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# Taxonomy of Powers and Roles of Upper Chambers in Bicameral Legislatures

CAROLYN GRIFFITH\*

## INTRODUCTION

Bicameral legislatures exist around the world, with power divisions to create checks and balances on the constitutional order as a whole. In the context of constitutional design, this presents a variety of options of roles and rights given to each chamber at each step in both the legislative process and beyond. Taken as a whole, this taxonomy demonstrates there are nearly an infinite number of possibilities for separating powers between upper and lower chambers in bicameral legislatures. Often, these decisions are guided by the history of the country. For each federal legislature that places powers or votes in one chamber, the alternative can nearly always be found to exist in another country. Thus, this taxonomy outlines the different responsibilities presently designated to upper chambers around the world in both the legislative and extra-legislative realms but not limit the constitutional design possibilities to the current power divisions in existence.

### I. EXTRA LEGISLATIVE FUNCTIONS

The role of the upper chamber is rarely limited to legislative responsibilities. Rather, upper chambers play an important role in guaranteeing the constitutional order in many ways, including through executive oversight, initiating judicial review, electing national leaders, and organizing international affairs.

#### A. *Executive Oversight*

In bicameral systems, the legislature may serve as an important check on the executive branch. Specifically, the upper chamber is often granted a variety of unique responsibilities such

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as investigating the executive, reviewing executive actions, and making recommendations for future action. In countries with a deep mistrust of the executive branch, granting an investigative role or requiring approval of some types of executive actions can be a powerful check and assurance of the democratic order. The type of oversight granted to the upper chamber may be regularly scheduled, as is the case with question time, or periodically exercised, such as when a state of emergency is called.

### *1. Investigation into Misdeeds of the President*

In some countries, the upper chamber may adopt an investigative role, dovetailing with related responsibilities in the lower chamber. For example, in Belarus charges of wrongdoing are filed against the President by the lower chamber, while the upper chamber has the responsibility of investigating the actions of the President.<sup>1</sup> Both chambers then vote separately to determine if the President should be removed from office.<sup>2</sup> Similarly, in Uruguay, the Chamber of Senators (upper house) initiates public trials of those impeached by the Chamber of Representatives (lower house).<sup>3</sup> In the alternative, the Russian upper house may impeach the President on charges brought by the lower house.<sup>4</sup> In Germany, the Bundesrat (upper chamber) holds the authority to impeach the President for a violation of a Basic Law.<sup>5</sup>

### *2. Question Time*

One common accountability check in a bicameral parliamentary system is a period of public interview known as question time. Question time is a regularly occurring period during

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<sup>1</sup> The Constitution of the Republic of Belarus art. 88 (1994, revised 2004).

<sup>2</sup> *Id.*

<sup>3</sup> Constitution of Uruguay, 1966, art. 102.

<sup>4</sup> KONSTITUTSIJA ROSSIJSKOI FEDERATSII [KONST. RF] [CONSTITUTION] art. 93.1 (Russ.).

<sup>5</sup> GRUNDGESETZ FÜR DIE BUNDESREPUBLIK DEUTSCHLAND [GRUNDGESETZ] (Basic Law of the Federal Republic of Germany), art. 61. A translation of Germany's Basic Laws is available at [http://www.gesetze-im-internet.de/englisch\\_gg/index.html](http://www.gesetze-im-internet.de/englisch_gg/index.html).

which MP's may pose questions to the prime minister or other cabinet ministers on acts taken or soon to be taken. Constitutional design decisions relating to Question time may include *who* has the authority to ask questions and on *what* subject matter. In Italy, each member of the upper house is allowed to pose questions to any of the ministers.<sup>6</sup> In the United Kingdom, Question time takes place in both the House of Commons (lower house) and House of Lords (upper house).<sup>7</sup> Question time in the upper house varies from that of the lower house in that the questions are asked about direction of the government as a whole, while the lower house discusses particular government departments.<sup>8</sup> In Rwanda, the upper chamber may pose questions to the prime minister about the actions of the cabinet overall or relating to several ministries.<sup>9</sup> Question time can be an excellent opportunity for transparency on the behalf of the executive.

### *3. Approval or Removal of Executive Appointments*

The upper chamber of a bicameral legislature may serve as a check on the executive's power by approving executive appointments to a variety of government positions. Article 84 of the Belarussian Constitution requires the President's appointments of "judges to the Supreme and Economic courts, Chairperson of the Central Commission of the Republic of Belarus on Elections and National Referenda, the Procurator-General, the Chairperson and members of the Governing Board of the National Bank" be approved by the Council of the Republic (upper chamber).<sup>10</sup> Likewise, in Uruguay, appointment of consular and diplomatic personnel by the President requires the consent of the Chamber of Senators (upper chamber).<sup>11</sup>

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<sup>6</sup> Senato della Repubblica, *Powers of the Senate*, SENATO.IT, <http://www.senato.it/3806>.

<sup>7</sup> *About Parliament: Question Time*, PARLIAMENT.UK, <https://www.parliament.uk/about/how/business/questions/>.

<sup>8</sup> *Id.*

<sup>9</sup> Constitution of the Republic of Rwanda, 2003, art. 131.

<sup>10</sup> The Constitution of the Republic of Belarus art. 84 (1994, revised 2004).

<sup>11</sup> Constitution of Uruguay, 1966., art. 102, 168.

In Chile, the National Prosecutor is appointed by the President from a five-candidate list.<sup>12</sup> This list is proposed by the Supreme Court. The President's choice must be approved by two thirds of the Senate or the Supreme Court must approve a new list.<sup>13</sup> In Mexico, members of the Governing Board of the National Institute for the Evaluation of Education are selected by the Federal Executive on a list of three candidates, and the House of Senators (upper chamber) then chooses one of the candidates to fill the position.<sup>14</sup> The Mexican Senate must approve the appointment of commissioners to the Federal Economics Competition Commission and the Federal Telecommunications Institute.<sup>15</sup> These Commissioners may also be removed from their posts by a two-thirds vote of the Senate.<sup>16</sup>

#### *4. Emergency Action*

In situations where the executive assumes advanced powers in times of emergency or disaster, legislative approval may be required by either the upper chamber of a bicameral legislature or both chambers. In Belarus, for example, a declaration of martial law or a declaration of a state of emergency by the President requires only the approval of the upper chamber of Belarus.<sup>17</sup> In the Russian Federation, approval of a state of emergency or martial law is limited to the upper chamber as well but with no formal time limitation.<sup>18</sup> In Argentina, a state of emergency in any or several districts requires the Senate's approval with no timeline specified in the Constitution.<sup>19</sup> In Afghanistan, where the upper chamber serves a more advisory role, the

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<sup>12</sup> CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DE CHILE [C.P.] art. 85.

