

Second Chambers in Parliamentary Federations: The Senate of Pakistan in Comparative Perspective

Muhammad Mushtaq

Associate Professor, Department of Political Science & International Relations, University of Gujrat

Email: muhammad.mushtaq@uog.edu.pk

Abstract

Federal bicameralism has recently received considerable scholarly attention. However, few studies have investigated the challenges that second chambers usually face in parliamentary federations in the face of stronger popular chambers (lower houses). Therefore, this study investigates the Senate's position as a federal chamber compared to its counterparts in contemporary parliamentary federations. The paper shows that the Senate has received co-equal legislative powers (compared to National Assembly of Pakistan), and performs considerable oversight role since the federation has adopted the 18th Constitutional Amendment. Being an indirectly elected body, it can claim more democratic legitimacy than appointed or nominated federal chambers. Similarly, the Senate is among those second chambers that provide parity representation to constituent units irrespective of their population size. Besides, the disparity between sizes of two chambers in Pakistani parliament is not exceptional. National Assembly-to-Senate membership ratio is also comparable with Canada, Austria, and Malaysia. This comparison demonstrates that the Senate of Pakistan is not a deviant case, and it fulfills the requirements of a federal chamber. As compared to its Asian counterparts—the Indian Rajya Sabha and the Malaysian Dewan Negara, it appears a more influential house. Several reforms suggested by ethno-regional groups, such as powers related to election of Prime Minister, approval of budget, and endorsement of international treaties are not compatible with parliamentary system of government. Nevertheless, the centralized nature of party system, electoral malpractices, and weakening of democratic institutions are the factors that limit the federal role of Senate in Pakistan.

Keywords: Second chamber; Parliamentary federation; Senate; Constitutional role; Pakistan

1. Introduction

Bicameralism is an essential feature of federal political institutions. The premise behind establishing bicameral parliaments in federations is to provide meaningful representation to minority units in the second chambers, which is essential for shared rule. However, second chambers in contemporary parliamentary federations are facing several challenges to play an effective constitutional role in the face of more powerful popular houses (lower houses).

Owing to their relatively smaller membership size, they lack significant legislative role where disagreements on draft bills are resolved in joint-sittings. Similarly, being indirectly elected bodies in most cases, and nominated membership in certain cases, second chambers fail to match the democratic legitimacy that directly elected popular houses exhibit.

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Yet, the role of second chambers varies across the cases depending on the nature of institutions and political milieu of federations.

Recently, second chambers have attracted considerable scholarly attention (Bach 2003; Smith 2003; Tseytlin 2006; Dandoy et al. 2015; Finke et al. 2020). However, most of this research focused on single case studies, and there are only few studies that offer comparative perspectives (Watts 2009; Petrich 2019; Allen & Taagepera 2017; Gamper 2018; Swenden 2004; Uhr 1989). Moreover, the Pakistani Senate is generally overlooked by these comparative analyses. Therefore, this study aims to investigate the composition and role of Pakistan's Senate in the context of contemporary federal experiences with respect to second chambers. Pakistani federation adopted unicameral parliament under the constitutions of 1956 and 1962. The 1973 constitution established bicameral parliament and provided parity representation to provinces in second chamber. The Senate played a subservient role to the National Assembly of Pakistan for most period. However, since 2010, after the enactment of 18th Constitutional Amendment, it is provided an effective role in the federal legislative process and decision making.

The Senate has provided a platform to minority units to safeguard their territorial interests at federal level (Mushtaq, 2017). It has been argued that Senate has strengthened participatory federalism in Pakistan. However, regional minorities have been putting forward more radical demands to further enhance role of senate in Pakistan. In this context, this study compares the Pakistani Senate with second chambers of contemporary federations to highlight that this house been already provided sufficient constitutional role.

The paper is comprises five sections. The next section presents historical development of the Senate of Pakistan. The third section provides an overview of the contemporary federal bicameral institutions. The fourth section compares the constitutional role, functions, and structural features of Senate with other second chambers. The fifth section concludes the study.

2. The Emergence of Senate in Pakistan

2.1 The Problematique of Designing Bicameral Parliament (1947-72)

Since its inception in 1947, Pakistan has witnessed major differences among various groups and regions regarding the form and role of the federal state. During the constitution-making process (1947-56), tensions surfaced over issues related to representation in parliament, the powers of second chamber in bicameral parliament, quantum of provincial autonomy, resource distribution between the federation and provinces, and national languages. Besides other issues, bicameral design of the parliament was much contested. G. W. Choudhury (1955, p. 592) rightly noted that “representation between East and West Pakistan in the federal legislature was the problem that, more than any other, delayed the framing of a constitution”. The very first report of the Basic Principles Committee¹ (BPC) was submitted in 1951. This report recommended strong bicameralism suggesting co-equal powers for second chamber with the National Assembly. It offered equal representation to all federating units in second chamber and urged that the budget be placed in a joint session of both chambers (Choudhury, 1955, p.593). The constituent assembly turned down this proposal because Bengal, the most populous province, refused to accept a minority position in the upper chamber, which was dominated by small western units (De Miñón, 1975).

