

## **Bicameralism for Pluralism in a Multiethnic Society and Its Perspectives in Georgia**

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### **Abstract**

This article examines the constitutional role and institutional formation of bicameralism in multiethnic societies, with particular focus on the composition and constitutional competence of the upper chamber. It argues that bicameralism constitutes a fundamental mechanism for strengthening democratic legitimacy, balancing state power and ensuring the effective representation of diverse social groups. Contrary to claims that it fragments popular sovereignty, the study demonstrates that bicameralism reinforces it through internal checks and balances and enhanced inclusivity.

Drawing on comparative analysis of European and Post-Socialist states, the article evaluates different models of upper chamber formation: direct, indirect, appointed, and mixed, and their implications for legitimacy, representation and institutional effectiveness. Particular attention is given to the relationship between the method of formation and the functional identity of the upper chamber, emphasizing the advantages of asymmetrical bicameralism and territorial representation in multiethnic contexts. The study highlights both the integrative potential and the risks of mechanisms such as ethnic quotas and veto powers.

The research further analyzes the constitutional framework of Georgia, exploring the conditional provision for bicameralism and its linkage to the restoration of territorial jurisdiction. It argues for a more flexible,

teleological interpretation more flexible, teleological interpretation of the constitutional text/norm, that would that would allow earlier institutional development. The findings suggest that a territorially representative and functionally distinct upper chamber could enhance political pluralism, reduce excessive centralization and strengthen democratic consolidation in Georgia.

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**Keywords:** Bicameralism; Upper Chamber; Multiethnic Society; Territorial Representation; Minority Rights; Consociational Democracy

## Introduction

In contemporary multiethnic states, the organization of the legislative branch is particularly important for ensuring the stable constitutional system. The diversity of ethnic, cultural and territorial organization obliges the state with the imperative to develop mechanisms for the distribution of power and representation that satisfy the requirements of democratic legitimacy and maximum participation. In this context, the upper chamber of parliament is created as a representative body of diverse groups, ensuring their participation in the unified sovereign policy formation.

The institutional purpose of the upper chamber is particularly evident in multiethnic societies, where it acts as a mechanism of political and legal balance. Its involvement in the legislative process often leads to protracted deliberations and compromise-based solutions, which facilitate the democratic consolidations and the maintenance of stability within a multiethnic society. This function is manifested both in the determination of domestic and foreign policy, as well as in the implementation of the “mutual veto” mechanism characteristic of bicameral systems. Accordingly, the determination of the method of formation of the upper chamber is not only of an organizational nature but also stems from its fundamental functional essence.

Bicameralism has historically been established as an institutional form of balancing the interests of social groups in the legislative branch. Its classical model arose based on a compromise between aristocratic representation and popular sovereignty, and its further development is associated with the strengthening of the principle of territorial representation. In the presence of a lower chamber established through universal suffrage, the upper chamber ensures the existence of check and balance mechanisms within the policy-making process. The co-existence of aristocratic and democratic elements in the form of bicameralism, through its restrictive effect, has a profound impact on the effectiveness of the political system. Furthermore, since parliamentarism originated from a bicameral system, its classical variation is essentially bicameral, unicameralism, on the contrary, is a deformed version of parliamentarism, which aims to simplify governance,

which often leads to political collapse and, consequently, the disintegration of society.

The evolution of bicameralism has led to an increase in its functional diversity and its expansion across various models. The objective of this research is to analyze the goals and functions of bicameralism, accounting for its unique characteristics within multiethnic societies. Furthermore, based on the constitutional framework of Georgia, it aims to analyze the potential perspectives of bicameralism. The research primarily relies on the analysis of bicameral models in post socialist states, enabling an assessment of the functional purpose and formation rules of the upper chamber within the context of minority participation in governance and their protection. In addition, bicameralism is discussed based on a comparative analysis of both the original and current versions of the Constitution of Georgia. The analysis of doctrinal sources used in the study, alongside both subjective and objective (dynamic) methods of normative interpretation, ensures that the conclusions regarding the perspectives of bicameralism in Georgia are systematic and well-reasoned.

### **The Role of Bicameralism in the Realization of Popular Sovereignty**

In modern constitutional systems, bicameralism has developed into a multifaceted constitutional principle that does not disintegrate popular sovereignty (Котляревский S, 1907, p. 151) , but on the contrary (through the restraining function of the lower chamber) can double it. This approach is grounded in classical constitutional theory, according to which the effective realization of popular sovereignty necessitates not the concentration of power, but rather its structural balancing. In his doctrine of the separation of powers, Charles-Louis de Montesquieu posited that political liberty is only attainable when power checks power (*le pouvoir arrête le pouvoir*). Bicameralism constitutes the legislative dimension of this underlying logic. Specifically, the existence of one chamber serves as a check and balance on the other. Consequently, a bicameral system does not diminish popular sovereignty, rather, it establishes institutional guarantees for its realization.

American constitutional doctrine emphasizes that bicameralism mitigates the danger of power concentrating within a single legislative body and ensures internal self-restraint within the legislative branch. Bicameralism is associated with the strength of popular representation, as opposed to the division of popular sovereignty (Madison J., 2008, p. 352). Representative authority lacks legitimacy unless it properly encompasses the plurality of societal interests. The challenge of adequately representing a diverse society within a single chamber is an objective reality. However, this difficulty can be neutralized precisely by a second chamber through a more accurate representation based on “territorial, communal or other minorities.” (Bulmer

E., 2017, p. 4). From this perspective, the upper chamber serves, on the one hand, as the center for the representation of territorial units, and on the other, through this very mechanism, acts as an instrument for balancing unified state policy. The upper chamber, acting as a “second sober thought” (Benz A., 2018, p. E-38) a space for “deliberation and analysis” (Macharadze Z., 2017, p. 18), “wisdom”, “balance”, and “expertise” (Gélard P. 2006, p. 11), through its “checking” and “cooling” functions, serves to ensure a more balanced operation of the separation of powers. The upper chamber also acts as a kind of arbitrator during political conflicts. In favor of state interests, it acts as a counterbalance to the lower chamber (which “poses an excessive threat” (Qurashvili K., Chokoraia K., Buchukuri A., 2011, p.63-64) to party interests). The upper chamber acts as a close connection for territorial cohesion within the unitary state, providing a check on the lower chamber and serving as a forum for reaching supreme consensus. The inclusion of territorial units in the legislative process does not diminish the unity of the state, on the contrary, it reinforces it through the mechanism of political legitimacy (Daniel J. Elazar, 1987, p.12-15). In this context, the upper chamber is considered as an institutional bridge between territorial units and the central government. Furthermore, it is essential that the existence of an upper chamber (particularly in the event of the lower chamber dissolution), safeguards the state against a legislative vacuum. Typically, being immune to the risk of dissolution, the upper chamber “enjoy a freedom to think and act that is not always shared by lower houses, which are permanently under pressure from public opinion and the media.” (Gélard P. 2006 p. 11).