<sup>13</sup> *Id.* art. 85, 94, 98. The Senate in Chile also approves appointments by the President of Counselors of the Electoral Directive Council and appointment of the Comptroller General of the Republic.

<sup>14</sup> Constitución Política de los Estados Unidos Mexicanos [CP], art. 28, paras. 29–30, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 20-12-2019.

<sup>15</sup> *Id.* art. 28, paras. 21–22.

<sup>16</sup> *Id.* art. 28, para. 20, cl. XI.

<sup>17</sup> CONSTITUTION OF THE REPUBLIC OF BELARUS OF 1994, art. 84, cl. 22.

<sup>18</sup> KONST. RF [CONSTITUTION] art. 102, § 1(b)–(c) (Russ.).

<sup>19</sup> Art. 61 CONSTITUCIÓN NACIONAL [CONST. NAC.] (Arg.).

Mesherano Jirga (upper house) is specifically required to vote on determinations of fundamental state policies, including a declaration of war or a state of emergency.<sup>20</sup> The Mesherano Jirga may exercise veto power over these decisions but this veto can be overridden by a second vote of the Wolesi Jirga (lower house).<sup>21</sup>

In some countries, the type of state of emergency may impact if the upper chamber is required to approve it. In Germany, when more than one state is impacted by a disaster, the Bundesrat (upper chamber) may demand that any responsive federal action end when the danger ends.<sup>22</sup> The Bundesrat was designed to provide representation uniquely to the Länder (states) of Germany, so this extra level of approval serves as another opportunity for the states to have a voice. Uniquely, when a national emergency in Paraguay requires action by the Central Bank of the State, changes in the budget must be approved by both the Executive and the Chamber of Senators.<sup>23</sup> Because Paraguay's upper chamber is elected through a closed proportional representation system,<sup>24</sup> Paraguay's upper chamber's role in approving Central Bank action during a national emergency is not focused on representation of territorial interests, like in Germany, but on requiring popular political support for the executive action.

In general, deciding how much delay is allowed before the state of emergency must be approved by the legislature or face expiration can be a powerful constitutional design tool in countries where the legislative branch has high levels of public approval.

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<sup>20</sup> See Constitution of Afghanistan art. 64 (2004).

<sup>21</sup> See *id.* art. 100.

<sup>22</sup> GRUNDGESETZ [GG] [BASIC LAW], art. 35, § 3 (Ger.).

<sup>23</sup> Constitution of Paraguay art. 286(1)(2) (1992, revised 2011).

<sup>24</sup> *Paraguay: Sistemas Electorales / Electoral Systems*, GEORGETOWN UNIV. (Mar. 10, 2011), <http://pdba.georgetown.edu/ElecSys/Paraguay/paraguay.html>.

### 5. *Military Action*

One potential check on the executive branch is providing the upper chamber with an approval or authorization role before specific types of military action take place. The action requiring authorization could be more general or very specific. Currently, the 128 member Mexican Senate is vested with the exclusive authority to authorize actions taken by the President that involve Mexican troops or the National Guard outside the nation's borders.<sup>25</sup> On the other hand, the Senate of Belize, which is composed of thirteen appointed senators, must approve the establishment within the borders of Belize of any foreign military bases but has no authority to approve military action.<sup>26</sup>

### 6. *Information Gathering*

Most bicameral systems provide for the upper chamber to have an information gathering role both over the executive. The most common form of this role is subpoena power, but the boundaries of who can be subpoenaed or when varies by country. In Germany, the Bundesrat (upper house) has the right to require by majority vote the presence of a member of the Federal Government at a meeting of the Bundesrat, in addition to a more general right to be informed on an ongoing basis to government action.<sup>27</sup> In the United States, the Senate (upper house) subcommittees and committees have the authority to subpoena witnesses and necessary documents for investigations.<sup>28</sup> In Mexico, the Heads of both the Federal Economic Competition Commission and the Federal Telecommunications Institute are both required to appear annually before the

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<sup>25</sup> Constitución Política de los Estados Unidos Mexicanos [CP], art. 76, cls. III–IV, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 20-12-2019.

<sup>26</sup> BELIZE CONSTITUTION, art. 61, § 1 (2017); *id.* art. 61A, § 2(b). *See generally* BBN Staff, *13th Senator Sworn in*, BREAKING BELIZE NEWS (Jan. 31, 2017, 11:45 AM), <https://www.breakingbelizenews.com/2017/01/31/13th-senator-sworn/>.

<sup>27</sup> GRUNDGESETZ [GG] [BASIC LAW], art. 53 (Ger.).

<sup>28</sup> Rule of the Senate: Committee Procedure, rule XXVI; *see also*, Michael L. Koempel, A Survey of House and Senate Committee Rules on Subpoenas, Congressional Research Service (Jan. 29, 2018), <https://fas.org/sgp/crs/misc/R44247.pdf>.

Senate in addition to being required to present an annual working plan to both the Executive and Legislative branches.<sup>29</sup>

### *7. Other Means of Accountability and Review*

The role of an upper chamber over the executive is not limited to the broad categories of accountability listed above. Many countries have addressed their unique needs with unique solutions for review over the executive.

For example, if requested by a majority of the upper chamber in Morocco, the head of the executive is required to go before Parliament to present on government actions.<sup>30</sup> This power is shared with the lower chamber as well.<sup>31</sup> In Belarus, the President may not leave the national territory for over 48 hours without the approval of the Senate.<sup>32</sup> In Mexico, the President only needs approval to leave the nation for a period longer than seven days.<sup>33</sup> At the beginning of each new executive's political program in Italy, both the upper and lower chambers must approve the political program with a resolution of confidence.<sup>34</sup> This required approval allows the Senate to make recommendations to the Government on future political and legislative plans. In Russia, the upper chamber has the sole responsibility of announcing the election of the President of the Russian Federation—an accountability check on the election process.<sup>35</sup>

In both Cameroon and Rwanda, if the President is removed from office by the Supreme Court, the President of the Senate becomes the acting President.<sup>36</sup> As a check on the rest of the

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<sup>29</sup> Constitución Política de los Estados Unidos Mexicanos, art. 28, Diario Oficial de la Federación [DOF] 1917, 2015 (Mex.).

<sup>30</sup> Constitution of the Kingdom of Morocco, 2011, art. 101.

<sup>31</sup> *Id.*

<sup>32</sup> The Constitution of the Republic of Belarus 2004, art. 170.

<sup>33</sup> Constitución Política de los Estados Unidos Mexicanos, art. 88, Diario Oficial de la Federación [DOF] 1917, 2015 (Mex.).

<sup>34</sup> Senato della Repubblica, *Powers of the Senate*, senato.it, <http://www.senato.it/3806>.

<sup>35</sup> KONST. RF [CONSTITUTION] art. 102(e) (Russ.).