¹ This committee was appointed by the constituent assembly and its primary role was to spell-out the basic principles for the future constitution.

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The BPC submitted its second report in 1952, which provided for an asymmetrical bicameralism: The House of Units was provided a subservient role to the House of People, which enjoyed not only supremacy in the legislative business of parliament but also the privilege to make the cabinet collectively accountable. In this report, Bengal and West Pakistan were each given 60 members in the House of People, as representation for both regions was determined by the principle of parity rather than population-based representation. This phenomenon indicates the difficulty that BPC was facing while proposing a bicameral parliament that would satisfy the demands of both regions. Bengal and West Pakistan each received 60 members in the House of People, with representation based on parity rather than population. The second report met the same fate as the first and provoked even more fierce reactions, this time from West Pakistan, especially in Punjab.

On October 7, 1953, Mohammad Ali Bogra, the Prime Minister of Pakistan, submitted a constitutional formula to the Constituent Assembly. Under the Bogra formula, the Bicameral Parliament granted population-based representation to units in the lower house and parity-based representation to units in the upper house, ensuring that both regions had equal representation during joint sittings. Both chambers were given equal powers, and some significant matters, including the vote of confidence and the election of the president, were to be decided in a joint session (Choudhury, 1955). It is claimed that the Bogra formula was about to be accepted by the constituent assembly when it was dissolved (Ahmed, 2013). The second constituent assembly was constituted in 1955 that enacted the first constitution of Pakistan in 1956. This constitution established a unicameral parliament, which is an unusual practice in federations. Both provinces² were provided equal representation in the National Assembly under this constitution. This constitution was abrogated in 1958 and martial law was imposed. Subsequently, a constitution commission was appointed by Ayub Khan which submitted its report to cabinet. This commission proposed bicameral parliament but this suggestion was not taken by the cabinet's committee which was authorized to approve the draft (Ullah & Hayat, 2018). This demonstrates the state's aversion to the second chamber, which serves as a key mechanism in federations for sharing power with regional identities. It is pertinent to mention that bicameralism was an integral part of all constitutional proposals submitted by the BPC and constitution commission, but both the 1956 and 1962 constitutions of Pakistan established unicameral parliaments, albeit with equal representation for both provinces regardless of population size.

2.2 Operationalization of the Senate (1973-2009)

As Katharine Adeney and Filippo Boni (2023) has pointed out, Pakistan has restructured its federal system in many interesting ways since its inception in 1947. Hence, following Bengal's separation in 1971, the National Assembly of Pakistan unanimously endorsed the 1973 constitution, which created a bicameral parliament. According to Muhammad Waseem (2011, p. 217), the bicameral parliament was established as a majority constraining device and "the idea was that Punjab's majority in the National Assembly would be counterbalanced by the majority in the Senate wielded by the three smaller provinces". Z.A Bhutto agreed to this idea and established a Senate but without much constitutional role.

The Senate provided equal representation to all four provinces. In addition, seats were designated for the Federally Administered Tribal Areas (FATA) and the Federal Capital. However, "the impact of the enhanced representation of smaller provinces in the Senate was

² Before the enactment of 1956 constitution of Pakistan, the provinces and princely states of West Pakistan were amalgamated in a mega province, the province of West Pakistan.

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offset by the asymmetrical policy scope of the two houses” (Waseem, 2011, p. 217). The Senate was assigned a subordinate position to the National Assembly. With respect to the division of powers between the federation and provinces, Pakistan's 1973 constitution had two lists: the federal legislative list and the concurrent legislative list. The federal legislative list was divided into two parts: Part A contained defense, foreign affairs, and finance etc., while Part B enclosed more general subjects. The Senate was not authorized to originate any legislation relevant to the subjects specified in Part A of the federal legislative list, and it had only temporary suspension power if a bill was introduced in the Senate after approval by the National Assembly. The Senate's powers were restricted, since it was limited to introducing legislation regarding matters included in Part B of the federal legislative list and concurrent list, had only temporary power to delay bills rather than defeat them, and could not take part in votes of confidence (Craig Baxter, 1974, p. 1081).

