energy:** It is established pursuant to Standing Orders 206 A, B and C to examine reports, accounts and audit reports of public investments in the energy, environment, general economic and commercial affairs sectors.
10. **Special Funds Accounts Committee:** It is established under S.O. 205A. It is responsible for examining audit reports of specific Funds established by statute or subsidiary legislation, the Equalization Fund, the Equalization Fund Advisory Board. The Political Parties Fund, and such other Fund established by the law as the Speaker may direct as audited and reported by the Auditor General.
11. **Budget and Appropriations Committee:** The Committee is established by S.O. 207. It investigates, inquires into and reports on all matters related to coordination, control and monitoring of the national budget, examines the Budget Policy Statement and examines Bills related to the national budget. It also evaluates tax estimates, economic and budgetary policies and programmes with direct budget outlays.
- 12) **Public Debt and Privatization Committee:** This Committee was established pursuant to Standing Order 207A to interrogate matters relating to the national debt and the privatization of national assets.
- 13) **Decentralized Funds Accounts Committee:** The Committee is established by S.O. 205B. Its mandated is to examine the audited accounts of the National Government Constituencies Development Fund (NG-CDF), the National Government Affirmative Action Fund (NGAAF) and their respective Boards.

## C. DEPARTMENTAL COMMITTEES

Departmental committees are established under S.O. 216. They comprise of Departmental Committee on:



- 14) **Administration and Internal Affairs:** The Committee oversees: Home affairs; internal security, including police services and coast guard services; public administration; immigration; and citizenship.



- 15) **Agriculture and Livestock:** The Committee oversees: Agriculture; livestock; food production; and marketing.



- 16) **Blue Economy and Irrigation:** The Committee oversees: Use and regulation of water resources; irrigation; fisheries development including, promotion of aquaculture, fish farming, marine fisheries, the sustainable use of ocean resources for economic growth and improved livelihoods, except sea ports and marine transport.



- 17) **Communication, Information and Innovation:** The Committee oversees: Communication; information; media and broadcasting (except for broadcast of parliamentary proceedings); information technology; communication technology; including, development and advancement of technology; data protection and privacy; cyberspace and cyber-security; artificial intelligence; block-chain technology; and other emerging technologies.



**18) Defence, Intelligence and Foreign Relations:** The Committee oversights: Defence; intelligence; foreign relations; diplomatic and consular services; international boundaries including territorial waters; international relations; and veteran affairs.



**19) Education:** The Committee oversights: Education; training; curriculum development; and research.



**20) Energy:** The Committee oversights: Fossil fuels exploration; development; production; maintenance and distribution; nuclear energy; clean energy; and regulation of energy.



**21) Environment, Forestry and Mining:** The Committee oversights: matters relating to Climate change; environment management and conservation; forestry; mining and natural resources; pollution; and waste management.



**22) Finance and National Planning:** The Committee oversights: Public finance; public audit policies; monetary policies; financial institutions (excluding those in securities exchange); economy; investment policies; competition; banking; insurance; national statistics; population; revenue policies including taxation; national planning and development; and digital finance including digital currency.

**23) Health:** The Committee oversights: matters related to health; medical care; and health insurance including universal health coverage.



**24) Housing, Urban Planning and Public Works:** The Committee oversights: Housing; public works; urban planning; metropolitan affairs; housing development; and built environment.



**25) Justice and Legal Affairs:** The Committee oversights: Judiciary; tribunals; access to justice; public prosecutions; ethics, integrity & anti-corruption; correctional services; community service orders and witness protection; constitutional affairs; sovereign immunity; elections including referenda; human rights; political parties; and the State Law Office including, insolvency, law reform, public trusteeship, marriages and legal education.



**26) Labour:** The Committee oversights: Labour including migrant labour; human capital and remuneration; trade union relations; and public service.



**27) Lands:** The Committee oversights: Matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information & management system.