<sup>36</sup> Constitution of the Republic of Rwanda, 2003, art. 105.

executive, the Senate of Rwanda may also set up a commission of inquiry focused on Cabinet member activities.<sup>37</sup>

In Ethiopia, where the upper chamber has no legislative powers, the House of Federation (upper chamber) has broad constitutional powers instead. Specifically, the upper chamber has authority over within Council of Constitutional Inquiry, an organization designed to enforce the rights enshrined in the Ethiopian constitution.<sup>38</sup> The Council of Constitutional Inquiry is comprised of legal experts, members of the judiciary, and members of the Council of Federation.<sup>39</sup> Any constitutional decisions by the committee are submitted to the House of Federation for a final decision and reporting.<sup>40</sup>

#### *B. Initiation of Judicial Review and Checks on the Judicial System*

Another unique opportunity for constitutional design is the role the upper chamber plays in relation to the constitutional court or supreme court. Several countries have given the upper chamber a voice in removal of judges or triggering judicial review.

In Austria, the upper chamber has the right to file an application for the review of a federal law with the Constitutional Court.<sup>41</sup> Similarly, the upper chamber in Germany may request the Constitutional Court to rule on whether the need for legislation relating to the states still exists or whether such legislation could be passed.<sup>42</sup> In Russia, the upper chamber may request the

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<sup>37</sup> *Id.* art. 131.

<sup>38</sup> Constitution of the Federal Democratic Republic of Ethiopia, 2004, art. 62.

<sup>39</sup> Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia 2013, No. 65, part 3, ch. 1, 7087, <https://chilot.blog/wp-content/uploads/2014/09/proclamation-no-798-20-13-council-of-constitutional-inquiry-proclamation.pdf>.

<sup>40</sup> Proclamation No. 250, Council of Constitutional Inquiry Proclamation (2001), <http://goalgoole.com/proclamation-no-2502001-council-of-constitutional-inquiry-proclamation/>. *See generally* Yonatan Tesfaye Fessha, *Whose Power is it Anyway: the Courts and Constitutional Interpretation in Ethiopia*, 22 J. ETHIOPIAN L. 128 (2008).

<sup>41</sup> BUNDES-VERFASSUNGSGESETZ [B-VG] [CONSTITUTION], art. 140, § 1.2 (Austria).

<sup>42</sup> GRUNDGESETZ [GG] [BASIC LAW], art. 93(2) (Ger.).

constitutional court to hear and resolve matters relating to the procedure for bringing charges of treason or other grave crimes against the President.<sup>43</sup>

In Rwanda, judges of the Supreme Court and the President and Vice President of the Commercial High Court and High Court may be removed by the legislature due to misbehavior, incompetence, or gross negligence.<sup>44</sup> A vote by a three-fifths majority of either chamber of the Rwandan Parliament or a two-thirds vote of the two chambers in a joint sitting is necessary for the removal.<sup>45</sup>

### *C. Initiation of Judicial Review and Checks on the Judicial System*

In many countries, an upper chamber may exercise a unique role in international affairs. In both Mexico<sup>46</sup> and the United States, the Senate (upper chamber) has the exclusive authority to approve treaties.<sup>47</sup> Likewise, in Paraguay the consideration and approval of international treaties must begin in the Chamber of Senators (upper chamber).<sup>48</sup> The Chamber of Senators has the exclusive role of designating ambassadors and foreign ministers.<sup>49</sup> The upper chamber in Austria must consent to each “political” or legislation affecting treaty that could influence the power of the states.<sup>50</sup> In Switzerland, the approval of both chambers is required to pass a treaty with no override option in case of disagreement, giving the upper chamber absolute veto power.<sup>51</sup>

upper chambers may also hold a unique role in representing regional interests internationally. For example, the German Bundesrat (upper chamber) has the authority to require

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<sup>43</sup> KONST. RF [CONSTITUTION] art. 125(7). (Russ.).

<sup>44</sup> Constitution of the Republic of Rwanda, 2003, art. 157.

<sup>45</sup> *Id.*

<sup>46</sup> Constitución Política de los Estados Unidos Mexicanos, art. 76, Diario Oficial de la Federación [DOF] 1917, 2015 (Mex.).

<sup>47</sup> U.S. CONST. art. II, § 2.

<sup>48</sup> Constitution of Paraguay art. 224 (1992, revised 2011).

<sup>49</sup> *Id.*

<sup>50</sup> Esther Happacher, *Extra-legislative Functions of Second Chambers in Federal Systems*, 10 PERSPS. ON FEDERALISM 134, 140 (2018), [http://www.on-federalism.eu/attachments/298\\_download.pdf](http://www.on-federalism.eu/attachments/298_download.pdf).

<sup>51</sup> BUNDESVERFASSUNG [BV] [CONSTITUTION] Apr. 18, 1999, art. 166 (Switz.).

a representative of the Lander to take the place of the general German representative on the European Union Council of Ministers on issues relating to the state interests of the country.<sup>52</sup>

#### *D. National and Regional Oversight*

Especially in situations where the upper chamber's interests are mainly territorial, the upper chamber may have a unique role over the regions of a country. Many constitutions grant the upper chamber specific authority in dealing with border disputes among states. For example, if two or more German States want to change territorial boundaries, following a referendum, the Bundesrat must consent to a federal law detailing these changes.<sup>53</sup> The upper chamber in Russia has a similar responsibility, as the Council of Federation (upper chamber) has the exclusive jurisdiction dealing with the approval of border changes between constituent entities of the Russian Federation.<sup>54</sup> In Mexico, any state border changes require the approval of the Senate (upper chamber).<sup>55</sup> In Ethiopia, the upper chamber deals with border disputes if the states cannot reach agreement on their own.<sup>56</sup>

Some countries also grant an upper chamber specific authority to resolve disputes or to ensure states maintain differing constitutional obligations. For example, if the German states ever fail to comply with the country's Basic Laws or other federal laws, the German Government may step in to compel the states to implement coercive measures that force the states to apply.<sup>57</sup> These actions may only be taken with the Bundesrat's approval,<sup>58</sup> due to its special role in representing state interests. Similarly, in Spain, if an autonomous community does not fulfill its constitutional

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<sup>52</sup> GRUNDGESETZ [GG] [BASIC LAW], 93(2) (Ger.). *See also* GRUNDGESETZ [GG] [BASIC LAW], 23(6) (Ger.).

<sup>53</sup> GRUNDGESETZ [GG] [BASIC LAW], 29 (Ger.).

<sup>54</sup> KONST. RF [CONSTITUTION] art. 102 (Russ.).

<sup>55</sup> Constitución Política de los Estados Unidos Mexicanos, art. 48, Diario Oficial de la Federación [DOF] 1917, 2015 (Mex.).

<sup>56</sup> Constitution of the Federal Republic of Ethiopia, 2004, art. 48.

<sup>57</sup> GRUNDGESETZ [GG] [BASIC LAW], art. 37 (Ger.).