According to Saeed Ahmed Rid (2019), Z.A Bhutto's (1971-77) regime kept the Senate very weak, with no oversight powers over the executive branch and very limited legislative powers under the original 1973 constitution. Indeed, under parliamentary systems, the house that is elected by the people asserts its democratic legitimacy, and has privilege to hold the government accountable. Similarly, the party that forms government based on its majority in the lower house also sets the tone for this house's role in bicameral legislatures. It is common for prime ministers in parliamentary systems to accord greater importance to the houses from which they are elected. For instance, when Nawaz Sharif was Prime Minister, he was accused of failing to appear before the Senate of Pakistan. The first Senate of Pakistan (1973-1977) was unable to play a significant role as a legislative body representing the federating units for a variety of reasons, including strict party discipline in the house due to the parliamentary nature of government, a limited role assigned by the constitution, senators' party loyalty, the ruling party's overwhelming majority in the national assembly, and Bhutto's popular personality (Rashid et al., 2021).

The Eighth Constitutional Amendment, passed in 1985 during the Zia-ul-Haq government, enhanced the role of Senate as a legislative body. This amendment gave the Senate same legislative powers as were previously provided to the National Assembly of Pakistan, except for money bills. Following this amendment, the Senate was granted the authority to introduce legislation on any subject included in the Federal legislative list or Concurrent legislative list (Parveen, 2000, p. 79). After the return of electoral democracy in 1988, following the end of the Zia regime, Pakistan underwent four general elections in a relatively short period of time. Among other regional and autonomous demands made by the ethno-regional parties that had sizable support in certain parts of the three smaller parties, demands to increase the authority and role of the Senate of Pakistan were prominent in their manifestos and election campaigns (Mushtaq, 2011, pp. 82-84). Nevertheless, the prominence of National Assembly and neglect of the Senate of Pakistan remained norm of the polity during the civilian governments that were formed during this period (1988-99). However, despite the fact that these ethno-regional parties were often part of the coalition governments formed during this civilian period (1988-99), the National Assembly retained primacy in legislative business and state affairs, and the Senate of Pakistan remained subservient to it. However, as the elections for the two houses were held at different times very often, at times it happened that the majority party in the National Assembly have a minority representation in the Senate. In such circumstances, parliamentary cabinets that enjoyed majorities in the National Assembly used to pass legislation in joint sittings over opposition from the Senate

on several occasions. However, because the constitutional amendment required a two-thirds majority in either chamber, Nawaz Sharif was unable to carry his notorious fifteenth

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constitutional amendment through the Senate in 1998, despite having a two-thirds majority in the National Assembly (Rid, 2019).

The 1973 constitution of Pakistan underwent another retransformation during Pervez Musharraf's rule (1999-2007) in the form of the 17th constitutional amendment. The membership of the Senate was increased, but not the powers. It requires an empirical investigation to discover why dictatorial regimes in Pakistan expanded the membership of this House in 1985 and 2002 while reserving seats for technocrats and women. Of course, the increased membership gives the Senate some more weight in cases of joint sittings, but this House was not destined to represent gender and technocracy. Senates in federations are designed to offer meaningful representation to smaller units so that they may safeguard their regional interests, and typical political leadership is often considered to be better suited for this role. It could possibly be asserted that the reserved seats in the Senate have raised concerns regarding representational effectiveness in this distinguished house. It is commonly observed that political parties usually accommodate party members or independents against these reserved seats who do not have a constituency or fail to contest popular elections. Though this is also true for the ordinary seats in this house, reserved seats are more often utilized for accommodation.

2.3 Post-18th Amendment Transformation of the Senate

Despite its weaknesses and limited role in government, the Senate has been viewed by regional minorities as a house that allows them to participate in federal legislation, policymaking, and oversight tasks (Mushtaq, 2017). The 18th constitutional amendment, passed unanimously in 2010, included various clauses aimed at strengthening democratic federalism in Pakistan. With regard to the Senate, this amendment made great progress in making this house more vibrant and influential in federal policymaking. Except for money bills, the Senate has been given co-equal powers with the National Assembly over legislation, as well as the appointment of superior court judges, the appointment of the Chief Election Commissioner, the selection of the caretaker government, the scrutiny of the NFC report, and the submission of the CCI report, etc. (Shahzad & Mushtaq, 2024). Despite such generous provisions of the 18th constitutional amendment, the Pashtun and Baloch nationalist parties of Khyber Pakhtunkhwa and Balochistan reiterated some radical demands to further strengthen the role of Senate. Baloch nationalist factions such as Jamhoori Wattan Party, Balochistan National Party (Awami), and National Party, along Awami National Party urged that "the money bills, including the finance bill containing the annual budget statement, should be approved/passed by the senate". Pashtunkhwa Milli Awami Party and Jamaat-e-Islami Pakistan contended that, in addition to the authority to pass money bills including annual budget, the Senate should also have a role in the election of prime ministers and the approval of international treaties. These demands would require fundamental constitutional restructuring and are difficult to reconcile with parliamentary principles because they entail rewriting the constitution and undermining the parliamentary form of government, which empowers the popularly elected lower house to choose the prime minister and pass the budget. Even under non-parliamentary systems, the second chambers do not exercise budgetary powers.