However, bicameralism may fail to consolidate its position, for instance, upper chambers have been abolished in Croatia, Denmark, Kyrgyzstan, and Senegal. The emergence of political parties and the imposition of party discipline have neutralized the remaining factors that necessitated a bicameral structure. Consequently, these developments have “rendered the Senate redundant” (Massicotte L., 2001, p. 155-156). According to some views, the decision to abolish the upper chamber was driven by the fact that it excessively delays the proceedings of the lower chamber and involves significant maintenance costs (Gélard P. 2006, p. 2). In Belgium, only “federalism rescued the upper house from abolishment.” (Popelier P., 2018, E – 219). Despite the aforementioned socio-political pressures, a bicameral system is more capable of effectively “creating separation between the executive and legislature,” (Stephenson S., 2017, p. 852) while in unicameral systems, on the contrary, parliament and government coexist in a “strange intertwining,”( Sajó A., 2003, p. 221) which exposes the parliamentary system to the dominance of the executive branch. In this regard, the existence of a second chamber becomes imperative when the legislative branch lacks internal mechanisms of control,

and the executive branch assumes a dominant position. (Madison J., 2008, p. 355). Bicameralism creates a legislative space that is less dependent on the influence of the executive branch and more capable of exercising effective control over its activities. The burden of forming and protecting unified state sovereignty is transferred to the upper chamber of territorial representation. Taken together, the aforementioned factors mitigate the risk of fragmenting popular sovereignty, indeed, the “A second, or upper, chamber creates a space within the legislature that does not necessarily have to be under the control of the executive a” (Stephenson S., 2017, p. 852), particularly within the framework of asymmetric bicameralism. Accordingly, the upper chamber is “better suited and better able to evaluate rigorously the executive’s legislative proposals and hold the executive to account for its actions as the head of the government. A” (Stephenson S., 2017, p. 852) This component is important in multiethnic societies.

Thus, the analysis of constitutional theory reveals that bicameralism is not a source of fragmentation of popular sovereignty. It is an institutional mechanism that ensures depth of representation, balance of power, more effective participation or protection of minorities, and ultimately the protection of unified state sovereignty within the framework of a democratic constitutional order.

### **Multiethnic Society and Bicameralism**

Societies characterized by a diverse array of ethnic, linguistic, religious, and cultural identities have become a focal point of constitutionalism in the XX–XXI centuries. In this context, a bicameral system is frequently regarded not merely as a mechanism for effective democratic functioning, but as an instrument that facilitates the integration of minority groups and the protection of their interests.

### **Multiethnic Society as a Prerequisite for the Establishment of Bicameralism**

In multiethnic societies, for the purpose of integration, policies should be based on the maximum consensus of the different, which requires moderate harmonization with the effectiveness of policies. Maintaining this balance is not easy and is not always flexible. A multiethnic society involves the coexistence of different ethnic, religious, linguistic or cultural groups within a single political entity. The exact normative definition of the concept of minority is difficult, however, it is still defined as “a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.” (OHCHR,

2010. P.2). Thus, in a diverse multiethnic society, the legitimacy of state institutions largely depends on the extent to which they ensure political representation and equal participation of different groups.

The concept of consensual democracy pays special attention to power-sharing mechanisms in a diverse society (Arend L., 1999, p. 197-201). In these societies, the functions of bicameralism are expanding: the upper chamber becomes a space for representing territorial and ethnic units, which contributes to political stability and conflict prevention. In a multiethnic society, a unicameral system is unable to adequately reflect the full spectrum of diverse interests, whereas bicameralism creates an additional institutional space for representation. In a diverse society, the achievement of a high degree of consensus is facilitated by chambers with distinct functions, where the second chamber serves as the optimal platform for territorial representation and, by extension, the representation of minorities.

Unicameralism, especially in the context of a possible monolithic majority in the lower chamber, is an unbalanced and destructive parliamentarism that creates risks of monopolizing power. The involvement of Serbs in Bosnia and Herzegovina, Kosovo Albanians in Serbia itself, and Ossetians and Abkhazians in Georgia<sup>1</sup> make apparent, that Proportionately, social polarization is exacerbating, especially in multiethnic societies, and even more so when forms of co-participation of ethnic minorities in state power are weak. Conversely, bicameralism, regardless of the system of government, allows minorities to participate in governance. Therefore, in the consociational concept, it is the primary institutional form of power sharing, “that ensures that the voice of the minority in the process of governing will be heard” (Minority Rights: Problems, Parameters, and Patterns in the CSCE, 1991, p. 26). In the United States, the implementation of bicameralism was a “protective device to protect the minority (i.e., the less populous states) from the tyranny of the majority.” At the same time, the components of consociationalism, in accordance with the goal, should serve the integration of society. Therefore, these mechanisms should be used in such a form and dose that the prerequisites contributing to the division of society are eliminated, and the process that has begun is not deepened and stopped. Therefore, the full implementation of the “representative” and “responsive” (Norton P., 2007, p. 3-18; Romaniello M., 2016, p. 1-16) functions of the upper chamber is given special importance precisely in multiethnic states.

Monoethnic societies are rare in the modern world. Regardless of the specific form of territorial organization, decentralization relies on the

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<sup>1</sup> We emphasize that this discussion does not include any other comparisons between Kosovo Albanians and Abkhazians and Ossetians. This is not a comparison of the cases of Abkhazia and Kosovo.

diversity of society. In a large part of European countries (Albania, Azerbaijan, Bulgaria, Denmark, Estonia, Turkey, Ireland, Cyprus, Latvia, Lithuania, Malta, Portugal, Georgia, Serbia, Slovakia, Armenia, Finland, Croatia, Sweden, North Macedonia, etc.), unicameral parliaments operate. However, due to various factors, bicameralism has nevertheless established in some countries, specifically Austria, Belarus, Belgium, Bosnia and Herzegovina, Great Britain, Germany, Spain, Ireland, Italy, the Netherlands, Poland, Romania, Russia, France, Slovenia, Switzerland, and the Czech Republic. The vast majority of these are unitary, with only five (Belgium, Bosnia and Herzegovina, Germany, Russia, and Switzerland) being federal, while Spain and Italy are regional.

Accordingly, modern bicameralism functions as a mechanism for territorial and minority representation, as well as a safeguard against the monopolization of power (non-pluralistic democracy). In decentralized and multiethnic states, the upper chamber serves as a body whose function is to provide representation for the constituent units of society at the level of central government, to facilitate political dialogue between these units and the central authority, and to ensure checks and balances, oversight, and co-participation in the formulation of state policy.

The existence of a multiethnic society leads to territorial decentralization of the state. whereas bicameralism ensures the participation of territorial units in the highest decision-making process of the state. For example, in Canada, ethnic and linguistic diversity plays an important role in the functioning of federal institutions. Although the Canadian Senate does not fully reflect the ethnic principle, it represents regional interests (Constitution Act of Canada, 1867, par. 22, 37). Switzerland is a classic example of consociational democracy, where the equal representation of the cantons in the upper chamber ensures the political integration of ethno-linguistic diversity (Federal Constitution of the Swiss Confederation, art. 150). Notwithstanding, the attitude toward bicameralism is not uniform. In post-totalitarian European countries, the adoption of a bicameral system has been less prevalent (e.g., Belarus, Bosnia and Herzegovina, the Czech Republic, Romania, Poland, Slovenia, and the Russian Federation).

