

# EFFECT OF LEGISLATION BY THE NATIONAL ASSEMBLY OF KENYA ON KENYA'S INTERNATIONAL RELATIONS

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**Abstract:** Parliament's role in the past few years has not just been confined to their respective geographical boundaries but has also infiltrated international circles through various cross-border activities. This study aimed at assessing the effect of legislation by the national assembly of Kenya on Kenya's international relations. A descriptive research design was adopted for this study. The study targeted 350 members of the national assembly and 10 officials from the ministry of foreign affairs. A sample size of 182 respondents participated in the study. The study employed questionnaires for the members of the national assembly and interview schedules for the key informants. Data collected were entered into SPSS and descriptively analyzed. Qualitative data was presented thematically as per the study's objectives using prose. The researcher employed various ethical considerations such as seeking permission to collect the data, obtaining informed consent from the respondents, and ensuring confidentiality, justice, and fairness during data collection. The study found that legislation by the National Assembly of Kenya had a significant effect on Kenya's international relations. The study concluded that other collaborative legislative assemblies have been formed by parliamentary groups or assemblies through partnerships or by taking advantage of opportunities provided by regional blocks, where members of a particular country are nominated or the parliament takes representatives from its members. The study recommended that traditional diplomacy undertaken by the government and its designated executive agencies should be supplemented rather than competed with by parliamentary diplomacy.

**Keywords:** Legislation, International Relations.

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## 1. INTRODUCTION

Parliamentary diplomacy is explained by de Boer and Weisglass (2007) as an agency perspective where parliament acts as an actor in the international relations domain. The rules of diplomacy are rewritten under the methods approach, where diplomacy is extended to the legislature thus moving it from the traditional notion where diplomacy was a preserve for the executive. This implies that, under parliamentary diplomacy, parliament becomes an outward-looking organ and surpasses its core functions of oversight, legislation and representation. Parliamentary diplomacy has also been further outlined by Noulas (2011) as the parliament's activities in the precincts of international relations. Further, Masters (2015) notes that parliament is not just engaged in foreign policies' formulation and ratification, but also actively and directly participates in international relations activities.

Parliamentary diplomacy can therefore be viewed as two-fold: internationalization of parliamentary functions and entrenchment of international relations in parliamentary functions. Internationalization occurs mainly through parliamentary organizations that go beyond geographical confines in resolving complex foreign policy issues, cross-border challenges and fostering regional partnerships (Ruland, 2020). Noulas (2011) notes that parliament engagement in international relations can be achieved through parliamentary committees, in full house sessions, or other special sessions that have been formed based on serious foreign policy matters such as cross-border conflicts.

According to Dorani (2019), the US parliament considered the most powerful parliament concerning international relations aspects, has been a direct and an indirect actor in international relations. Most notably was in 2009 when the then president, Barack Obama, decided to send more troops to Afghanistan; in this case, the decision received overwhelming support from the congress, with those from the Republican Party voting more than those from the democrats (McHugh, 2015). Parliamentarians in the US have also engaged in international relations even in their capacity and have even intervened in areas where conventional diplomats cannot venture (Walt, 2018). For instance, in 2015, some congressmen visited Cuba in their capacity to lobby support from the Cuban government on an intended shift in policy by the US towards Cuba.

The Parliament of the United Kingdom has also been proactive in international relations since the Inter-Parliamentary Union (IPU) union meetings between the British Parliament and Argentina in 1982 to address the war in Falklands/Malvinas (Wagner, 2019). The fact that the UK Parliament, The House of Lords, has an international affairs unit dealing with issues on Africa, Asia, international human rights, international economic relations, overseas territories, international politics amongst other international relations issues is a clear indicator of the active participation of the British Parliament in diplomacy and international relations (Acharya & Buzan, 2019).

In Asia, parliament's role in international relations is also significant. For instance, there have been several inter-parliamentary meetings between North Korea and South Korea, in discussing the crisis in the Korean Peninsula with the EU as the arbitrator. The most recent such sessions are the 19<sup>th</sup> inter-parliamentary meeting, held in Seoul in May 2015, and the 18<sup>th</sup> inter-parliamentary meeting held in Brussels in January 2015. Additionally, the inter-parliamentary meetings have also discussed other international relations issues such as inter-Korean relations, cooperation, and economic and social relations (Ballbach, 2018). Australia on the other hand has witnessed parliamentary diplomacy at play in international relations; for example, in strengthening its ties with South Korea (Robertson, 2017). Thailand has also witnessed parliamentary diplomacy, especially in the Preah Vihear conflict with Cambodia, where parliament engaged in solving the conflict in 2008, thus providing a turning point for parliament in Thailand to partake more in foreign policy (Taleraat, 2017).