<sup>58</sup> *Id.*

obligations, the Government has the authority to step in with regional measures only after the actions have been approved by an absolute majority of the Spanish Senate (upper chamber).<sup>59</sup> Further, the Spanish Senate may not vote until the autonomous communities have had the opportunity to speak on the matter.<sup>60</sup> In Mexico, if political disputes or armed conflicts arise between states and one of the states submits the case to the Senate (upper house), the Senate has the exclusive role in ruling on the dispute after evaluating the state and federal constitutions.<sup>61</sup> The Ethiopian Constitution further outlines that the House of Federation (upper chamber) has the exclusive authority to deal with issues relation to secession.<sup>62</sup>

In Rwanda, the upper chamber holds a unique role in keeping political parties accountable. The Senate (upper chamber) can issue charges against a political organization, if it violates the constitution by basing the organization on a discriminatory purpose or refuses to conform to democratic principles, or violates any of the Rwanda fundamental principles.<sup>63</sup> Accountability measure may include a formal warning, suspension of the political organizations activities for the parliamentary term or a period of years, or cancellation of the organization's registration.<sup>64</sup>

Especially in countries where the upper chamber has a role in representing territorial interests, the investigative focus and recommendations of the upper chamber may involve regional interest as opposed to national interests to provide tailored recommendations for future government action. In Spain, the General Committee for Autonomous Communities is located in

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<sup>59</sup> Happacher, *supra* note 50, at 140.

<sup>60</sup> *Id.*

<sup>61</sup> Constitución Política de los Estados Unidos Mexicanos, art. 76, Diario Oficial de la Federación [DOF] 1917, 2015 (Mex.).

<sup>62</sup> Constitution of the Federal Republic of Ethiopia, 2004, art. 62.

<sup>63</sup> Constitution of the Republic of Rwanda, 2003, art. 58.

<sup>64</sup> *Id.*

the Spanish Senate (upper chamber).<sup>65</sup> This committee provides an opportunity for territorial representatives to debate and discuss the potential impact of legislation on the communities.

#### *E. Election and Appointment to the Judiciary and Executive*

Often, the upper chamber may have a direct role in electing members to the judicial and executive branches, and a seemingly infinite number of appointment or approval opportunities exist from a constitutional design perspective. For example, six judges of the Constitutional Court in Belarus are elected by the upper chamber.<sup>66</sup> Similarly, in Morocco the legislature elects half of the Constitutional Court; six of the twelve members of the Constitutional Court are elected by Parliament—three by the upper chamber and three by the lower chamber.<sup>67</sup> Likewise, election of Ministers of the Constitutional Court in Chile is split between the two chambers.<sup>68</sup> In Spain, the Senate appoints four of the twelve constitutional Court judges from a list proposed by the Assemblies of the Autonomous Communities.<sup>69</sup> In Paraguay, the Chambers of Senators must, concurrently with the President, give approval over Supreme Court justices designated by the Council of the Magistrate.<sup>70</sup> The Spanish Senate appoints six members to the Court of Auditors,<sup>71</sup> which supervises the economic activities of both the country's political parties and the State.<sup>72</sup>

#### *F. Calling a Referendum*

On issues that must be taken to the people by means of a referendum, often the upper chamber will have a role in the process. According to the Belarussian constitution, both the upper

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<sup>65</sup> Senado de España, *Presidentes de Comision*, SENADO.ES, <http://www.senado.es/web/actividadparlamentaria/sesionescomision/presidentescomisiones/index.html>.

<sup>66</sup> The Constitution of the Republic of Belarus 2004, art. 116.

<sup>67</sup> Constitution of the Kingdom of Morocco, 2011, art. 130.

<sup>68</sup> CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DE CHILE [C.P] art. 92, (amended by Amendment 14).

<sup>69</sup> CONSTITUCIÓN ESPAÑOLA [C.E.] [CONSTITUTION], B.O.E. XV art. 159 (1) L.O. 6/2007 (Spain).

<sup>70</sup> Constitution of Paraguay art. 264 (1992, revised 2011),

<sup>71</sup> Happacher, *supra* note 50, at 140.

<sup>72</sup> L.O. 2/1982, (May 12), del Tribunal de Cuentas.

and lower houses can call a referendum if a majority of both chambers sitting separately approves the referendum.<sup>73</sup> In Ireland, where the Constitution is amended through a referendum, proposals start as bills in the Irish Parliament and are required to be passed by both chambers of the Parliament.<sup>74</sup> Giving the upper chamber authority over referendum procedure makes more sense in countries in which the upper chamber is directly elected or designed to create territorial representation, such as Germany, than it would in a country where the upper chamber is appointed, like Belize, or partially appointed, like Afghanistan.

These extra-legislative functions are demonstrative of just some of the possible uses for an upper chamber. For a cohesive, democratic government, the types of powers granted to the upper chamber should correspond to the chamber's purpose. For example, in a country where the upper chamber is designed to represent territorial interests, an upper chamber may be required to approve Emergency Action within the nation or rule in disputes among states. Alternatively, if an upper chamber is designed as a chamber of second thought, it should be given oversight and accountability roles to reflect that purpose. The decision of what authority is to be given to the upper chamber should also be dependent on the procedure by which the members are selected. In countries where the members of the upper chamber are appointed, granting broad extra-legislative authority may seem undemocratic. All countries approach constitutional design from a different background, and deciding the role and authority of an upper chamber is dependent on the nation's needs.

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<sup>73</sup> The Constitution of the Republic of Belarus art. 74 (1994, revised 2004).

<sup>74</sup> Constitution of Ireland 1937 art. 46, <http://www.irishstatutebook.ie/en/constitution/index.html>.

## II. LEGISLATIVE FUNCTIONS

Beyond maintaining constitutional order, a powerful role is held by the upper chamber in the legislative process. Rights granted to upper chambers vary, in part because upper chambers are often seen as having a variety of different roles. In some bicameral systems, such as Italy, where the chambers have equal power, the upper chamber and lower chamber powers may be the same. If, however, an upper chamber is seen in a more advisory role, rights of initiation of legislation may be limited and the upper chamber may have less power over the passage of a bill.

### A. *Right of Initiation*

Depending on the power dynamic between the two chambers, an upper chamber may have a different role than the lower chamber in the passage of a bill. In Algeria, Ethiopia, Lesotho, Namibia,<sup>75</sup> and Afghanistan,<sup>76</sup> the upper chamber has no power to introduce bills. Bills generally start in the lower chamber in Belarus with a few subject matter exceptions.<sup>77</sup> On the other hand, in Argentina, a bill relating to the “harmonious growth of the Nation” and the differing policies among the provinces and regions must begin in the Senate.<sup>78</sup> In Rwanda, legislation is normally initiated by the lower chamber or the cabinet, but the Senate (upper chamber) has the exclusive authority to introduce organic laws dealing with the functioning of the Senate to protect the chamber’s independence.<sup>79</sup>

### B. *Unique Legislative Powers*

In countries where the upper chamber is elected in a different way than the lower chamber, an upper chamber may have unique powers related to its differing representative role. In India, the

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<sup>75</sup> French Senate, *Bicameralism in Africa and The Arab World*, SENAT.FR (2001), [https://www.senat.fr/senatsdumonde/senatsafrique\\_mondearabe/14ouakchott\\_2001/bicamerafrica2001english.html](https://www.senat.fr/senatsdumonde/senatsafrique_mondearabe/14ouakchott_2001/bicamerafrica2001english.html).