In a nutshell, it can be argued that the Senate of Pakistan today possesses nearly all of the powers that parliamentary federations usually assign to second chambers. In such

systems, it is harder to empower the second chamber to play a major territorial role while maintaining the supremacy of the directly elected lower house. Parliamentary federations struggle to achieve a balance between federal values, which foster consensual governance,

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and the parliamentary ethos, which includes majoritarianism. The Pakistani case is no exception, since it has experienced this challenge since its inception in 1947. Pakistan, however, could learn from the experiences of other parliamentary federations in this regard. Hence, the next section compares the role of the Senate with the selected second chambers of parliamentary federations.

3. Second Chambers in Selected Parliamentary Federations

This section presents an overview of the second chambers in selected parliamentary federations. The Table 1 highlights variations in terms of parliamentary term, principal mode of designation of members, parliamentary mandate in connection to law-making, oversight, and subnational representation. It is argued that the composition, structure, and parliamentary mandate of second chambers is significant to their role as a federal chamber. The table provides sufficient information to grasp the comparative analysis of federal chambers more meaningfully in the next section.

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Table 1: Second chambers in selected parliamentary federations

Federal Chamber	Term	Method of Selection	Composition	Powers	Subnational representation
Austrian Bundesrat	5 Years	Indirect Election	Weighted state representation (multiple categories)	Delay and Advisory	Low-Moderate
Australian Senate	6 Years	Direct Election	Equal state representation	Co-equal with Restrictions	Low
Bosnia and Herzegovina's Dom Naroda	4 Years	Appointed indirectly by entity assemblies	Equal ethnic representation (5 each Bosniaks, Croats, and Serbs)	Co-equal with Restrictions	Moderate-High
Belgian Senate	4 Years	Mixed Method	Mixed. 50 from sub states and 10 co-opted members	Co-equal with Restrictions	Low
Canadian Senate	Life time	Appointed	Equal regional representation for group of provinces	Delay and Advisory	Low
German Bundesrat	Varies	Appointed	Weighted state representation (multiple categories)	Limited Exclusive Powers, Veto	Moderate-High
Ethiopian House of Federation	5 Years	Indirect Election	Weighted state representation	Delay and Advisory	Low-Moderate
Indian Rajya Sabha	6 Years	Indirect Election	Weighted state representation (multiple categories)	Co-equal with Restrictions	Moderate
Malaysian Dewan Negara	3 Years	Mixed Method	Mixed. 60% elected by states & 40% minorities representation	Co-equal with Restrictions	Moderate
Pakistani Senate	6 Years	Indirect Election	Equal representation of provinces.	Co-equal with Restrictions	Moderate
South African National Council	5 Years	Appointed	Equal state representation	Co-equal with Restrictions	Moderate
Spanish Senate	4 Years	Mixed Method	Weighted Autonomous Communities representation	Delay and Advisory	Moderate
Swiss Ständerat	4 Years	Direct Election	Mixed. Two categories of Cantonal representation	Co-equal with Lower House	Moderate

Sources: Inter-Parliamentary Union (<https://www.ipu.org/>); official websites of various parliamentary houses; Patterson, (2001: pp. 55-60); Swenden, (2010).

4. The Senate of Pakistan Compared

In this section, the Senate of Pakistan is compared with second chambers of selected parliamentary federations with special reference to its constitutional role and power, democratic legitimacy, and overrepresentation to minority constituent units.

4.1 Constitutional Role and Powers

The second chambers in federations typically serve two purposes: they oversee the first chamber's legislative functions and operations and provide effective representation to the smaller federal units so that they can safeguard their territorial interests at the federal level. However, it has been argued that not all second chambers perform the same functions or have the same level of authority in performing these functions; this is determined by their institutional design or the criteria used to determine their membership and authority (Baldi, 2018).