In the Arabian frontier, parliamentary diplomacy has also been utilized in strengthening international ties among Arabian nations. For instance, the Palestine Israel Gaza conflict saw several Palestinian parliamentarians visit Gaza in 2008, to an extent of risking their lives in an attempt to find a lasting solution for the severe ties between Israel and Palestine. Parliamentary Assembly of the Mediterranean (PAM) was also established in 2005 comprising sub-state parliamentary actors, each of the Mediterranean nations' parliaments, and regional parliamentary institutions. The main aim of PAM has been to hold plenary sessions to deliberate on issues such as human rights, democracy, rule of law, terrorism and conflict resolution in the Mediterranean. Specifically, PAM has been vocal about the conflicts and intergovernmental relations in the Middle East (Malamud & Stavridis, 2016).

In South Africa, the national parliament has taken an active role, particularly in the post-Apartheid era in foreign policy oversight and definition, especially through its committee on cooperation and international relations. Additionally, through improved bilateral and multilateral relations, South Africa's parliament has participated in international relations. Bilaterally, the national parliament has engaged in the creating informal links, such as strengthening relations between countries and creating friendship groups with neighboring parliamentarians. The multilateral level has witnessed the South African Parliament take part in soft diplomacy through parliamentary assemblies linked to international organizations, for example, the Council of Europe and the Southern African Development Community Parliamentary Forum (SADC-PF). Through such engagements, there are interactions among parliamentarians on addressing problems common among nations and in strengthening ties with their partners (Tella, 2018).

Parliamentary diplomacy in Nigeria has been engraved in the country's constitution. In this regard, the House of Representatives and the Senate have created permanent committees for foreign affairs, international relations, and parliamentary relations. The committees act as the main instruments in enhancing security and defense in the West African region and fostering good relations between Nigeria and its neighbors. It is also through these committees that Nigeria has played a leading role in the development of regional parliamentary bodies especially in West Africa and in joining other relevant international assemblies such as the Commonwealth Parliamentary Association and IPU. The aim has been to facilitate cross-country ties between Nigeria and other nations across the globe (Fineman, 2019).

Despite facing governance and diplomacy issues such as corruption, election malpractices and strained relations with international actors such as the EU, the parliament in Uganda has also been active in applying diplomacy in international relations. This is evidenced through traditional diplomacy tactics such as via IPU and regional parliamentary bodies, for example, the East Africa Legislative Assembly (EALA) (Shule, 2016). Ugandan parliament has also engaged, through informal methods, in parliamentary diplomacy; for example, its declaration to support Somaliland's bid to join IPU in 2020,

thus influencing the relations between Uganda and Somaliland (Unrepresented Nations and Peoples Organization, 2020). The parliament has also intervened to find solutions to Uganda's relations with its neighbors, with the most notable being parliament involvement, during parliamentary debates, on solving the nose-diving Uganda-Rwanda diplomatic ties (World Politics Review, 2019).

In Kenya, the issue of parliamentary diplomacy has been manifested in issues of international concern, such as the border disputes between Kenya and Somalia and the International Criminal Court (ICC) case that found their way into Kenyan National Assembly parliamentary debates and also within global parliamentary bodies like the Pan African Parliament (PAP) (Wehliye, 2020). Ideally, the issue of parliamentary diplomacy in Kenya entails situations when the Kenyan parliament, its agents, or the actions and duties of delegations touch on foreign issues. Therefore, there are countless cases of the Kenyan parliament's intervention in diplomacies such as legislation on terrorism, international syndicates and trending global topics such as illicit trade, and marginalization of minority groups among other issues that cross-cut across borders (Manyi, 2017).