It is noteworthy that the functions of both the parliament in general and the upper chamber in particular, as well as their respective methods of formation and electoral systems, exert a substantial influence on the given system of government (Jibghashvili Z., 2022, p. 116). The nature of parliamentary government tends toward concentration, rather than the separation of powers. Unicameralism, particularly when characterized by a monolithic majority in the lower chamber, results in a destructive form of parliamentarism, distorted by a lack of equilibrium. This, in turn, gives rise to significant risks of the monopolization of power. Proportionately, social

polarization is also exacerbating, especially in multiethnic societies and when minority participation in state power is weak.<sup>2</sup> Converse effect occurs in bicameral systems, where the upper chamber maintains a balance between the branches of government through oversight powers.

Bicameralism was an essential prerequisite for federal and regional states, where “the second chamber plays an essential balancing role between the center and the state’s geographical components.” (Gélard P., 2006, p.2) specifically in Austria, Germany, Spain, and formally in Russia.<sup>3</sup> However, in multiethnic regional states, we sometimes find equal (symmetrical [sometimes called “perfect bicameralism” (Passaglia P., 2018, E 1-29; Delledonne G., 2018, E. 71-95) or relatively equal-power chambers (Belgium, Bosnia and Herzegovina, Italy, Switzerland). In these cases, ethnic and territorial checks do not always weaken. Generally, the upper chamber possesses specific powers “as a veto.” Certain laws cannot take effect without its consent or may require a qualified majority in the corresponding lower chamber (Gélard P. 2006, p. 8). This is clearly evidenced by the consensual functions of the Belgian Senate.

The upper chamber veto certainly affects the efficiency of government. However, it is a negative restraining (not interventional) measure, it can only have a restraining effect on policymaking and cannot itself determine the direction of policy. By rejecting, the “veto” protects politics (like a negative legislator) from the risks of delegitimization. Under the Belgian Constitution, for instance, any legislation pertaining to the cultural and educational interests of linguistic groups must be adopted by a 2/3 majority of those present, provided that such a majority includes a concurrent majority of both French-speaking and Flemish-speaking representatives (The Belgian Constitution, art. 3). This means granting both linguistic groups official veto power (Lijphart A., 1977, p. 30). However, so far, no such law has been adopted (Jean-Claude Sch., 2006, p. 8).

The protective mandate of the upper chamber regarding ethnic groups is well-exemplified in Bosnia and Herzegovina. Specifically, any decision passed by the Parliamentary Assembly may be declared prejudicial to the vital interests of the Bosniak, Croat, or Serb peoples, provided such a declaration is supported by a majority of the respective ethnic delegates present and voting (Constitution of the Federation of Bosnia and

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<sup>2</sup> This is evidenced by the cases of co-participation involving Serbs in Bosnia and Herzegovina, Kosovo Albanians in Serbia, and Ossetians and Abkhazians in Georgia. At this juncture, it must be emphasized that this discussion regarding Kosovo Albanians, Abkhazians, and Ossetians implies no other comparison. This does not constitute a comparison between the specific cases of Abkhazia and Kosovo

<sup>3</sup> In the Russian Federation, the centralized monolithic nature of government, both at the horizontal and vertical levels, no longer allows for its objective rational consideration.

Herzegovina). If the majority of the Bosniak, Croat or Serb delegates of the upper chamber oppose the security of the vital interests of the constituent peoples, the chairman of the (upper) chamber of peoples shall convene a joint commission of three delegates to resolve the issue. Each of them shall be selected from among the Bosniak, Croat and Serb delegates. If the commission fails to resolve the issue within 5 days, the issue shall be referred to the Constitutional Court, which shall consider the issue in an expedited manner (Constitution of the Federation of Bosnia and Herzegovina). Tight deadline review of the “People’s” Commission of the Upper chamber and the Constitutional Court is a reaction to the destructive risks of this ambiguous procedure.

The “ethnic veto” can be a useful, but not always effective, mechanism for preventing dispute. The absence of such legislation within the Belgian legal framework suggests that this protective mechanism has effectively functioned as a “Scarecrow” (deterrent), consequently, the political impetus to curtail fundamental rights has remained dormant. In Bosnia and Herzegovina, notwithstanding the meticulously detailed and compromise-oriented procedures, the inherent ambiguity surrounding the scope of vital ethno-national interests has transformed this variation of the “ethnic veto” into a potent instrument for parliamentary obstruction and institutional fragmentation. “The mere threat of using the veto was enough to throw out a controversial issue, but it did not lead to balance and compromise... on the contrary, it led to political paralysis” (Boldt H., 2012, p. 505) and “it was used for the purposes of weakening the political and central government.” The “ethnic veto” undoubtedly possesses a opposite potential for disintegration. Therefore, its material scope and application must be precisely defined and oriented toward the aim of compromise rather than rigid isolationism. Such consociational measures of power-sharing can only be used correctly for their intended purpose to fill the risks of disintegration, rather than deepening them.

Some argue that the participation of ethnic minorities within executive structures (a function that upper chambers are unable to fulfill) is more conducive to their subnational involvement in the decision-making process, this is because their primary requirement is active participation rather than mere representation (Boldt H., 2012, p. 505). Consequently, the upper chamber must provide adequate opportunities for minority participation, at the constitutional level, there must be a synchronization between the self-governance of territorial units and their involvement in shared rule (Benz A., 2018, E – 33). The status of the upper chamber must be defined in a manner that prevents the concentration of power, thereby safeguarding minority interests against the “tyranny of the majority.” The burden of safeguarding unified state sovereignty shifts to the upper chambers

of territorial representation. They “should represent the institutional compromise according to which subnational units participate in the national decision-making (mostly in legislation, but not only) in exchange of their loss of sovereignty” (Palermo F., 2018, p. 51). The indissolubility of the upper chamber (referring to the inability to dissolve it, with rare exceptions [such as Austria, Belgium, Italy, and Poland]) is essential for maintaining the functional divergence between the two chambers.

Consequently, within multi-ethnic societies, bicameralism is utilized to achieve the following objectives:

- To ensure the security of ethnic groups;
- To foster social consolidation by legitimizing the unity of decision-making;
- To provide legal reinforcement for territorial autonomy;
- To facilitate conflict de-escalation.

Based on the above mentioned, bicameralism in a multiethnic society performs four important functions:

1. **Political Inclusivity** - refers to the representation of diverse ethnic, linguistic, religious, and regional groups. The existence of two chambers ensures broad-based representation, specifically, while the formation of one chamber is predicated on majoritarian popular support, the second facilitates the interaction between diverse groups. This *mechanism of inclusivity* is primarily established in societies characterized by historically rooted inter-group tensions;
2. **Conflict Prevention** - The requirement for broad consensus within the legislative process mitigates the risk of societal discord. The upper chamber frequently serves as a facilitator of compromise, specifically, decisions pertaining to ethnic or cultural differentiation undergo supplementary procedures. These mechanisms allow for a more comprehensive evaluation of minority interests, providing a safeguard that transcends decisions reached by a mere absolute majority;
3. **Enhanced Legitimacy** - The requirement for bilateral consent between the two chambers increase the authoritative weight of decisions. Under this framework, enacted measures transcend being a mere expression of the majority’s will. The legitimacy of the decision is heightened because it is predicated on the active participation of all diverse segments of society;
4. **Limiting centralization** - ensures a balanced distribution of power between the center and the regions.