**28) Regional Development:** The Committee oversights: Matters related to Regional development, including regional development authorities; refugee affairs; devolution; inclusive growth; arid and semi-arid areas; disaster risk management; drought; famine and disaster response; and post-disaster recovery and rehabilitation.



**29) Social Protection:** The Committee oversees: Matters related to social welfare and security; pension matters; gender affairs; equality and affirmative action; affairs of children; youth; persons with disability; and senior citizens.



**30) Sports and Culture:** The Committee oversees: Sports; culture; language; creative economy including, promotion of music, arts, film promotion and development; national heritage; and betting & lotteries.



**31) Tourism and Wildlife:** The Committee oversees: Tourism & tourism promotion and management; tourism research; and wildlife management.

**32) Trade, Industry and Cooperatives:** The Committee oversees: Trade, including securities exchange, consumer protection, pricing policies, and commerce; industrialization including special economic zones; enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs); intellectual property; industrial standards; anti-counterfeit policies; and co-operatives development.



**33) Transport and Infrastructure:** The Committee oversees: Transport, including, non-motorized transport, construction and maintenance of roads, rails, air and marine transport; seaports and national integrated infrastructure policies and programmes; and transport safety.

#### D. OTHER SELECT COMMITTEES

**34) Committee on Implementation:** The Committee is established by S.O. 209 and is responsible for scrutinizing the resolutions of the House (including adopted committee reports), petitions and the undertakings given by the National Executive. It examines the status of implementation of House resolutions, petitions and undertakings of the National Executive. It also determines whether a legislation has been implemented and the status of implementation.

**35) Committee on Delegated Legislation:** The Committee is established by S.O. 210 and considers statutory instruments submitted to the National Assembly in line with the provisions of the Statutory Instruments Act, and other relevant legislation.

**36) Committee on Regional Integration:** The Committee is established under S.O. 212. It examines records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly, enhances the role and involvement of the House in intensification and development of the integration process in the East African Community and the greater African region and inquires into and examines any other matters relating to regional integration generally requiring action by the House. The Committee therefore handles matters related to the East African Legislative Assembly, the Pan African Parliament, COMESA, International Conference on the Great Lakes Region (ICGLR), African Caribbean Pacific – African Union Joint Parliamentary Association (ACP-EU JPA).

**37) Committee on Appointments:** The Committee is established under S.O. 204. It considers, for approval by the House, appointments under article 152(2) of the Constitution (Appointment of Cabinet Secretaries).

**38) National Government Constituencies Development Fund Committee:** The Committee oversees the National Government Constituencies Development Fund.



**39) Constitution Implementation Oversight Committee:** The Committee is responsible for overseeing the implementation of the Constitution including the preparation of legislation required by the Constitution and any challenges in that regard, the process of establishing the new commissions, the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff. It also implements the devolution of powers and functions to the counties and resolves any impediments to the process of implementing the Constitution including taking appropriate action to address any problems in the implementation of the Constitution.

**40) Committee on National Cohesion and Equal Opportunity:** The Committee is established under S.O. 212C. It considers and reports on all matters related to national cohesion, promoting peace and inter-community cohesion.

**41) Committee on Parliamentary Broadcasting and Library:** The Committee is established under S.O. 212D. It considers and reports on all matters related to the library and broadcasting of parliamentary proceedings.

**42) Public Petitions Committee:** was established pursuant to Standing Order 208A to consider petitions to the House and make recommendations on petitions to be debated.

**43) Diaspora Affairs and Migrant Workers Committee:** was established pursuant to Standing Order 208B to consider matters relating to rights and welfare of Kenyans in the diaspora including Kenyan nationals with dual citizenship, migrant workers, Kenyans undertaking studies abroad and other citizens abroad.

The specific mandate of each committee is provided in the establishing statute and/or National Assembly Standing Orders or resolution of the House or Houses of Parliament.

### **Who is who in a committee?**

Each committee has a Chairperson and a Committee Secretary who are the contact persons of a committee.

### **Contact:**

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