In Kenya, there is a designated committee of dealing in foreign affairs where some members represent the parliament in international parliamentary institutions such as the Commonwealth Parliament Association, Pan African Parliament, and Inter- Governmental Agency for Development (IGAD). Each major party nominates a given number of selected members to the EALA which at a fully pledged parliament dealing with matters East Africa Community. The foreign policy committee respective houses of parliament are mandated to engage in foreign policy, international relation and cooperation, and set guidelines for implementation of international protocols and agreements (Sayfullaev, D. (2016). These are fundamental spaces for engagement and instruments that encourage engagement and bolster the role of parliament in parliament diplomacy. Second instrument, is the utility of foreign policy space for lobbying with an intended goal of diplomatic impact. For sometimes, Kenyan parliament played a role in restoration of peace in Southern Sudan, and discussions on the Burundi situation. Through IGAD the Kenyan parliament has nominated special envoys to war torn Southern Sudan, latest being, Hon. Dalmas Otieno, Member of Parliament for Rongo to negotiate a peace deal with warring factions As good example of parliamentary diplomacy, Kenyan parliament through delegation has worked to build capacity of Somali parliamentary, recognize the autonomy of candidate nations such Somaliland/Puntland as way of sustaining peace in the horn of Africa.

However, studies on Kenya's parliamentary diplomacy are limited. Most of the studies such as Wehliye (2020), Manyi (2017), and Kelly (2020) have centered on parliamentary diplomacy and its function in foreign policy and conflict resolution. Additionally, the existing literature in the Kenyan context has not fully the Kenyan parliament's responsibility for foreign policy and the distinguished idea of parliamentary diplomacy, perhaps because of their interconnectedness. Most studies have a generalized view on how parliamentary organizations contribute to diplomacy, and their challenges, and achievements but little focus on how the core functions of parliament contribute to Kenya's international relations.

## **STATEMENT OF THE PROBLEM**

The role of parliament in the past few years has not just been confined to their respective geographical boundaries but has also infiltrated international circles through various cross-border activities. Parliaments have been working together internationally through formal engagements such as IPU or informal engagements such as friendly arrangements thus fostering international relationships. Kenya has not been left behind, as it has recorded a significant increase in cross-border activities and has also taken part in membership in parliamentary organizations that are transnational. However, there has been lack of clear mandates and limits of power on policy level have led to the Sub-State governments taking the roles of the executive and allocating sovereignty upon themselves. In addition, conflicts arise due to the lack of compliance by the Sub-State governments according to the standards established by the Ministry of Foreign Affairs which is centrally located. This presents a challenge to the Ministry of Foreign Affairs that is mandated by the central government to coordinate all matters of foreign affairs. There have also been little inquest on whether parliament in its core functions has effectively contributed to Kenya's international relations.

## **2. LITERATURE REVIEW**

### **Theoretical Literature Review**

The study was guided by Realism Theory. Realism as discussed in Morgenthau (1973), a leading advocate of the theory, states that politics at the international arena is managed by laws that are goal-oriented and all-inclusive, while at the same time founded on national interests. Morgenthau (1973) adds that under realism, the use of force supersedes the mental resolve of global leaders. Therefore, under realism, the use of military power is more favored but other non-military

solutions to global problems are also considered. Moreover, the realism perspective asserts the rationality and Unitarian actions of states in international relations while pursuing self-interest.

It is the application of rational and unitary actions by the state in pursuing national interests that multiple channels in diplomacy are assumed, parliamentary diplomacy being included (Morgenthau, 1973). Through the use of parliamentary diplomacy, other agencies of a nation are strengthened thus influencing international relations. The wider role of parliament is political where foreign policy is formulated and implemented. Parliament, by its very nature, extends a state's national interest though there is a separation of powers notion. Realism, therefore, notes that interests converge in achieving national goals.

Parliamentary diplomacy as discussed in Smith, Hadfield, and Dunne (2008) is multifaceted and argues that a nation's parliament advances diplomacy and international relations through oversight and legislation. This is achieved by interrogating international relations matters either through committees or collectively in parliamentary discussions. According to Dunne and Schimdt (2008), parliamentary diplomacy shapes international relations through foreign policy making and influencing. Multiple areas that advance foreign policy and goals are discussed thus advancing a nation's interests in the global arena. Wehliye (2020) applied the theory in assessing the mechanisms used by Kenya's Parliament in influencing foreign policy between 1979 and 2002 and found that parliamentary questions, debates, foreign visits, informal gatherings, legislation, representation, and oversight influenced Kenya's foreign policy between 1979-2002.