However, bicameralism alone is not a universal solution for integration in multiethnic societies. If the upper chamber does not actually ensure effective representation of diverse interests, it may turn into a formal institution that simply increases the bureaucratic burden.

### **Institutional Foundations of the Formation of the Upper Chamber**

Societal diversity necessitates the pursuit of consensual democracy, which objectively creates the requirement for bicameralism. A bicameral parliament ensures not only the enhancement of the legislative process quality but also facilitates the integration of a pluralistic society into decision-making through increased participation.

It is obvious, the mere existence of an institutional form is not enough, but its substantive functioning and the corresponding political culture are also necessary. The effectiveness of bicameralism depends on its real competencies and representative nature. It is a common position that the majority of upper chambers is weak (Macharadze Z., 2017, p. 55-56, 59-62). The inequality of the chambers is considered a weakness, within which the upper chamber (members) do not have direct powers of legislative initiative and government accountability. The upper chamber has the power to veto decisions made by the lower chamber, the main source of policymaking. This functional balance stems from the institutional nature of the upper chamber - that it should be an inclusive and controlling voice of the people of the territorial units in the formation of general state policy. In classical theory, "two chambers, however similar, should be independent of one another. The membership of the one should not be subject to the leadership of the other, nor should the two of them be subject to a single political leadership" (Stephenson S., 2017. p. 852.). Conversely, in regional states, where the second chambers do not essentially embody the representation of the territorial unit, they are "subject to severe criticism either for their weakness and ineffectiveness, or for their capacity and ability to obstruct (Gamper A., 2018, p. Ed-IV). The rules for electing any political body stem from its nature. Accordingly, the purpose and functions of the upper chamber must be proportionally legitimized by the rules of formation. In the diverse rules for the formation of the upper chamber, the main thing is to uphold the principle that the second chambers essentially represent the interests of communities or territories (Russell M., 2001, p. 105-118). If the rules for forming the upper chamber are not similar to those for the lower chamber, this "may result in very different outcomes" (Gamper A., 2018, p. Ed-III ) in terms of the development of the democratic competition process. "Different parties may hold the majority in each chamber - with the opposition in one having the majority in the other" (Nussberger A, Özbudun E, Sjersted F, 2010, p. 9). and we obtain an essentially asymmetrical - "counter-

majoritarian upper chamber” (Passaglia P., 2018, p. 10). In terms of control over the chambers (we also share this position), an asymmetric ratio is considered more effective (Passaglia P., 2018, p. P. E-10.) Based on the research issue, our attention is primarily drawn to the “most common” (Passaglia P., 2018, E-13) models of “territorial” representation of the upper chamber. However, the restraining functions that the upper chamber should perform in multiethnic societies can also be read in the “counter-majoritarian” variation and sometimes in the symmetrical system. An upper chamber of territorial representation operates in many decentralized countries: Austria, Belgium, Bosnia and Herzegovina, Germany, Spain, the Netherlands, Russia, Switzerland. However, not all of them are strictly subject to this classification. One type of upper chamber may also include elements of another of these classifications. For example, the “territorial” chamber of Slovenia is a mixture of corporate components, while the symmetrical chambers of Belgium, Bosnia and Herzegovina, Italy, and Switzerland are derived from territorial representation.

In regional states, where second chambers are essentially devoid of territorial representation, “they are subject to severe criticism for their weakness and ineffectiveness, or for their strength and potential for obstruction” (Gamper A., 2018, p. Ed-IV). But the asymmetry of regional upper chambers is easily explained by the different origins of the legitimacy of the chambers: aristocratic, corporate, and indirectly elected second chambers, in terms of the strength of their legitimacy, cannot compete with assemblies that are directly elected by the people (Passaglia P., 2018, E-18).

Equal direct legitimacy of members of the chambers equalizes ambitions and makes the upper chamber inclined to participate equally with the lower in determining policy. The functional similarity with the lower chamber makes the upper chamber itself not a restraint on the policy determined by the lower chamber, but an equal participant in its determination. This constitutes a deformation of the classical nature of the upper chamber. Therefore, the alignment of the upper chamber functions of territorial representation with a method of formation (that is distinct and decoupled from the election of the lower chamber) significantly serves to preclude institutional identity between the two chambers. The symmetry of the chambers seems useless in multiethnic societies, where a coherent policy in the upper chamber should be the best tool for reacting to monolithic policies in the lower chamber due to possible natural ethnic imbalances. Equal direct election of members of the lower and upper chambers “either necessitates equality between the two or, if the second chamber has fewer powers than the first, infringes the principle of popular sovereignty” (Gélard P. 2006, p. 10). However, in some cases, the different rules for forming the upper chamber from the lower one do not necessarily determine their

functional difference and are merely a reflection of the federal structure of the state (Switzerland) (Gélard P. 2006, p. 6). A distinct method of formation, in and of itself, is insufficient for defining the appropriate constitutional status of the upper chamber.

In accordance with the method of election, defining the upper chamber not as a direct representative of the electorate, but as a body representing territorial units, constitutes a primary factor in determining the scope of its legitimacy. The principle of its formation is derived from its institutional and functional conception, which, in turn, serves as an expression of state diversity. When the upper chamber represents territorial units both functionally and through its mode of formation, it becomes an effective mechanism for regions to participate in the unified governance of the state. Conversely, it may be argued that the objective of bicameralism as a constitutional principle is precisely to establish the requisite conditions for the coexistence of regions within a unified state. The upper chamber serves as a venue for balancing and reconciling diverse local positions with the central political will. More precisely, the upper chamber becomes the center of regional political interests, the formation of a common political community. Therefore, in multiethnic societies, for the effectiveness of the consociational (Wolff. S, 2011, p. 162-195; Lijphart A., 1977, p. 21-52) system and for the dialogue of ethnic groups, bicameralism with territorial representation of the upper chamber is necessary.

Ensuring institutional asymmetry through divergent methods of chamber formation facilitates the distancing of the upper chamber from rigid party discipline, owing to the primacy of territorial interests. This clarifies the political demarcation between the two chambers, “This also reflects a form of separation of power, with “checks and balances”, rather than the dichotomy of position/opposition.” (Nussberger A, Özbudun E, Sjersted F, 2010, p. 9). The upper chamber, through its oversight function, protects the system of government from the merging of the legislative and executive branches. The separation of powers, which is weakly implemented in parliamentary systems, becomes more secure in an asymmetrical bicameralism. In cases of symmetrical bicameralism, the election of both chambers through equally direct suffrage and synchronized electoral cycles, coupled with their operation under unified party leadership, transforms them into politically homogeneous institutions (Tsotsoria N.,1999, p. 37) Such a political balance leads to a lack of control over the ruling political power. To ensure the distinctiveness of the two chambers, it is imperative that their operations are “not “subject to a single political leadership” (Stephenson S., 2017, p. 852). Therefore, the advantage of bicameralism is realized only if the second chamber is not under the control of the first... both chambers, regardless of their similarities, must remain independent of one another. In

addition, the diversity of the chambers requires that their activities not be “subject to a single political leadership” (Stephenson S., 2017, p. 852). It is precisely the asymmetrical relationship between the chambers, with a “weak” upper chamber, that is more effective in terms of control (*see*: Passaglia P., 2018, Stephenson S., 2017, Benz A., 2018). An upper chamber with “weak” constitutional status monitors not only the formulation of policy but also the efficacy of its implementation. In this manner, the presence of two chambers reinforces the separation of powers, addressing the Achilles heel of so-called “lazy” unicameralism.

