

Legislative Chambers: Unicameral or Bicameral?

How many chambers a parliament should have is a controversial question in constitutional law. Having two legislative chambers grew out of the monarchy system in the **UK** and other European countries, where there was a need to represent both the aristocracy and the common man, and out of the federal system in the US, where individual states required representation. In recent years, unicameral systems, or those with one legislative chamber, were associated with authoritarian states. Although that perception does not currently hold true, there appears to be a general trend toward two chambers in emerging democracies, particularly in larger countries. Given historical, cultural and political factors, governments must decide whether one-chamber or two chambers better serve the needs of the country.

Bicameral Chambers

A bicameral legislature is composed of two-chambers, usually termed the **lower house** and **upper house**. The lower house is usually based proportionally on population with each member representing the same number of citizens in each district or region. The upper house varies more broadly in the way in which members are selected, including inheritance, appointment by various bodies and direct and indirect elections. Representation in the upper house can reflect political subdivisions, as is the case for the **US** Senate, **German** Bundesrat and **Indian** Rajya Sabha. Bicameral systems tend to occur in **federal** states, because of that system's two-tiered power structure. Where subdivisions are drawn to coincide with other important societal units, the upper house can serve to represent ethnic, religious or tribal groupings, as in India or Ethiopia.

Federalism is a relatively uncommon political system in which two tiers of government control the same territory and citizens. Laws are made by and resources divided between state, provincial, or territorial

governments and the central government. The majority of governments worldwide are **unitary**, where the powers of local units are determined by the center. In strong federal systems, the state or local governments often have the power to raise their own revenue.

- Federal systems are often bicameral, with the upper house typically representing state or regional interests in the national legislature.
- Federal systems usually allow for the creation of subnational legislatures with jurisdiction over particular kinds of legislation. Some powers are shared between the two levels of government.
- Strong federal systems tend to weaken the power of both the executive and the legislature at the national level.

The balance of power between the two levels of government varies from country to country – the **US**, **Germany** and **Canada** represent strong federal systems, **Nigeria** a weak one with **Mexico** somewhere in between. Like **Canada**, some of the former **British** colonies combined federalism with a parliamentary system. In **India**, the federal constitution is characterized by a strong Union (central) government with sole jurisdiction over matters of Defense, Foreign Affairs, Railways, Transport and Communications, Currency and Banking, Customs and Excise Duties. The Indian Parliament shares lawmaking powers with subnational legislatures in 14 states and five territories in areas including economic and social planning, social security and labor welfare. When these powers conflict, it is the decisions and laws of the national

parliament/Union government that take precedence.

In a bicameral system, the **authority of the two houses** or chambers varies broadly in each country. In some countries with weak bicameralism, the upper chamber has only consultative powers. In the UK, for example, the lower chamber, the popularly elected House of Commons, has evolved into the superior legislative power, and its decisions override those of the upper chamber-The House of Lords. In the U.S. system, however, both chambers pose equal or offsetting powers and legislation must be approved by both. In Canada, the House of Commons has most of the power, but the Senate can amend legislation and investigate policy questions. In **Germany**, which has a federal system, states' interests are represented by the upper house in the German parliament (Bundesrat), the members of which are appointed by the respective state governments. While their legislative powers are not as strong as those of the lower house, the Bundesrat has the final say in disputes among states and between the states and the federal government.

In centralized states with bicameral systems, some countries use the upper house as a way to **reserve representation** for certain societal groups and/or to place a further check on the power of the lower house with a more conservative body. For example, the House of Chiefs in **Botswana** is made up of elected and appointed members of traditional ethnic groups. The House of Chiefs plays a limited role but must be consulted on proposed changes to the constitution and on tribal matters. In **Burkina Faso**, the upper house (Chamber of Representations) is a purely consultative body designed to provide a voice for different regional and social groupings. It consists of 178 appointed and indirectly elected members, including representatives from elected provincial councils, women's associations, traditional leaders and other civil society organizations.

Upper Houses are usually chosen in one of the following ways:

- direct elections -- voters cast their ballots directly for a specific candidate or party (**US**)
- indirect elections where voters elect local or provincial governments, who in turn select the upper house members (**Argentina, Austria, German, India and Yugoslavia**);
- indirect elections whereby the lower house selects the upper house (**Zimbabwe**);
- appointment by the head of state (**Canada, Jordan and Thailand**); and
- inheritance (**UK** -- the majority of members in the upper House of Lords are hereditary peers).

Following are some **advantages cited of the bicameral system**:

- It has the capacity to formally represent diverse constituencies (regional, class, ethnic, etc.)
- It hinders the passage of flawed legislation (one chamber can act as a check upon the other)
- With two legislative bodies, there is enhanced oversight of the executive branch.