<sup>76</sup> Constitution of Afghanistan art. 97 (2004).

<sup>77</sup> Constitution of the Republic of Belarus art. 100 (1994, revised 2004).

<sup>78</sup> Art. 75, CONSTITUCIÓN NACIONAL [CONST. NAC.] (Arg.).

<sup>79</sup> Constitution of the Republic of Rwanda, 2003, art. 88.

Council of States (upper house) can, with a two-thirds majority, vote that it is necessary in the national interest to make a law regarding a subject matter previously under the exclusive authority of the state governments.<sup>80</sup> The Indian Constitution also provides for the creation of a new All-India Service by a two thirds vote of the upper chamber.<sup>81</sup> These services are common to both the federal and state governments; examples of All-India Services include the Indian Administrative Service and the Indian Police Service.<sup>82</sup>

In Kenya, the 2010 Constitution was designed to give the Senate a unique role in representation of the county unit.<sup>83</sup> Every five years the Senate by resolution determines the basis for allocating national revenue at the county level of government.<sup>84</sup>

### *C. Gridlock and Chamber Disagreement*

Because of the increase in veto points in a bicameral legislature, the possibility of gridlock exists. In bicameral systems, when the two chambers that are both required to approve a bill cannot reach an agreement on the language or content of a bill, a shuttle (navette) procedure is used as a means of reaching agreement.

In a shuttle system, the legislation is sent back and forth between the two chambers until the exact same language is agreed to by both chambers.<sup>85</sup> In countries where both chambers share nearly equal power, the navette process can continue indefinitely if no stopping rule is put into place to end the shuttle procedure. In both Italy and Belgium there is no stopping rule, and this

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<sup>80</sup> INDIA CONST. art. 248.

<sup>81</sup> *Id.* art. 312.

<sup>82</sup> *Id.*

<sup>83</sup> Kipkemoi arap Kirui & Kipchumba Murkomen, *Working Paper: The Legislature: Bicameralism under the Constitution 15* (Society for Intl. Dev., 2011).

<sup>84</sup> CONSTITUTION art. 217 (2010) (Kenya).

<sup>85</sup> ELLIOT BULMER, *Bicameralism*, INTERNATIONAL IDEA CONSTITUTION BUILDING PRIMER 2, at 21 (2014), <https://www.idea.int/sites/default/files/publications/bicameralism-primer.pdf>.

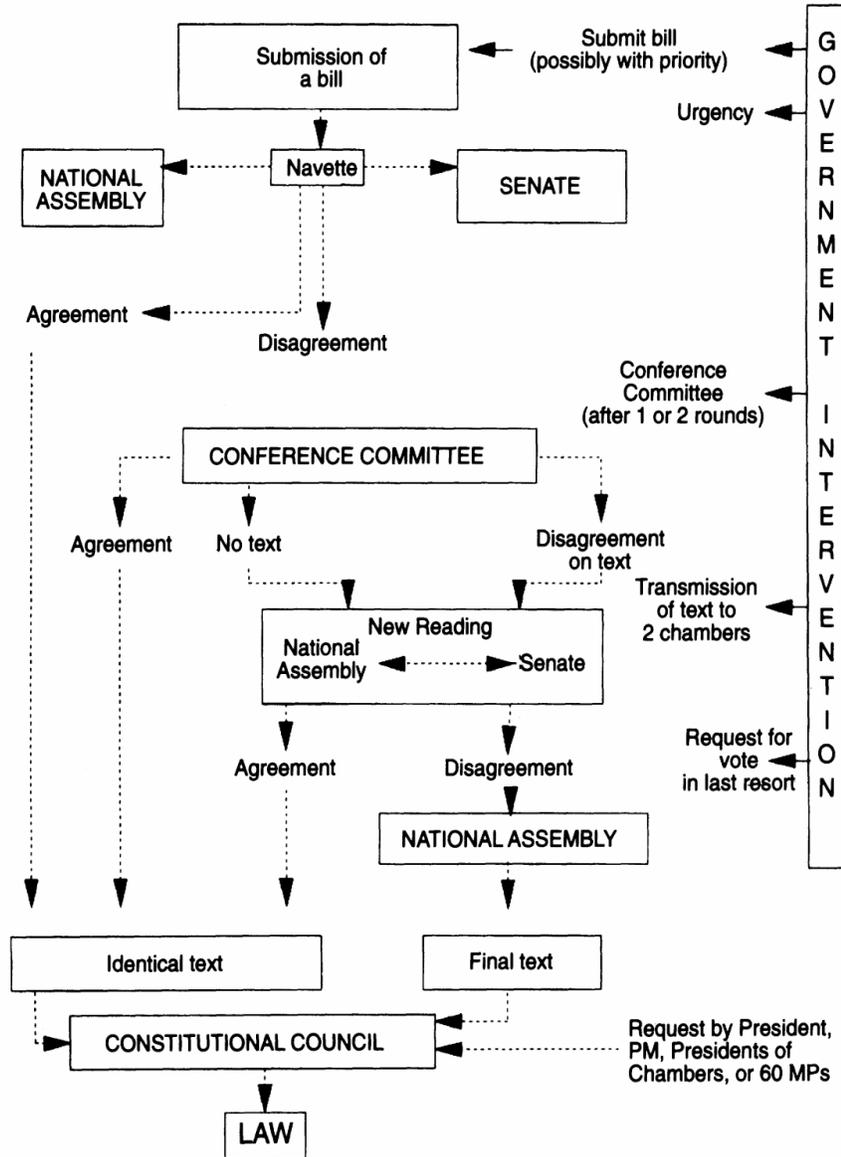
shuttle process continues indefinitely, moving text between the chambers until both houses agree on the same language.<sup>86</sup>

Other countries include a limitation to the number of rounds a bill may be shuttled between the two houses.<sup>87</sup> When the last round is reached, there are a variety of options: one chamber's voice on the bill may be determinative and override the other chamber's veto or amendments; the bill may be introduced to a mediation committee, to resolve the disagreement; a joint sitting of the two chambers may be called; the upper chamber may delay; the upper chamber's rejection may act as a veto, ending discussion over the bill; or both chambers may be dissolved. Many countries use a combination of different stopping mechanisms in the legislative process. This section will outline the possible stopping mechanisms independently. In practice, a stopping mechanism may be used after a determined number of shuttles back and forth between the two chambers.