Indirect elections of the upper chamber, as opposed to the lower chamber, are mainly common in decentralized states, where the upper chambers represent purely territorial units. The different rules of its formation also stem from the different functional concepts of the chambers. Therefore, it is essential that the upper chamber, by its functional definition, corresponds to the implementation of the function of territorial representation and does not duplicate the functions of the lower chamber. This reasoning has also been developed regarding the French Senate, that “the special rules for the formation of the Senate should give it a political character distinct from the National Assembly” (Kverenchkhiladze G., Melkadze O., 1997, p. 95). Therefore, it is important that the rules for electing the upper chamber are not similar to those of the lower chamber, and that the rules of election correspond to its status - to be a representative body of territorial units, not parties.

### **Models of Upper Chamber Formation**

Three dominant models of upper chamber formation are distinguished, featuring various structural variations and hybrid configurations: directly elected, indirectly elected, appointed, and mixed. Let us examine each of these in detail.

#### **Direct Election**

Direct election of the upper chamber is used in both federal and unitary states. Classic example of this model is the United States, where members of the Senate are directly elected. Similar practice is shared in Switzerland, Poland, the Czech Republic, Italy, and Romania. The direct election model uses both majoritarian and proportional systems. Direct elections strengthen the democratic legitimacy of the upper chamber but increase the risk of political competition with the lower chamber. In such cases, the necessity for a clear delimitation of powers frequently arises. In Romania, for instance, the senatorial mandate is distributed through a proportional representation system based on regional constituencies. Each constituency elects between 2 and 13 senators. In Poland, between 2 and 4

senators are elected from each of the 40 voivodeships (regions) using a majoritarian system based on a relative majority in a single round, in proportion to the population size. Although the formation process of Italy's 200-member Senate incorporates several components, 75% of its composition is elected through direct suffrage via a majoritarian system.

A portion is elected from the regions through proportional representation. Each region elects seven senators, except for Valle d'Aosta, which elects one, and Molise, which elects two. In addition to these elective components, five former Presidents may join the Senate at their own discretion. The Senate of the Czech Republic consists of 81 members elected for six-year terms, subject to a one-third rotation every two years; this mechanism ensures its institutional continuity. One-half of the Senate is elected through direct suffrage by an absolute majority. In Switzerland, elections for the Council of States are regulated by the cantons themselves; consequently, voting procedures exhibit variations across cantons. In practice, however, nearly all cantons have adopted a direct majoritarian system, with the exceptions of the cantons of Jura and Neuchâtel, which opted for proportional representation (Marcelli F., Tutinelli R., 2013, p. 166).

### **Indirect Election**

In the case of indirect election, members of the upper chamber are elected by regional representative bodies. For instance, in Austria and France, regional and local representatives participate in the formation of the upper chamber. A similar model operates in the Netherlands and Bosnia and Herzegovina. This system more effectively reflects territorial interests and diminishes direct political competition with the lower chamber, although it frequently draws criticism regarding its perceived democratic deficit. While such criticism may be exaggerated, the inherently complex nature of the voting methods employed clearly obscures the assessment of the members representational legitimacy. Indirect elections are not undemocratic per se, provided they are grounded in clear and transparent rules (Gélard P. 2006, p. 10). Direct democracy, however, does not always serve as a means of justice. It is also considered wrong to form a second chamber with different powers at the same time. The election procedure should answer the question of what purpose the second chamber serves and the specific rules for its selection (Gélard P. 2006, p. 10).

Bosnia and Herzegovina is a complex union whose constituent subjects comprise three „constituent peoples“: Bosniaks and Croats (united within a federation of ten cantons) and Serbs (represented by the Republika Srpska). In the 15 member House of Peoples, five Croats and five Bosniaks are elected by the Federation's legislature (independently by each „people“), while five Serbs are elected by the Parliament of the Republika Srpska.

The House of Peoples is elected exclusively from the ranks of the so-called “constituent peoples” - Serbs, Croats, and Bosniaks. This institutional arrangement effectively results in prohibition on the election of any other ethnic groups residing in the country (*see*: Sadikovic C. 2006., P. 15)

The Belgian Senate, consisting of 60 senators, is formed mainly through indirect two-tier elections, with an emphasis on representing the linguistic community (The Belgian Constitution, art. 67).

### **Appointment: Representation by Virtue of Office (Ex Officio)**

In the appointment model, members of the upper chamber are appointed by the executive branch or other state institutions, or their membership is conferred by virtue of their office. In Germany, the Bundesrat represents a classic “council-type” model, where its members are representatives of the Land governments (state governments). Similar elements can also be observed in the Russian Federation. In this model, the upper chamber more distinctly reflects the positions of the executive branch, which creates a challenge for the balance of the separation of powers.

### **Selection Through Mixed (Combined) Systems**

Mixed systems integrate elements of both direct and indirect elections. For instance, the upper chambers of Belgium and Spain are formed through a combination of direct popular vote and the participation of regional bodies. This model creates an institutional hybrid that seeks to reconcile democratic legitimacy with territorial representation. The Spanish Senate serves as the upper chamber of territorial representation, where four senators elected from each province via a majoritarian system are supplemented by the differentiated representation of the islands, elected by their respective legislatures (in accordance with their status, which must in all cases ensure adequate proportional representation). Furthermore, the institutional continuity of the Senate’s activities is not maintained, as its entire membership undergoes simultaneous renewal every four years (The Spanish Constitution, art. 69). In the Spanish Senate, 208 members are elected by universal, free, equal, direct, and secret suffrage. Each province elects four senators, the major islands (Gran Canaria, Mallorca, and Tenerife) elect three senators each, while the smaller islands (Ibiza-Formentera, Menorca, Fuerteventura, La Gomera, El Hierro, Lanzarote, and La Palma) elect one senator each, finally, the African enclaves of Ceuta and Melilla elect two senators each. In addition, the parliaments of the Autonomous Communities appoint one senator each, plus an additional senator for every one million inhabitants in their respective regions. Under this system, the number of appointed senators is adjusted according to population dynamics and, consequently, varies for each election cycle.

The procedure for forming the upper chamber is not a technical issue, it determines the democratic legitimacy of the chamber, its role, and the specifics of its relationship with the lower chamber. Direct election strengthens the political autonomy and mandate of the upper chamber. In such systems, the upper chamber often possesses extensive legislative competence, leading to the formation of symmetrical bicameralism. However, strong legitimacy also increases the risk of political competition and institutional confrontation.

In such systems, the upper chamber often possesses extensive legislative competence, leading to the formation of symmetrical bicameralism. However, strong legitimacy also increases the risk of political competition and institutional confrontation. Although such systems are often criticized for being “less democratic,” (Pactet P, Mélin-Soucramanien F., 2012, p. 674) their legitimacy derives from the democratic origins of regional bodies and aims to ensure multi-level representation.

Appointment or ex officio models strictly link the upper chamber to the executive branch. In this framework, the upper chamber functions not as a body based on individual mandates, but as the institutional representation of subnational governments. Consequently, it is less politicized, yet more effectively reflects the interests of the federal units.