However, the theory has been criticized by Rosenberg (1994) due to globalization. In this case, it does not consider sovereignty submission and international cooperation among states. Rosenberg (1994) adds that the theory also does not account for interests that are common and the role played by non-state actors in enhancing diplomacy. Despite this criticism, realism theory will be critical in this study in explaining the aspects of parliamentary diplomacy, specifically legislation, accountability, and oversight, and their influence on international relations in Kenya.

### **Empirical Literature Review**

Justin (2018) studied parliament's role in promoting relations between states. The study focused on Rwanda's parliament. Among the study's specific objectives was analyzing the laws passed by the Rwandan parliament whose aim is to promote relations between Rwanda and other states. The descriptive and analytical designs were adopted to ensure that facts on the role of parliament in promoting relations between states were described and analyzed accurately. 80 participants made up the study's target population comprising 72 from deputies' chambers and 8 members of parliaments in the foreign affairs, cooperation, and security committees. A census survey was used in choosing every single person in the study's target population. Data was gathered through questionnaires, interview guides, and documentaries.

Data collected was descriptively and thematically analyzed depending on the instrument used for collection. From the findings, all the respondents agreed that the Rwandan parliament has passed laws between 2013-and 2017 promoting its relations with other states. Among the laws listed by the respondents to have been passed included ratification of an agreement between Rwanda and Morocco on avoiding double taxation, ratification of a loan agreement between Rwanda and China in 2016, ratification of the agreement in financing between Rwanda and the International Development Association in 2013, and authorization of East African Community peace and security protocol in 2014. From the responses, it is evident that the parliament in Rwanda promoted relations between Rwanda and other states in a variety of areas such as international trade, security, peace, and financing of projects among others. However, the study did not assess other roles of parliament in Rwanda and how they have contributed to gap in Rwanda's relations with other countries, which this study filled.

Saltnes (2020) conducted a documentary analysis on how different donors reacted to the Anti-Homosexuality Act passed by the Ugandan parliament in 2014. The documents analyzed were from when the bill was signed by the Ugandan president into law. Specifically, the analysis focuses on how the bill passed affected the relationship between Uganda and the EU, and USA. Triangulation of data collected from secondary sources was used in drawing conclusions made. The study found that the passing of the bill significantly affected the relations between Uganda and the EU and USA to an extent that countries from the EU and the USA threatened to cut foreign aid to Uganda. The withdrawal of aid by EU countries and the USA was founded on human rights laws. Specifically, countries such as Denmark, Norway, and the Netherlands cut aid immediately with Sweden and the USA considering cutting their aid after a given period. The USA terminated a military exercise that was to be jointly held with Uganda on Ugandan soil and had restrictions on visas for the officials who were in support of the bill. However, the working paper only approached the influence of parliamentary laws on international relations from a human rights perspective. Other laws such as on trade, peace, security among others that affect foreign policy and thus relations among states were not considered, an approach that this study will take.

The case of the Kenyan Parliament is examined in Manyi's (2017) study on the function of parliamentary institutions in international relations. The study uses an exploratory qualitative design and is based on protocols, resolutions, and reports from various international parliamentary institutions. The study made use of secondary data that was taken from reports and journals of known international parliamentary organizations. The analysis and reporting of findings were guided by qualitative content analysis. It was discovered that the institutional structures and operating styles of the three international parliamentary institutions varied. While the EALA is unique in that the assembly members are nominated based on the strengths of political parties in respective countries, the CPA and PAP both have members drawn from parliamentarians of member countries.

Opalo (2021) did a research that focused on leveraging the National Assembly of Kenya's Committees and distributive politics. According to previously published works, committee work reflects the need for legislatures to rationalize their operations and results, acquire specialized knowledge and information, and boost members' chances of winning reelection by maximizing policy impact. However, not every legislature has the power to significantly influence policy development, impact executive agency behavior during implementation, or further the political careers of its members. This study also demonstrates that in legislatures that fall into the latter category, committee work is geared more toward maximizing individual legislators' personal gain than toward influencing policy or achieving electoral objectives.