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<sup>86</sup> George Tsebelis & Bjorn Erik Rasch, *Patterns of Bicameralism*, in *PARLIAMENTS AND MAJORITY RULE IN WESTERN EUROPE* 365, 371 (Herbert Doring ed., 1995), <https://www.uni-potsdam.de/fileadmin/projects/vergleichende-politikwissenschaft/D%C3%B6ring/PMR-W-Europe.pdf>.

<sup>87</sup> *Id.*



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### 1. Override by One Chamber

In bicameral systems where the upper chamber retains less power over the legislative process, the lower chamber may retain the power to override the upper chamber's vote as a means to end the shuttle procedure. In Austria, Barbados, Fiji, France, Germany, Ireland, Jamaica,

<sup>88</sup> The French use of Shuttle (navette) involves several options for different stopping rules and demonstrates the level of complexity and variety possible with the combination of stopping rules discussed in this paper. Image from George Tsebelis & Jeannette Money, *The Navette System in France*, 25 BRITISH J. POL. SCI. 101, 104 (2010).

Pakistan, the United Kingdom, and Zimbabwe the lower house's voice can be decisive on a bill.<sup>89</sup> Exceptions to this rule include the Netherlands, Belgium, and Argentina. In Belgium<sup>90</sup> and the Netherlands, the upper house has the final decision following a shuttle procedure.<sup>91</sup> Argentina allows the upper chamber to have the final say and override the voice of the lower chamber if the Senate was the bill's chamber of origin.<sup>92</sup>

For one chamber's vote to be overridden, a supermajority by the other chamber is often but not always required. In Japan, if the House of Councillors (upper house) rejects a bill that has been approved by the House of Representatives (lower house), the bill may still become a law by a two thirds majority of the lower house.<sup>93</sup>

## 2. *Mediation Committees*

After both chambers vote on a bill and cannot agree, a joint committee comprised of members from both chambers may be created. The goal of this committee is to work through the disagreement about the language of the bill. The number of joint committee members may be a set number<sup>94</sup> or merely require the composition be equally split between the two chambers.<sup>95</sup> Joint committees may have limited<sup>96</sup> or absolute<sup>97</sup> amendment power over the bill. Further, these joint committees may have the power to pass the bill or be limited merely to working through the legislation.

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<sup>89</sup> Jeannette Money & George Tsebelis, *Cicero's Puzzle: Upper House Power in Comparative Perspective*, 13 INT. POL. SCI. R. 25 (1992).

<sup>90</sup> 1831 CONST. art. 82 (Belg.).

<sup>91</sup> Tsebelis & Rasch, *supra* note 86, at 371.

<sup>92</sup> Art. 81, 75 CONSTITUCIÓN NACIONAL [CONST. NAC.] (Arg.).

<sup>93</sup> NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION], art. 59 (Japan).

<sup>94</sup> In Germany, the 32-person Mediation Committee is split evenly between the upper and lower chambers. The upper chamber has 16 seats on the mediation committee, one for each State represented by the upper chamber. <https://www.bundesrat.de/EN/national-en/va-en/va-en-node.html#doc5158928bodyText1>.

<sup>95</sup> Tsebelis & Rasch, *supra* note 86, at 371.

<sup>96</sup> INDIA CONST. art. 108.

<sup>97</sup> CONSTITUTION art. 113 (2010) (Kenya).

In Afghanistan, power is divided unequally between the two chambers and the upper house has a more advisory role in spite of the joint committee requirement. If the two chambers cannot reach agreement over a bill, a combined committee is created to review disagreement.<sup>98</sup> This joint committee is comprised of equal representation from the two houses.<sup>99</sup> If the joint committee cannot reach a compromise, the lower house retains the ultimate power to adopt the bill as a law through a second affirmative vote at the next session of Parliament.<sup>100</sup> A similar process is used in Belarus, where if a joint conciliatory commission's draft of a bill is not approved by both chambers, the President may request the lower chamber to make the final decision on the bill.<sup>101</sup> Final passage of the contested bill requires a two thirds vote by the lower chamber.<sup>102</sup> On the other hand, in Kenya, both chambers must agree on the final bill that comes out of the mediation committee or the bill is defeated.<sup>103</sup>

In Germany, the mediation Committee may propose amendments to a bill but cannot adopt the bill on its own.<sup>104</sup> If the mediation committee proposes an amendment to the bill, the amended bill must be returned to the lower chamber for a vote before it can be discussed again in the upper chamber.<sup>105</sup> The German Mediation Committee also retains the right both to propose repeal of the bill or to conclude the mediation committee without submitting a compromise proposal.<sup>106</sup>

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<sup>98</sup> Constitution of Afghanistan art. 100 (2004).

<sup>99</sup> *Id.*

<sup>100</sup> Rainer Grote, *Separation of Powers in the New Afghan Constitution*, ZaoRV, (2004).

[http://www.zaoerv.de/64\\_2004/64\\_2004\\_4\\_a\\_897\\_916.pdf](http://www.zaoerv.de/64_2004/64_2004_4_a_897_916.pdf)

<sup>101</sup> The Constitution of the Republic of Belarus art. 100 (1994, revised 2004).

<sup>102</sup> *Id.*

<sup>103</sup> CONSTITUTION art. 113 (2010) (Kenya).

<sup>104</sup> Mediation Committee, Bundesrat, [https://www.bundesrat.de/EN/national-en/va-en/va-en-node.html;jsessionid=322F5CF2907A6D94E4073D974303A666.2\\_cid374#doc5158928bodyText2](https://www.bundesrat.de/EN/national-en/va-en/va-en-node.html;jsessionid=322F5CF2907A6D94E4073D974303A666.2_cid374#doc5158928bodyText2).

<sup>105</sup> Jenny Gesley, *National Parliaments: Germany*, Library of Congress, <https://www.loc.gov/law/help/national-parliaments/germany.php>,

<sup>106</sup> Mediation Committee, Bundesrat, [https://www.bundesrat.de/EN/national-en/va-en/va-en-node.html;jsessionid=322F5CF2907A6D94E4073D974303A666.2\\_cid374#doc5158928bodyText2](https://www.bundesrat.de/EN/national-en/va-en/va-en-node.html;jsessionid=322F5CF2907A6D94E4073D974303A666.2_cid374#doc5158928bodyText2).