The mixed model seeks to balance democratic legitimacy with territorial and ethnic representation. Particularly in multi-ethnic societies, the method of forming the upper chamber often serves the purpose of institutional conflict management facilitated through mechanisms such as quota systems, partial rotation, and veto powers.

Ultimately, the method of forming the upper chamber determines its functional identity: whether it serves as a powerful, equal co-legislator, a protector of territorial interests, or a revisory and stabilizing body. Consequently, the logic of asymmetrical bicameralism is more consistent with indirect, appointive, or mixed models, whereas an upper chamber elected through direct suffrage inherently gravitates toward a symmetrical system.

### **The Interrelation Between the Institutional Nature and Formation Methods of the Upper Chamber: Trends and Consequences**

The mosaic of multi-ethnic societies, combined with their respective territorial arrangements, directly influences and dictates the determination of the chamber formation method. In Belgium and Bosnia and Herzegovina, this component is not based solely on territorial representation but is significantly reinforced by an ethnic dimension. This form of communal representation closely resembles territorial and functional representation, however, it specifically pertains to linguistic, ethnic, cultural, or religious

groups. This form of composition is usually “associated with consociational arrangements, intended to distribute power between communal groups. This may be necessary as part of a peace agreement following inter-ethnic violence or to prevent a state with deep cultural or linguistic divisions from falling apart” (Bulmer E., 2017, p. 17). Ethnic-based quotas allow for a proportional reflection of the social structure, which should ensure power-sharing with minorities. However, in Bosnia and Herzegovina, the discriminatory allocation of mandates solely to the “constituent peoples” (Bosniaks, Croats, and Serbs) excludes other ethnic groups from the exercise of power. Therefore, it is essential to maintain a balance so that quoting becomes a unifying link rather than a factor that deepens divisions or creates new points of contention.

While the Spanish Senate does not employ a quota system, the principle of anchoring representation to population proportionality could serve as a mechanism for maintaining and reflecting ethnic balance. However, universal, non-quota-based representation leaves dominant ethnic groups in the majority of provinces and islands in a preeminent position, thereby rendering regional representation non-pluralistic. In decisions requiring joint action by both chambers, congressmen and senators alike participate in voting during joint sessions based on party affiliation rather than territorial representation (Tsotsoria N., 1999, p.33). Such a construction reinforces the party consolidation of representation and leads to an improper reflection of the Senate status as the upper house (Tsotsoria N., 1999, p.33). German and Russian ex-officio representation clearly reflects the interests of the regions, however, it substantially contradicts the principle of popular representation, making it less compatible with the nature of parliamentarism as a form of representative democracy. Nevertheless, among various forms of “territorial” representation, some scholars grant preference precisely to the German “Council model”. Its effectiveness is explained by “the strict connection, it establishes between local government and the central/federal decision-making process” (Passaglia P., 2018, p. E-14). Thus, the nature of the territorial representation of the upper chamber is more effectively conveyed through indirect election. By employing this method alongside ethnic balance, the representation of subnational authorities through their oversight of the lower chamber and the executive more effectively presents these units as constituent subjects participating in the formation of a unified popular sovereignty.

Multi-level elections do not fully eliminate the partisan component (nor should this be the goal), however, since the election of members is conducted by pluralistic local representative bodies, they more effectively embody political compromise. The prohibition of forming parliamentary groups within the Senate also serves as a tool to reduce partisan influence.

Clearly, the indirect election of the upper chamber and even more so, appointment or ex-officio representation does not constitute the ultimate expression of popular representation, (Sajó, A., 2003, p. 185) however, it clearly reflects territorial representation. In this case, a senator is bound not so much by partisan affiliation as by the interest of participation of the respective territorial unit within a unified state.

From the perspective of independence of representation, the issue of the term of the upper chamber is also essential. The Belgian Senate is elected in its entirety every four years in parallel with the Chamber of Representatives, and the dissolution of the lower chamber results in the dissolution of the Senate as well (The Belgian Constitution, art. 46). This diminishes its role and, similar to the Spanish Senate, leads to a lack of autonomy and a renunciation of the specific influence of the Senate within the legislative power. In contrast, the Senates of the United States, Poland, and the Czech Republic are subject to rotation. On the one hand, a longer term compared to the lower chamber, and on the other, periodic rotation, determine the stability of the upper chamber and, consequently, the continuity of the government cycle. Rotation makes the second chamber more dynamic, which is essential for exercising influence over the lower chamber through deliberation and analysis.

When the second chamber represents territories, there is usually an asynchronicity of terms of office, this is especially evident when the second chamber is subject to partial rotation. The asynchronicity of the terms of office of the chambers strengthens the separation of powers and oversight capabilities, protecting the political system from one-party monopolization. A shift in electoral choice at the subnational level, differing from the national trend, serves as a reaction to dissatisfaction with central government policy. This not only strengthens oversight of the activities of the lower chamber but has also functioned as a political pulse indicator for the government. For instance, in Germany, such shifts have led to the artificial initiation of a vote of no confidence and the calling of early elections for the Bundestag, most recently in 2005. Separating the election cycles of the chambers in terms of time prevents them from having an identical political composition, which would otherwise render the upper chamber less capable of effective oversight. From this perspective, an efficient mechanism is not the determination of a fixed general term for the upper chamber, but rather its periodic partial rotation.

As we already mentioned, the similarity of the method of election primarily determines the symmetry of the chambers. In such cases, “it is then somewhat anomalous to grant fewer powers to the second chamber, since they have the same democratic legitimacy” (Gélard P. 2006, p. 5; *see also*: Passaglia P., 2018, p. 22). On the contrary, “the power of second chambers

tends to be constrained (first and foremost in fiscal policy) if they lack democratic legitimacy compared to the popularly elected chamber of parliament” (Benz A., 2018, p. 35). However, direct election in itself is not a guarantee of symmetry. At the same time, the direct election of the Senates of the Czech Republic, Italy, Poland, Romania, and Switzerland, like the lower chambers, grants them the same sense of democratic legitimacy as that possessed by the first chamber. According to one view, the direct election of both chambers “necessitates equality between the two or, if the second chamber has fewer powers than the first, infringes the principle of popular sovereignty” (Gélard P. 2006, p. 10). Despite direct election, due to the diversity of the electoral system, the chambers may still maintain distinct political characters, “in Poland and in the Czech Republic, the Senate does not seem to be on an equal footing with the first chamber (Passaglia P., 2018, p. E-22), unlike Italy and Romania. The direct election of both chambers on an equal basis will undoubtedly exacerbate the sense of equality between them. Conversely, in some cases, a different method of formation of the upper chamber does not necessarily result in a functional difference and is merely a reflection of the federal structure of the state (as seen in Bosnia and Herzegovina, as well as Switzerland) (Gélard P. 2006 p. 6).

In general, the election of the upper chamber entirely through a direct method is less common. The majority of them are formed through indirect or mixed systems. Direct elections (to varying degrees depending on the electoral system, but ultimately nevertheless) determine the proximity of the representative to the party and the electorate. Therefore, when voting on matters within the interest of the represented unit, these factors influence the representative. Consequently, the component of indirect election does not indicate a lack of democracy. Election by the representative bodies of a territorial unit frees the representative from partisan constraints and makes the representation of the unit more effective.