### 3. RESEARCH METHODOLOGY

A descriptive research design was adopted for this study. The study targeted 350 members of the national assembly and 10 officials from the ministry of foreign affairs. A sample size of 182 respondents participated in the study. The study employed questionnaires for the members of the national assembly and interview schedules for the key informants. Data collected were entered into SPSS and descriptively analyzed. Qualitative data was presented thematically as per the study's objectives using prose. The researcher employed various ethical considerations such as seeking permission to collect the data, obtaining informed consent from the respondents, and ensuring confidentiality, justice, and fairness during data collection.

### 4. FINDINGS

The study aimed to evaluate the effect of legislation passed by Kenya's National Assembly on Kenya's international relations. The study sought to establish whether Kenyan National Assembly engages in legislation on diplomacy issues and found that the majority (98.9%) agreed that Kenyan National Assembly engages in legislation on diplomacy issues while 1.1% on the other hand, as depicted in Figure 1.

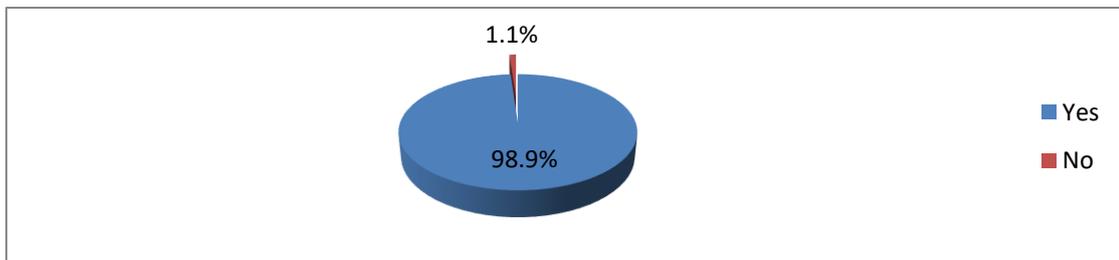


Figure 1: Kenyan National Assembly engagement in legislation on diplomacy issues.

The reasons stated by the respondents for the Kenyan National Assembly's engagement in legislation on diplomacy issues are presented in Table 1.

Table 1: Kenyan National Assembly legislation and diplomacy issues

Reasons	Frequency	Percentage
Legislation on arms and ammunitions	6	3.3
Legislation on matters in the aviation sector	28	15.4
Legislation on trade matters with other countries such as customs, duties, taxation	12	6.6
Legislation on borrowing within and outside the country	35	19.2
Legislation on sea laws such as fishing, marine boundaries	41	22.5
Immigration and emigration laws	14	7.7
Ratification of international treaties	46	25.3
<b>Total</b>	<b>182</b>	<b>100</b>

Table 1 displays the findings for the aforementioned respondents the main reason why Kenyan National Assembly engages in legislation on diplomacy issues was that ratification of international treaties at 25.3%, followed by legislation on sea laws such as fishing, marine boundaries (22.5%), legislation on borrowing within and outside the country (19.2%), legislation on matters in the aviation sector (15.4%), immigration and emigration laws (7.7%), legislation on trade matters with other countries such as customs, duties, taxation (6.6%) and legislation on arms and ammunitions (3.3%). The findings concur with Justin (2018) who studied parliament’s role in promoting relations between states and found that among the laws listed by the respondents to have been passed included ratification of an agreement between Rwanda and Morocco on avoiding double taxation, ratification of loan agreement between Rwanda and China in 2016, ratification of the agreement in financing between Rwanda and the International Development Association in 2013, and authorization of East African Community peace and security protocol in 2014.

A list of statements indicating the respondents' level of agreement or disagreement with the following claims regarding the impact of legislation by the National Assembly of Kenya on Kenya’s international relations. The findings are expressed in terms of Mean (M) and Standard Deviation (SD) as shown in Table 2.