In contemporary federations, the powers of the second chamber relative to the first chamber vary across the cases. For instance, the US Senate and the Swiss Council of States are provided with substantial powers. However, in parliamentary federations, the first chambers—which are elected by the people—play more important roles than the second chambers. It has been noted that in parliamentary executives, the first chamber typically has more authority. Furthermore, whether the second chambers have adequate regional representation or influence in the machinery of central decision-making is frequently questioned in parliamentary federations. Where party discipline is prevalent in the parliamentary federations, the issue of regional representation has become more prominent. The exceptional cases in parliamentary federations are the Australian Senate and the German Bundesrat, which have been exerting considerable influence on legislative and executive measures. The German Bundesrat enjoyed absolute veto power over all federal legislation in the domain of concurrent jurisdiction. The German Bundesrat has been facilitating intergovernmental cooperation. The notable feature which makes the German Bundesrat a powerful second chamber in the parliamentary federation is its representation based on instructed delegates of the Land government. The major functions of the second chamber are related to oversight and control of the government's activities. In this way, the second chamber performs administrative functions. Some of the prominent instruments implied by the second chamber in relation to oversight and control of governmental activities are votes of confidence, raising of the voice, criticizing governmental policies, putting questions to the government, presenting suggestions to improve governmental activities, and scrutinizing governmental actions. Some of the prominent measures to scrutinize governmental activities include asking questions of the national executive, logging motions to provide political directions to the executive, conducting inquiries, and presenting reports in committees. The investigative measures are linked to the general oversight functions. Through these measures, the second chamber exerts political pressure on governmental activities concerning regional issues. For instance, the Spanish Senate's General Committee for Autonomous Communities investigates regional issues. In some federations, the upper chambers have authority over matters concerning the judiciary. The constitutional right to choose some members of the judicial and executive branches originally belonged to some of the upper chambers. For instance, in Spain, members of the court of auditors are chosen by the Senate. Similarly, the Belgian Senate recommends candidates for the constitutional court to the King. The King appoints these recommended candidates as judges for life. The senate accommodates territorial interests and linguistic group interests. Six judges should belong to the Dutch language group, while six of the judges should belong to the French language group

Second Chambers in Parliamentary Federations: The Senate of Pakistan in Comparative Perspective (Happacher, 2018). The German Bundesrat has the authority to impeach the president if he or she breaches the basic law. The Russian upper house has the authority to initiate the impeachment process against the president based on the charges laid by the lower house (Griffith, 2020). According to Basic Law article 61, the German Bundesrat has the authority to impeach the federal president with a two-thirds majority. It is also noteworthy that according to Article 84(1), the German Bundesrat has the authority to choose half of the members of the German Constitutional Court. In the domain of international treaties, the German Bundesrat has veto power. According to Article 93(1) of the Basic Law, the German Bundesrat may petition the Federal Constitution to review federal laws on concurrent legislative powers. In this way, the German Bundesrat protects the constitutional order while considering territorial interests (Happacher, 2018). The role of the second chamber in federations is determined by a number of circumstances. In fact, two features of the federal chambers - equal representation and indirect election - are vital with respect to the second chamber's position in the federal parliament, but perhaps the most important factor is “the way the second chamber is constituted in its relation to the executive” (Waldron, 2012, p. 131). In systems founded on the separation of powers principle, the second chambers are given a relatively greater role as compared to Westminster-style systems, where the first chambers are typically dominated by the executive.

Members of the Canadian Senate are appointed by the Prime Minister³ and that this privilege is used in a highly partisan manner. The Senate has the same authority as the Canadian House of Commons to introduce, amend, or reject ordinary bills. However, it lacks an absolute veto over financial bills and constitutional amendments, and there is no system for settling inter-cameral issues. Despite the fact that the Canadian Senate is characterized as a weak federal chamber because it is an appointed body, shifts in the party makeup of the two houses have occasionally led to conflicts and impasses between the chambers⁴ (Russell, 2020).

The Australian Senate provides equal representation to all states, regardless of population size. Members of the House of Representatives are elected for three years, whereas Senators are elected for six years. However, half of the senators retire every three years, and new members are elected to replace them. The Senate and the House of Representatives have equal authority over most legislation. If the Senate fails to pass legislation enacted by the lower house twice, both chambers might be dissolved at the same time, a process known as a double dissolution election (McAllister & Muller, 2018).

Unlike other second chambers, the German Bundesrat is made up of delegates from the Land governments. Länder are given weighted representation in the Bundesrat, which has 69 members. Members' terms are determined by the tenure of the relevant Lander government. Germany is a parliamentary federation, but unlike its counterparts, partisanship has little influence on the voting behavior of the German Bundesrat, as its members primarily represent Lander governments and advocate for territorial interests. It has been noted that while formulating policies and making decisions, the members of the German Bundesrat and its committees “prioritize individual or joint sub-state interests over their political party affiliations, just like the founding fathers of the Federal Republic have envisaged it in the German constitution” (Finke et al., 2020, p. 213).