A review of the methods of formation of the upper chamber reveals that the electoral system does not always respond to the constitutional intent of the functional definition of the chamber, as a result of which they have become “political-democratic chambers” (Palermo F., 2018, p. E-52). In the struggle for the functional relationship between the chambers and the formation of the final balance, a large share is attributed to political factors, but the method of their formation is of particular importance. Effectiveness of upper chamber “can be achieved when the territorial and the political element coincide and overlap” (Palermo F., 2018, p. E-54). In certain regional states (Spain, Italy), its territorial representative nature is formally provided for. However, despite this, they have failed to evolve into a center of territorial representation (Palermo F., 2018, p. E-60). Therefore, the upper chamber, as a form of consociational mechanism, must be correctly selected

so that it effectively responds to its objective and does not serve fragmented corporate interests, as is the case in Belgium, for example. The communal component, considering the peculiarities of Belgian federalism, has strengthened the role of the Senate as a chamber of linguistic groups (communal representation) (Palermo F., 2018, p. E-60) and protects them, but it fails to serve the participation of territorial units in the formulation and adoption of federal decisions.

A rational institutional solution will be provided precisely by the alignment of electoral and political factors. Experience reveals that for the second chamber to become an effective body of territorial representation, it is essential to conduct a correct analysis of political influence factors and to establish a precise correlation between them and the method of creating the upper chamber. Within the framework of general classification, such determining political factors may include: the type of territorial arrangement and individual peculiarities, the ethnic composition of society, the electoral rules and the party system, the voting rules in the second chamber (block or territorial [rarely individual]), and so on.

In multi-ethnic societies, for the purpose of real consolidation and to avoid the emergence of new divides, it is important that the internal ethnic balance be considered when defining the rules for electing individuals from units where minorities reside. The positive discrimination necessary for minority representation should not result in the sharply disproportionate restriction of others.

### **Perspectives on Bicameralism in Georgia**

One of the significant issues of Georgian parliamentarism is the possible transformation of the parliament into a bicameral system. The Constitution of Georgia provides for the possibility of establishing a bicameral parliament, although its implementation is directly linked to the full restoration of the jurisdiction of Georgia over the entire territory of the state (Constitution of Georgia, art. 37. p.1). In the theory of constitutional law, such norms are considered conditional constitutional clauses, the implementation of which depends on the occurrence of specific political or legal circumstances (M. Tushnet, 2014, p. 105). Such an approach aims to ensure the stability of the constitution and, at the same time, to define the perspective of the structural development of state bodies. The constitutional idea of the bicameral parliament model in Georgia is precisely based on the principle that the upper chamber - the Senate - is elected by territorial units. Consequently, in conditions where the State cannot exercise jurisdiction over its entire territory, the full realization of the representative principle of the Senate is impossible.

To understand Article 37. p. 1 of the Constitution of Georgia, we must clearly define what the “full restoration of jurisdiction” actually means in a legal sense. State jurisdiction implies the ability of the state power to exercise legislative, executive, and judicial authority over the entire territory of the country (Malcolm Sh., 2017, p. 480). Thus, the full restoration of jurisdiction means not only the formal ownership of the territory but also the existence of effective control by the state. In this context, several approaches should be distinguished.

**The first** - The strictest interpretation is based on the principle of effective control, according to which the constitutional requirement will be considered satisfied only when the state of Georgia realistically exercises authority over the entire territory of the country. This approach is also matches with the widespread understanding in the international law practice, according to which state jurisdiction is linked to factual governance (Crawford J., 2019, p. 447-450). Under this interpretation, the creation of a bicameral parliament becomes possible only after the full restoration of jurisdiction over the entire territory of Georgia, including Abkhazia and the territory of the former South Ossetian Autonomous Region.

**The second** - approach is based on a normative-legal interpretation, according to which the constitutional provision may be understood as a declaration of state sovereignty rather than a strict requirement for factual control. According to this view, the constitutional order of Georgia already extends over the entire territory of the country *de jure*, regardless of its implementation, that is temporarily restricted. Consequently, the argument, according to which constitutional jurisdiction formally already exists, may be considered valid. However, this interpretation is less consistent with the purposive understanding of the constitutional text, as the words “after the full restoration” point to a future factual event related to the actual exercise of governance.

**The third** - approach is based on a teleological interpretation, which focuses on the purpose of the norm. The purpose of the constitutional norm may be interpreted as the creation of such an institutional system that ensures the representation of the regions. From this perspective, a transitional model may be considered, according to which representatives of the autonomous republics, including those from the displaced community or relevant legitimate authorities, would be represented in the Senate. However, such a model requires a flexible interpretation of the constitutional text or a corresponding constitutional amendment.

The version of the Constitution of Georgia in force until 2017 provided for the establishment of a bicameral system upon the creation of appropriate conditions throughout the entire territory of Georgia and the formation of local self-government bodies (Constitution of Georgia, art. 4. P.

1.). By historical interpretation, this provision specifically implied the restoration of territorial integrity, originating from the post-conflict genesis of the Constitution. The second condition of this provision - the formation of local self-government bodies has been fulfilled. It is noteworthy that the condition regarding the “creation of appropriate conditions” was narrowed by the 2017 constitutional amendments to “after the full restoration of Georgia’s jurisdiction throughout the entire territory of Georgia,” (Constitution of Georgia, art. 37. P. 1.) aligning it with the theory of effective control.<sup>4</sup>

Today, bicameralism is no longer exclusively linked to federalism and regionalism. In multi-ethnic societies, ensuring and encouraging the representation of minorities and their participation in governance has become a driving motive for its establishment. At the same time, when a constitutional promise exists regarding - this form of involvement for an estranged region, that region must perceive a corresponding readiness. Considering these and other factors, we believe that to increase the effectiveness of the separation of powers, Georgia can already move closer to classical parliamentarianism. This decision will serve as a measure to escape the tradition of power concentration that has been established in Georgia under the conditions of a unicameral system, regardless of the specific model of governance. Therefore, through a dynamic interpretation of Article 4(1) of the Constitution of Georgia, appropriate conditions could have been considered established upon a certain stabilization of the socio-political system, even regardless of the restoration of territorial integrity.

Thus, Article 37. P. 1. of the Constitution of Georgia is a significant constitutional mechanism that links the implementation of the bicameral model of parliament to the restoration of the territorial integrity of the state. Its interpretation is possible within the framework of both strict and relatively flexible legal approaches. However, a systemic and teleological analysis of the constitutional text indicates that the primary goal of the norm is to ensure regional representation only under conditions where the state fully exercises jurisdiction over the entire territory of the country.

As we already mentioned, a bicameral system provides a means for the distribution of powers between the central government and the regions. The lower chamber serves the representation of the population, while the upper chamber ensures that the interests of territorial units are considered.

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<sup>4</sup> We believe, by failing to provide an opportunity for the involvement of the estranged part of society prior to unification, this edition exacerbated the weakness of the Constitution's democratic legitimacy. This weakness originates from the lack of participation of the population residing in the territories of Abkhazia and the former South Ossetian Autonomous Region in the adoption of the original version of the Constitution.

According to Article 37 of the Constitution of Georgia, the Senate is formed through a mixed procedure - consisting of members elected in autonomous and territorial units and five members appointed by the President of Georgia.