In Russia, legislation is initiated in the State Duma (lower chamber).<sup>107</sup> If both chambers do not agree, a mediation committee known as a conciliatory commission is created to settle any differences. A second vote is taken, and if agreement is not reached, the bill is then returned to the State Duma for review. A two-thirds vote by the lower chamber may override a vote against the bill by the upper chamber.<sup>108</sup>

In Cameroon, if the both chambers cannot agree on the text of a bill, it may be sent to a joint commission where any amendment requires the President's approval. If the joint commission cannot agree on the final text or the final text is not approved by both chambers, the President may step in and either (1) request that the lower chamber make the final decision or (2) declare the bill void.<sup>109</sup>

### 3. *Joint Sitting*

One common stopping rule to resolve gridlock, especially in South American countries,<sup>110</sup> is to call a joint sitting. In a joint sitting, the members of both chambers come together and sit as a unicameral legislature, and the votes of the two chambers are pooled. This process often favors the lower house because often the lower chamber will have more members than the upper chamber. Further, not every type of bill may be passed through a joint sitting.

For example, in India, if the two chambers disagree on a bill during the shuttle procedure, the President may call a joint sitting of both houses to decide on the bill.<sup>111</sup> A bill will be passed in this joint sitting if approved by a simple majority.<sup>112</sup> Money bills and constitutional amendments

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<sup>107</sup> KONST. RF [CONSTITUTION] art. 105(1) (Russ.).

<sup>108</sup> *Id.* art 105(5).

<sup>109</sup> Constitution of Cameroon, 1972, art. 30.

<sup>110</sup> Bolivia, Uruguay, Venezuela and Brazil all use a joint sitting to resolve legislative gridlock. Mariana Llanos & Detlef Nolte, *Bicameralism in the Americas: Around the Extremes of Symmetry and Incongruence*, 9 J. LEG. STUD. 54, 74 (2003).

<sup>111</sup> INDIA CONST. art. 108.

<sup>112</sup> *Id.*

are two subjects excluded from a joint sitting. Joint sittings are also used in Australia, but only following a double dissolution procedure.<sup>113</sup>

#### 4. Delay

Delaying the passage of legislation is another solution to gridlock. A period of delay is inherent in bicameral legislatures because of the additional steps involved in voting twice. However, some constitutions have exercised delay more strategically by granting or limiting the power of the upper chamber by extending or curtailing the period between the lower chamber's vote and the upper chamber's vote.

In the United Kingdom, the upper chamber acts in a more advisory role and may delay passage of a bill for a year before the lower chamber can reintroduce the bill in the next session.<sup>114</sup> The upper chamber could initially delay a bill for three years, but this power was curtailed in both 1911 and 1949 until the current limit of one year.<sup>115</sup> In Ireland, the upper chamber must review and return a bill to the lower chamber within ninety days of its reception. The lower chamber then has 180 days to pass the bill again and resolve any amendments.<sup>116</sup> This overall period allows the upper chamber to delay the passage of legislation for almost three quarters of a year. This period of delay may be limited if the lower chamber and the President agree that the bill is a matter of urgent need.<sup>117</sup>

In Spain, where the Senate acts as a "house of second thought," the upper chamber's power over regular legislation is very limited.<sup>118</sup> If the lower chamber still wishes to pass legislation after

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<sup>113</sup> *Australian Constitution* s 57.

<sup>114</sup> The Parliament Acts, PARLIAMENT.UK, <https://www.parliament.uk/about/how/laws/parliamentacts/>.

<sup>115</sup> *Id.*

<sup>116</sup> Constitution of Ireland 1937 art. 23,

<sup>117</sup> *Id.* art. 24.

<sup>118</sup> Alverto Lopez-Basaguren, *The Secession Issue and Territorial Autonomy in Spain Bicameralism Revisited*, 10 *PERSPS. ON FEDERALISM* 238, 241 (2018), <https://www.degruyter.com/downloadpdf/j/pof.2018.10.issue-2/pof-2018-0025/pof-2018-0025.pdf>.

the Senate has voted against, it may do so after two months with a simple majority. Without a period of delay, the lower chamber would be required to have an absolute majority to bypass the Senate's wishes.<sup>119</sup> This optional delay creates more time for public discussion or reflection if an absolute majority is not immediately available.

Delay may be used purposefully by the upper chamber to create time for public opinion to change. Alternatively, the upper chamber could delay long enough that an election cycle takes place, changing the makeup of the lower chamber for the next vote. The use of delay is especially powerful in situations where the lower chamber may be able to override a veto by the upper chamber. To save face, rather than cast a meaningless vote, the upper chamber can exercise its delay authority until a scenario manifests where public opinion or the lower chamber's view is aligned with the view of the upper chamber.

##### 5. *Veto*

Some constitutions allow one chamber—or both—the option to completely veto a proposed bill, meaning the bill is rejected and cannot become law. In bicameral legislatures with true bicameral voting (TBV), which requires both chambers to agree on the text before it may be passed, both chambers have a working veto over the legislation.<sup>120</sup> In some countries where true bicameral voting is practiced on every type of bill, the upper chamber has absolute veto power over legislation. On the other hand, some countries only practice TBV on designated subjects. In Germany, the Bundesrat (upper chamber) has a subject-matter specific veto power over legislation

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<sup>119</sup> *Id.*

<sup>120</sup> *See, e.g.*, Constitution of the Republic of Rwanda, 2003, art. 94 (“Failure to reach a conclusion by both Chambers of Parliament, the draft law is returned to its initiator.”).

that affects the power of the states.<sup>121</sup> Similarly, in Spain, TBV is required on Organic Laws,<sup>122</sup> which deal with fundamental rights and public liberties, but TBV is not practiced with regular legislation. Thus, the Spanish Senate's veto power is limited in subject-matter. In both Canada and the Netherlands, on the other hand, the upper chambers have absolute veto power over all legislation.<sup>123</sup> This power is used sparingly, in part because this could be seen as undemocratic, since these two legislatures are not directly elected.<sup>124</sup>

### 6. *Double Dissolution*

Commonly, in parliamentary bicameral legislatures the upper chamber serves a set term in office without the possibility of the chamber's dissolution. However, Australia provides a unique exception to this common practice, designed to incentivize the chambers to reach consensus through an efficient navette procedure. In Australia, if the Senate fails to pass a bill from the House of Representatives after two rounds of navette, the Governor-General may dissolve both chambers.<sup>125</sup> This mechanism has only been activated seven times, most recently in 2016, and is the only exception to the fixed term for Senators.<sup>126</sup> There is no constitutional necessity that the House of Representatives reintroduce the bill that caused the double dissolution.<sup>127</sup> However, if after both chambers are re-elected, the legislation that led to the dissolution of the two chambers

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<sup>121</sup> *Bicameral Parliamentary Systems*, ENCYCLOPEDIA.COM: GOVERNMENTS OF THE WORLD: A GLOBAL GUIDE TO CITIZENS' RIGHTS AND RESPONSIBILITIES (updated Mar. 29, 2020), <https://www.encyclopedia.com/international/legal-and-political-magazines/bicameral-parliamentary-systems>.