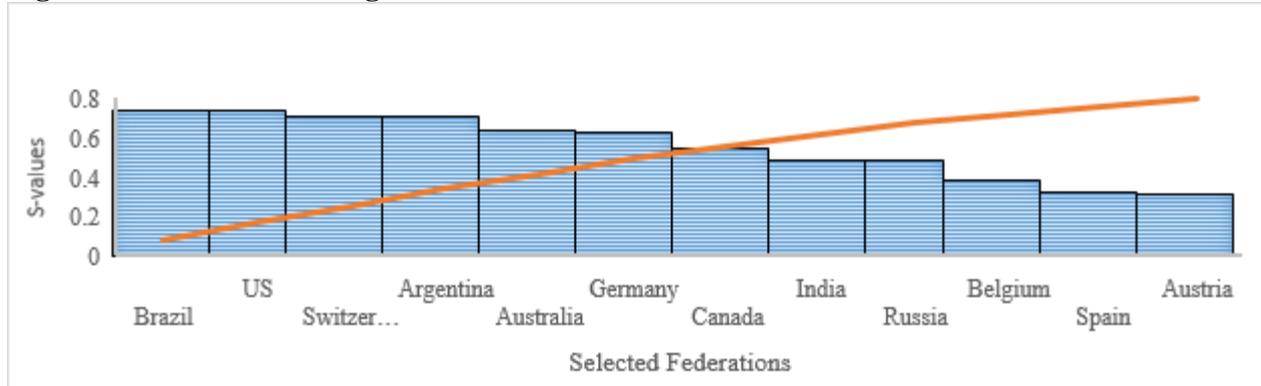
³ Members of the Senate retire at the age of 75.

⁴ For example, in the mid-1980s, Prime Minister Brian Mulroney of the Progressive Conservative Party had a House majority but faced a predominantly Liberal Senate. This period witnessed confrontation and deadlock over legislation between the two houses.

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Since the Bundestag, which is elected by the people, enjoys political legitimacy, this House largely serves as an advisory body. However, its approval is required for ordinary legislation as well as constitutional amendments.

Figure 1: Bicameral Strength in selected federation



Source: Data retrieved from (Swenden, 2004, p. 39)

Mahendra Prasad Singh (2015, p. 355) argues that “the Indian federal system is less generous to the Rajya Sabha in designing it as a federal second chamber”. The Rajya Sabha gives the states weighted representation, and 238 of its 250⁵ members are indirectly elected by the state assemblies. Its members are elected for six years, with one-third retiring every two years and being replaced by newly elected members. In fact, it is subordinate to the Lok Sabha, the democratically elected lower house, in terms of parliamentary confidence and budgetary powers. Although it is given co-equal powers with Lok Sabha in matters of ordinary legislation and constitutional amendments, "the provision for a joint session of the two chambers in cases of disagreement would mean that Lok Sabha with its larger membership would usually win, barring complex coalitional configurations across the two houses," according to the Constitution (Singh, 2015, p. 355).

4.2 Democratic Legitimacy

According to Lijphart (2004), popular election provides democratic legitimacy, and thus directly elected legislatures, as opposed to appointed houses, can claim democratic legitimacy. The majority of bicameral democracies, according to Russell (2020), are afflicted by this issue because the majority of upper chambers are not directly elected (Table 2). In the case of federal second chambers, therefore, the procedures used to choose the representatives and senators show how democratically legitimate these houses are. Generally, there are three ways that members of contemporary federal chambers are chosen: first, some federal chambers are considered more democratic than others because all or most of their members are elected directly by the people; second, some federal chambers are considered less democratic because their members are elected indirectly, primarily by the state legislatures; and third, in some cases, the federal chambers lack democratic legitimacy because their members are chosen in a manner that is not consistent with democratic principles and are appointed by the monarch, the head of state, or the chief executive (Patterson & Mughan, 2001). The following table illustrates that in comparison to the directly elected US Senate, Swiss Council of States, and Australian Senate, the Indian Rajya Sabha, Malaysian Senate, and Canadian Senate lack democratic legitimacy.

⁵ 12 members of the Rajya Sabha are nominated by the President.

Table 2: Democratic Legitimacy: Federal Chambers Compared

Federal Chamber	Mode of selection/election of members
US Senate	Directly Elected Members
Swiss Council of States	Directly Elected Members
Australian Senate	Directly Elected Members
Nigerian Senate	Directly Elected Members
Ethiopian House of Federation	Indirectly Elected Members
Pakistani Senate	Indirectly Elected Members
Austrian Federal Council	Indirectly Elected Members
Bosnia and Herzegovina- House of Representatives	Indirectly Elected Delegates
German Bundesrat	Lander Delegates
Belgian Senate	Mixed: Indirectly Elected & Co-opted Members
Indian Rajya Sabha	Mixed: Indirectly Elected & Appointed members
Malaysian Senate	Mixed: Appointed & Indirect Elected Members
Canadian Senate	Appointed Members
South African National Council	Appointed Members

Source: Data is retrieved from multiple sources.