**Table 2: Legislation and Kenya’s international relations**

Statements	M	SD
Ratification of international treaties and agreements improves Kenya’s relations with other countries.	4.56	0.44
Legislation on foreign policy matters such as immigration & emigration laws influences Kenya’s relations with other countries.	4.01	0.99
Legislation on trade matters with other countries such as customs, duties, taxation, etc. influences Kenya’s relationship with other countries regionally and internationally.	3.99	1.01
Legislation on local matters such as land issues, LGBTQ, security laws, etc. has influenced Kenya’s relations with other countries regionally and internationally.	4.63	0.37

The findings in Table 2 demonstrate that respondents strongly agree with these statements that legislation on local matters such as lands issues, LGBTQ, security laws, etc. has influenced Kenya’s relation with other countries regionally and internationally (M=4.63, SD=0.37) and that ratification of international treaties and agreements improves Kenya’s relations with other countries (M=4.56, SD=0.44). The respondents agreed with the statement that legislation on foreign policy matters such as immigration & emigration laws influences Kenya’s relations with other countries (M=4.01, SD=0.99) and that legislation on trade matters with other countries such as customs, duties, taxation, etc. influences Kenya’s relationship with other countries regionally and internationally (M=3.99, SD=1.01). Saltne's (2020) study observe that focused on a documentary analysis of how different donors reacted to the Anti-Homosexuality Act passed by the Ugandan parliament in 2014 and the study found that the passing of the bill significantly affected the relations between Uganda and the EU and USA to an extent that countries from the EU and the USA threatened to cut foreign aid to Uganda.

**Results of Inferential Statistics**

**Correlation analysis**

**Table 3: Correlation Analysis**

	Legislation	Internal relations
<b>Legislation</b>	Pearson Correlation Sig. (2-tailed) N	1  207
<b>International relations</b>	Pearson Correlation Sig. (2-tailed) N	.773** .000 207

Table 3 displays the relationships between the variables under study. The dependent variable internal relations is positively correlated with legislation (r = 0.773, p < 0.05). That would mean any shift in the legislation would have a corresponding shift in international relations.

## 5. RESULTS OF REGRESSION ANALYSIS

The effect of one variable on the other was examined using regression analysis. The results are summarized in Table 4, Table 5 and Table 6.

**Table 4: Model Summary**

Model	R	R square	Adjusted R square	Std. Error of the Estimate
1	0.760 <sup>a</sup>	0.669	0.662	1.134

The results in Table 4 indicate that 0.662(66.2%) as the value of adjusted R square showing the extent to which international relations was determined by the legislation. Therefore, the remaining percentage (33.8%) account for other variables not studied other than the legislation.

**Table 5: Analysis of Variance**

Model		Sum of squares	df	Mean square	F.	Sig.
1	Regression	105.717	1	105.717	197.602	.000
	Residual	110.151	206	0.535		
	Total	314.868	207			

The result as presented in Table 5 is that the value of F (197.602) was greater than the value of Mean square (105.717). In addition, the level of significance level obtained was less than 0.05 at 0.000. Therefore, this shows that there was a good fit of the model significantly predicting the Kenya's international relations.

**Table 6: Coefficient**

Model		Unstandardised coefficients		Unstandardised coefficients	t	Sig.
		B	Sd.Err	Beta		
Model	(Constant)	.753	.304		2.475	.000
1	Legislation	.683	.067	0.578	10.254	.001

The results as illustrated in Table 6 is that if the legislation is held constant, the Kenya's international relations would be at 0.753. The results also indicates that a the legislation had a coefficient of 0.683 implying that the Kenya's international relations would increase by a factor of 0.683 when legislation is increased by one unit. The following is the expression of the resulting regression equation.

Kenya's international relations = 3.461 + 0.205 legislation

In addition, that study found that the t-value was positive at 10.254 with a level of significance less than 0.05 at 0.001. This implied that legislation had a significant prediction on the Kenya's international relations.

## 6. CONCLUSIONS

The study concluded that other collaborative legislative assemblies have been formed by parliamentary groups or assemblies through partnerships or by taking advantage of opportunities provided by regional blocks, where members of a particular country are nominated or the parliament takes representatives from its members. Kenya is a key player in parliamentary diplomacy, as evidenced by the involvement of Kenyan Parliament Speakers in the International Association of Speakers, members of parliament belonging to the IPU, CAPA, and the PAP, and having Kenya political parties nominate some Kenyans to the East African Legislative Assembly based on their parliamentary strength.

## 7. RECOMMENDATIONS

The study recommended that the traditional diplomacy undertaken by the government and its designated executive agencies should be supplemented rather than competed with by parliamentary diplomacy. Long-term assistance should be provided to lawmakers for them to incorporate the use of diplomatic instruments into their functions of representation, legislation, and oversight.

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