<sup>122</sup> Alverto Lopez-Basaguren, *The Secession Issue and Territorial Autonomy in Spain Bicameralism Revisited*, 10 PERSPS. ON FEDERALISM 238, 241 (2018).

<sup>123</sup> ELLIOT BULMER, *Bicameralism*, INTERNATIONAL IDEA CONSTITUTION BUILDING PRIMER 2, at 21 (2014), <https://www.idea.int/sites/default/files/publications/bicameralism-primer.pdf>.

<sup>124</sup> *Id.*

<sup>125</sup> *Australian Constitution* s 57.

<sup>126</sup> Senate Brief No. 7, PARLIAMENT OF AUSTRALIA (July 2017), [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/Senate\\_Briefs/Brief07](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Senate_Briefs/Brief07).

<sup>127</sup> *Double Dissolution*, PARLIAMENT OF AUSTRALIA, [https://www.aph.gov.au/Parliamentary\\_Business/Double\\_dissolution](https://www.aph.gov.au/Parliamentary_Business/Double_dissolution).

does not pass again, another stopping rule is used—a joint sitting of the two chambers may be called to vote on the bill.<sup>128</sup>

These stopping mechanisms are rarely used independently. Many of the more unique stopping rules are used more sparingly, however, only after the more common navette procedure has failed. For example, in Australia, if a bill is not passed by the senate after two rounds of shuttle procedures, the dissolution of both chambers, and the bill's rejection once more by the Senate, the Governor-General may convene a joint sitting of both the House of Representatives and the Senate to approve the bill.<sup>129</sup> A joint sitting is thus rarely convened in Australia because a double dissolution is rarely called.

#### *D. Unique Treatment of Money Bills*

In many countries, money bills are treated differently than other types of legislation. Often, the upper chamber may not be allowed to introduce money bills. In India, the Rajya Sabha (upper chamber) serves an advisory role over money bills once they are introduced in the lower chamber.<sup>130</sup> The upper chamber can merely suggest changes to the money bill, and these amendments are then accepted or rejected by the lower chamber.<sup>131</sup> The upper house has no further say on the passage of the bill.<sup>132</sup> In Paraguay, the annual budget is first presented by the executive to a bicameral commission.<sup>133</sup> After amendment the budget will then begin in the lower chamber before being sent to the Senate. Both chambers have the authority to reject the budget with a two-thirds vote against the bill.<sup>134</sup>

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<sup>128</sup> *Australian Constitution* s 57.

<sup>129</sup> *Id.*

<sup>130</sup> INDIA CONST. art. 110.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> Constitution of Paraguay art. 216 (1992, revised 2011).

<sup>134</sup> *Id.*

### *E. Unique Treatment of Constitutional Amendments*

Different procedures may be used to amend a country's constitution. For example, in Japan, the lower house can have the final decision on a bill with a two thirds majority (overruling a vote against the bill by the upper chamber), but in the case of amendments, a two thirds majority of both chambers is required.<sup>135</sup> France practices a procedurally complicated shuttle process when passing regular legislation. However, in the case of constitutional amendment, the shuttle procedure is continued indefinitely, and the language must be adopted by both houses of Parliament before it proceeds to either (1) a referendum or (2) a vote by a joint sitting of the French Parliament requiring a majority of three fifths.<sup>136</sup> This procedure change grants the Senate veto power over constitutional amendments that it does not have when dealing with a regular bill. In Canada, amendments to the constitution may be passed without the Senate's approval with a period of delay. If the Senate does not adopt an amendment within 180 days after the House authorizes the issue, the House may again adopt the amendment.<sup>137</sup> This differs from the usual legislative shuttle process.<sup>138</sup>

There are three ways in which the Indian Constitution provides for constitutional amendment. However, unlike other forms of legislation, at no point in the lifecycle of a constitutional amendment is there a joint sitting to resolve disagreement. A simple majority of both houses may be required on some issues. This category deals with issues of constitutional amendment but is not formally labeled as a Constitutional Amendment even though it may deal with constitutional issues. Another option provided for in the constitution requires a supermajority

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<sup>135</sup> NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION], art. 96 (Japan).

<sup>136</sup> 1958 CONST. art. 89 (Fr.).

<sup>137</sup> Constitution Act, 1867, 30 & 31 Vict., c 3, (U.K.), *reprinted in* R.S.C., app II, no 5, art. 47 (Can.).

<sup>138</sup> Tariq Ahmad, *National Parliaments: Canada*, Library of Congress, [http://www.loc.gov/law/help/national-parliaments/canada.php#\\_ftn110](http://www.loc.gov/law/help/national-parliaments/canada.php#_ftn110).

of two thirds of both chambers.<sup>139</sup> Finally, a third option related to unique legislation requires this special majority of both chambers and ratification of half of the state legislatures.<sup>140</sup>

In Russia, a different threshold is required from each chamber for a constitutional amendment. While the regular legislative process allows for a majority in both chambers or a two thirds majority of the lower chamber to override the vote of the upper chamber, the constitutional process is unique. To pass a federal constitutional law, three quarters of the total members of the upper chamber and two third of the total members of the lower chamber must approve the bill.

In bicameral legislatures, gridlock is an ever-present issue, and there is no ultimate means to solve this problem. Each stopping mechanism brings up corresponding issues of power divisions that must be addressed on a country by country basis.

Further, the creation of a bicameral legislature inherently prolongs the legislative process even without a delay mechanism by requiring a second vote. In many settings, a protracted legislative process may be beneficial. Some countries characterize the upper chamber as a chamber of second thought or an advisory chamber; accordingly, some countries even limit the legislative powers of the second chamber so it can do little more than make recommendations. No matter the titled purpose for a second chamber, the extended process for promulgating legislation may build in a useful time period for reflection and continued public discussion.

## CONCLUSION

When designing a bicameral system, a lot of flexibility exists in determining the role of the upper chamber, often dependent on the desired outcome. An upper chamber can add time for reflection, provide territorial representation, or even a more unique perspective.<sup>141</sup> Although upper

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<sup>139</sup> *Id.*

<sup>140</sup> INDIA CONST. art. 368.

<sup>141</sup> All 13 members of the Belizean Senate are appointed, but the Senate still has a role in the passage of legislation. The constitution enumerated twelve senators, but in 2017 a thirteenth Senator was appointed to represent Non-

chambers often do not possess the same power and control that lower chambers regularly possess, in countries seeking extensive public discussion of legislation or disequipopulational checks on the constitutional order, the creation of a second chamber may be beneficial.

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Governmental Organizations. <https://www.breakingbelizenews.com/2017/01/31/13th-senator-sworn/>; Other organizations given representation on the Belizean Senate include the Belize Council of Churches and the Evangelical Association of Churches, Belize National Trade Union Congress and the Civil Society Steering Committee, and the Belize Chamber of Commerce and the Belize Business Bureau. <https://www.nationalassembly.gov.bz/senate/>.