4.3 Over-representation of Minority Units

Federalism believes in power-sharing, and the rationale for establishing a federal chamber is to provide overrepresentation in this House to minority groups or smaller federating units, enabling them to meaningfully contribute to federal decision-making. However, despite the fact that federalism is primarily a majority-limiting model, Lijphart (2004) is opposed to a high degree of smaller-unit overrepresentation in the federal chamber because it violates the democratic principle of "one person, one vote." In this respect, he argues that "the German and Indian federal models are more attractive than the American, Swiss, and Australian ones" (Lijphart, 2004, p. 105).

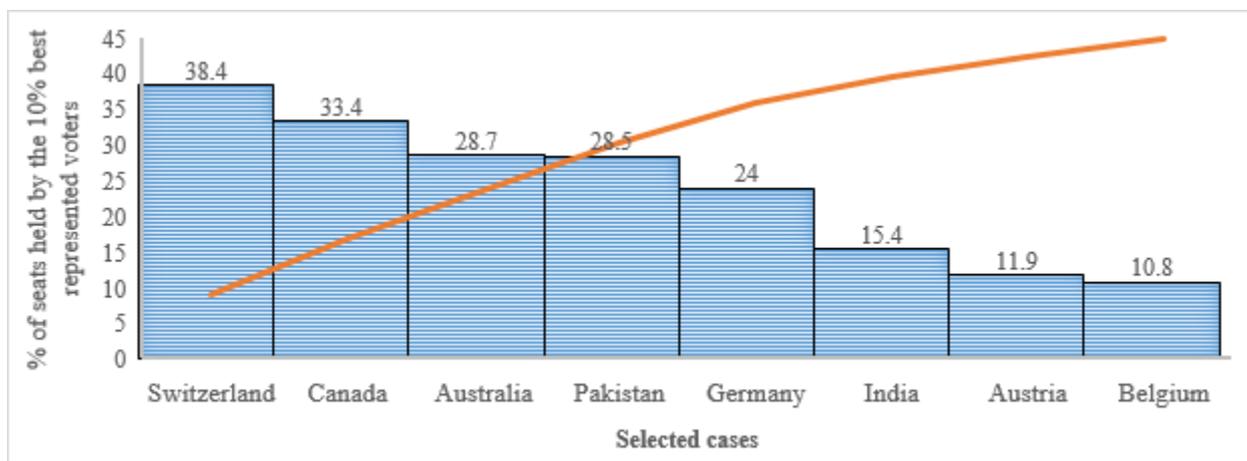
Overrepresentation of smaller units could transform the federal chambers into a body that promotes their interests disproportionately. For example, based on how many members of the second chamber are required to make valid decisions (quorum of attendance) for ordinary legislation or constitutional amendments, the number of senators required to approve legislation or block constitutional change could be calculated (Swenden, 2010). Regardless of their population size, some federations, including the US, Australia, Argentina, Switzerland, and Pakistan, gave the federating units equal representation in the federal chamber. Some federations, however, provide weighted representation: The German Bundesrat, the Canadian Senate, and the Indian Rajya Sabha are examples of federal chambers in which the component units are not represented equally, but in which the smaller units are overrepresented and the larger ones are underrepresented (Lijphart, 2012, p. 194). Figure 2 illustrates the inequality of representation in selected federations. The figure shows that inequality of representation varies across cases in the selected parliamentary federations. Inequalities are more pronounced in Switzerland and Canada, where the most favorably represented 10% of the population, living in the smallest units of these countries, have 38.5 and 33.4 percent of the representation in the federal chamber, respectively.

Although the inequities in Australia, Pakistan, and Germany are less extreme, they are still significant. However, in the cases of India, Austria, and Belgium, the inequity in representation is marginal. According to this analysis, the Senate of Pakistan adequately

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ensures the meaningful participation of smaller units in federal legislative business and policy formulation. The least populated province of Balochistan benefits the most from this overrepresentation, as it has parity representation with the most populous province of Punjab, which has nearly ten times the population of Balochistan. In the case of Pakistan, this overrepresentation is vital because "minority groups have seen the Senate as a forum that empowers them at the federal level." Senators from smaller provinces appear to be more active than Punjabi Senators, "by submitting more questions, adjournment motions, and call attention motions in the house, which in many ways reflect a more nuanced territorial role of the Senate" (Mushtaq, 2017, p. 1).