Unicameral Chambers

One-chamber or unicameral legislatures have most often been established in countries with a centralized, or unitary structure and in small, more homogenous countries. Countries with unicameral systems include **Costa Rica, Portugal, Hungary, Iceland, Sweden, Slovenia, Uganda and New Zealand**. While constitutional structures have varied a great deal in countries that have transitioned to democratic systems

over the past decade, one trend that seems fairly consistent is that smaller countries chose unicameral legislatures. This has occurred in all of the smaller Eastern European countries, with the exception of **Ukraine**. In a few cases, electoral provisions have allowed for one chamber to represent various points of interest. For example, **Slovenia's** constitution guarantees certain ethnic minorities one seat each in the unicameral National Assembly. In **Uganda**, a parliamentary seat from each of the 39 districts is reserved for women in the unicameral legislature, and seats are also set aside for such groups as handicapped and salaried workers.

Advantages of a Unicameral System:

- There is the potential to enact proposed legislation more rapidly, since differences don't have to be reconciled by two chambers.
- There is the potential of greater accountability, since only one body is responsible for legislation.
- It is less expensive to maintain one body and fewer legislative members.

Methods of Reconciling the Functions and Powers of Two Chambers

When two chambers participate in the legislative process, the legislature must devise methods for reconciling different versions of bills and/or processes for consultation. Pieces of legislation on the same subject may be very different in each house, reflecting the fact that each chamber collectively represents different constituencies.

Most bicameral legislatures use a shuttle system, whereby a bill is sent from one chamber to another for review and amendment until an agreement is reached. Under this system, one chamber presents its version of a bill to the other, who can accept the bill, reject the bill or counter with an amended bill. This process can go on until both houses agree on one version, one house prevails, the bill dies or parliament is dissolved.

In many cases, one chamber (usually the lower house) has the final say in determining the composition of a bill.

- In **Slovenia**, the upper house, National Council, has the power to veto any law within seven days of its adoption by the lower house, National Assembly. However, the National Assembly may override the veto with a simple majority.
- In **Russia**, the Federation Council (upper house) may reject a law passed by the Duma (lower house), but the Duma may override the Federation Council with a two-thirds majority.

In some countries, the power of each chamber varies based on the nature of the legislation.

- In **South Africa**, if a bill does not directly affect the provinces (i.e. it deals with national issues such as Defense, Foreign Affairs or Justice), a simple majority of members of the lower house, the National Assembly, can accept or reject a bill initiated or amended by the upper house, National Council of Provinces (NCOP). If there is disagreement between the National Assembly and the NCOP about a bill affecting the provinces, the bill must be sent to a mediation committee

consisting of members of both houses. If the committee can not reconcile the differences, the bill may be voted on again and can only pass with a two-thirds majority of the National Assembly.

In some cases, if both houses don't come to agreement, the bill will die. In rare cases, the situation may force the parliament's dissolution.

- In **Kazakhstan**, bills are initiated in the lower house (the Mazhilis) and transmitted to the Senate for approval. The Senate may reject the law and return it to the Mazhilis. With a two-thirds vote of the members of the Mazhilis, it is again sent to the Senate. If the Senate rejects the bill again, the bill dies and cannot be reintroduced during that legislative session.
- In the **Australian** parliamentary system, if the lower house (House of Representatives) passes any proposed law that the upper house (Senate) rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the House may try to pass the bill again after a period of three months. If the Senate again refuses to pass the bill at all, or in the form agreeable to the House, the Governor-General (in this Constitutional Monarchy, he/she is the representative of the Queen) may dissolve the Senate and the House of Representatives simultaneously.

Further Reading

1. One Chamber or Two?, *Legislative Research Series*, National Democratic Institute for International Affairs, 1998.
2. Norton, Philip and David Olson, "Parliaments in Adolescence", *Journal of Democracy*, 1997, pp. 233-234.
3. Ordeshook, Peter C. and Olga Shvetsova, "Federalism & Constitutional Design", *Journal of Democracy*, 1997.
4. Patterson, Samuel C. and Anthony Mughan, eds., "Senates: Bicameralism in the Contemporary World", Ohio State Press, 1999.
5. Riker, "Bicameralism: When are Two Houses Better than One? *The International Review of Law and Economics*, Vol. 12: 145-162, 1992.
6. Thomas et al, eds., World Encyclopedia of Parliaments and Legislatures, Volume II, pp 780 – 786, 1998.

Web Sites

www.infidels.org/~nap/index.federalism.html – links to sites explaining and promoting federalism.

<http://198.103.111.55/aia/ro/doc/dist1e.htm> – "Distribution of Powers and Functions In Federal Systems", (Canadian and other Commonwealth federal systems compared).

www.ipu.org – the parline database on the website of the Inter-Parliamentary Union provides direct link into legislatures throughout the world. The data available includes summary and detailed information on the legislative chambers and systems of the respective countries.

Firms of Individuals that Specialize in the Field

International Republican Institute – www.iri.org

National Democratic Institute for International – www.ndi.org

InterParliamentary Union – www.ipu.org