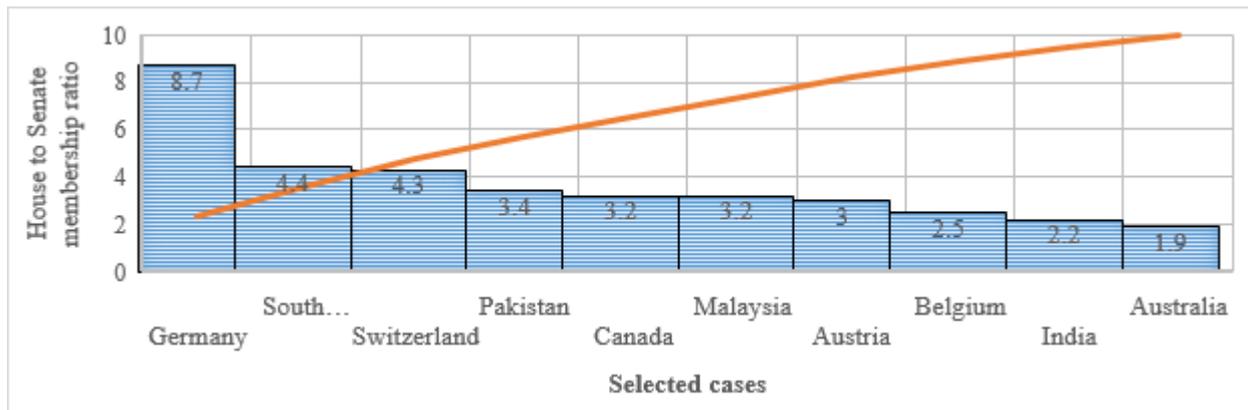
Figure 2: Inequality of representation in selected federal chambers



4.4 The Size of the Federal Chamber

The federal chambers in federal bicameral parliaments typically have a smaller size than the lower chambers, which are elected by popular vote. However, the disparity between the sizes of the two chambers varies among the federations. Figure 3 depicts the House-Senate membership ratio in selected cases. The data shows that the federal chambers of Australia, India, and Belgium have nearly half as many members as the first chambers. In Canada, Austria, and Malaysia, the first chambers have three times as many members as the federal chamber. The differences in chamber sizes are even more pronounced in the cases of Pakistan, Switzerland, and South Africa. Germany is the extreme example in this regard because it has one of the smaller second chambers—consisting of only 69 members—and a first chamber that is extremely large, with 622 members (Lijphart, 2012, p. 191).

Figure 3: Comparison of Membership between House and Senate in selected federations



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5. Conclusion

Bicameralism is considered as an essential feature of federalism. The rationale behind this provision is to provide effective representation to territorial minorities in the second (federal) chamber of the federal parliament. The meaningful participation of regional minorities in legislation, policy formulation, and decision-making at national level is an essence of inclusive federal governance. However, because popular houses (lower houses) have more constitutional authority than the second chambers in most modern parliamentary federations, the latter are facing certain challenges to adequately safeguard territorial interests of minority units. The Canadian Senate and the Indian Rajya Sabha are the most prominent cases in this regard. It has been argued that certain factors such as the parliamentary mandate of legislation and oversight, the relative size of house, democratic legitimacy, and meaningful representation of smaller territorial units determine the federal role of second chambers.

The comparative study of second chambers demonstrate that the Senate of Pakistan is assigned significant constitutional role since the adaptation of the 18th Constitutional Amendment. It is provided co-equal legislative powers, and the legislation cannot be adopted unless both chambers agree. The Senate enjoys more constitutional powers than several second chambers. In the same vein, as the executive is accountable to both houses of parliament in Pakistan, the Senate performs adequate oversight role. The Senate of Pakistan is among the few second chambers that provides parity representation to territorial units irrespective of their population size. Equally, the disparity between the sizes of the two chambers in Pakistan is not exceptional. The house to senate membership ratio of Pakistan is comparable with Canada, Austria, and Malaysia. Likewise many second chambers, the members of the Senate of Pakistan are elected for a period of 6 years by respective regional assemblies. This comparison demonstrates that the Senate of Pakistan is not a deviant case, and it fulfills the requirements of a federal chamber. In comparison to its Asian counterparts—Indian Rajya Sabha and Malaysian Dewan Negara, it appears a more influential house.

Many demands of regional identity groups and ethno-regional parties for providing a role to the Senate of Pakistan in election or removal of Prime Minister, approval of budget, and endorsement of international treaties are not compatible with the parliamentary system of government. Similarly, demands for the direct election of Senators does not seem logical as in most of the federations Senators are indirectly elected. The centralized nature of party system, electoral malpractices, and weakening of democratic institutions are the factors that limit the federal role of Senate in Pakistan.

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