Thus, the mixed model of the Senate formation combines elements of territorial representation and the participation of the central government. The principle of regional representation ensures the direct participation of regions in legislative and other high-level political processes, the protection of the interests of territorial units, and the political balance between the center and the region.

Currently, the jurisdiction of Georgia does not extend over the territories of the Autonomous Republic of Abkhazia and the former South Ossetian Autonomous Region. However, with regard to the future bicameralism of the parliament, the Constitution of Georgia does not specifically distinguish the representation of the former South Ossetian Autonomous Region. Considering the representation of the Autonomous Republic of Abkhazia in the Senate is particularly important, as it reinforces the principle of the territorial integrity of Georgia and creates a legal and political basis for the peaceful resolution of the conflict. However, given the specific political reality of Georgia, it is desirable that equal attention be paid to the other occupied territory (the Tskhinvali region) during the formation of the Senate. This would strengthen the support for the peaceful conflict resolution policy and promote an equal perception of the regions' importance.

As observed, within the framework of this institutional model, all regions are involved through direct representation. However, the involvement of the central government in the formation of the upper chamber undermines the potential for decentralization. Regions may perceive this as a limitation of their political role in relation to the central government, which creates legal and political problems regarding balance, efficiency, and fairness within the bicameral system.

Generally, bicameralism is a constitutionally regulated tool through which it is possible to balance the decisions of the central government by perceiving and integrating regional interests. In Georgia, considering the multi-ethnic context, bicameralism should be viewed both as an instrument for the decentralization of governance and as a mechanism for political balance, ensuring a balance between the interests of all territorial units and national legislation. Ultimately, the implementation of such a Senate model in Georgia will contribute to a more effective vertical distribution of power, efficient control of the lower chamber, and the enhanced representation of regional (multi-ethnic) interests. All of this will contribute to the integration of a diverse society. Therefore, we believe that the upper chamber should

fully reflect only regional representation, and the central government should not be interventionist in the nature of its regional representation.

The implementation of a bicameral system in Georgia is linked to increasing the efficiency of state governance and strengthening democratic institutions. This model implies a functional differentiation of legislative power between the lower and upper chambers, which ensures a balance of power and a multi-level review of decisions.

Under a bicameral system, legislative initiatives primarily originate from the lower chamber, which represents the institution of direct representation of the population. The upper chamber - Senate - performs the function of reviewing and refining the legislative process. In the Georgian context, the Senate may deliberate upon and edit draft laws, exercise control over the exercise control over improving the legislative acts, and, in certain cases, suspend or return draft laws for reconsideration. The upper chambers have the similar role in Germany and the USA.

Furthermore, the Senate may become an institutional representative of regional interests in relation to the executive branch. For Georgia, characterized by a high level of centralization, this function is particularly significant. Specifically, the Senate should review government programs through the lens of regional development and protect regional interests. A similar role is held by the Senates in France, Austria, Slovenia, and others, which actively represent the interests of territorial units. The Senate should also be involved both in the formation of the judiciary and in the process of electing high-ranking officials.

Under a bicameral system, it is possible to establish a new balance between the President and the legislative body. The Senate will evaluate the draft law adopted by the lower chamber and, finally, deliberate upon the President's potential remarks during the voting on the objections submitted by the President. The involvement of the Senate and regional representatives in the presidential elections will provide a rational character to the deformed multi-level procedure of electing the President. Electing the President through the qualified consent of the two primary actors of parliamentary governance - political parties and regions, will enhance the quality of the President's representation and, proportionally, the effectiveness of their arbitral function, serving the vital goal of integrating a diverse society. By being elected through a compromise-based, multi-stage procedure, a President closely linked to these two fundamental subjects of parliamentarianism will, through their capacities, serve as a unifying figure (Sisk T., 2013, p. 86-88). A compromise between the center and the regions in the election of the President grants them a "neutral character and allows them to exercise the powers granted to them from an impartial standpoint" (Pegoraro L., 2016, p. 85).

The Senate will also carry out the refinement of legislation and political control, which will naturally reduce the unipolar influence of the central ruling political parties. Through the participation of minorities in Parliament, the Senate will facilitate the consolidation of political pluralism within a diverse society and mitigate the risk of power concentration within the central government. In this regard, the existence of the Senate can be viewed as a positive instrument for supporting political balance and democratic processes. Thus, the institutional existence of the Senate can be evaluated as a strategic tool for ensuring political equilibrium and strengthening democratic processes, maintaining a balance between the interests of both the central government and regional units.

## **Conclusion**

Based on the present research, it can be stated that in modern constitutional systems, bicameralism is not merely a technical form of organizing legislative power, but a significant institutional mechanism that serves to strengthen democratic legitimacy, balance power, and provide an adequate reflection of the diverse interests of society in governance. Particularly in multi-ethnic societies, a bicameral parliament performs a politico-integrative function and creates space for the democratic consolidation of society.

Specially in multi-ethnic societies, a bicameral parliament performs a politico-integrative function and creates space for the democratic consolidation of society. The existence of two chambers creates internal institutional control, reduces the risk of power concentration, and strengthens the quality of representation. In this context, the upper house emerges as a checks and balances mechanism, which is particularly effective when it truly reflects the interests of territorial units and minorities. It is indisputable that the importance of bicameralism increases further in multi-ethnic societies. In such cases, it facilitates the political participation of ethnic groups, reduces the risk of the escalation of conflicts, enhances the legitimacy of adopted decisions, and decreases the scale of centralization. However, the mere existence of a two-chamber structure is not sufficient, its effectiveness depends significantly on the method of the formation of the upper house and the functional relationship between the chambers.

It is indisputable that there is no universal method for the election of parliamentary chambers that is optimal for all states. Each model must derive from the historical, social, and political context of a specific country, as well as from the architectonics of society. At the same time, in multi-ethnic and decentralized states, a model that ensures the principle of territorial representation and creates asymmetric bicameralism is considered more

effective, where the lower house determines the unified state policy, while the upper house performs its revisionary and restrictive functions.

In the context of Georgia, the perspective of bicameralism is closely linked to the territorial arrangement of the country, the degree of decentralization, the challenges of the integration of the multi-ethnic society, and ultimately, the goal of consolidated democracy. The Constitution of Georgia links the formation of the upper house to the full restoration of the jurisdiction of the state over the entire territory of Georgia, thereby emphasizing the fundamental importance of the territorial representation of the upper house (the Senate). This conditional model combines both legal and political objectives: on the one hand, it ensures stability of constitutional order, while on the other hand, it defines the direction of the development of the state arrangement.

The mixed model of the formation of the Senate proposed for Georgia, which combines territorial representation with members appointed by the President, creates an institutional balance. However, at the same time, it gives rise to a discussion regarding the relationship between centralization and regional autonomy. We believe that it is appropriate to base the upper house entirely on territorial representation, which will strengthen the political role of the regions and reduce the influence of the central government over them.

The implementation of a bicameral system in Georgia will significantly contribute to the improvement of the quality of the legislative process. The Senate, as a revisionary and restrictive body, will ensure a more thorough consideration of draft laws, while its participation in the formation of the executive and judicial branches and in the control of the government will create additional mechanisms of balance. At the same time, the involvement of the Senate in the protection of regional interests and in control over the central government is particularly important to neutralize high centralization.

Since 1995, we have had concentrated and overly stable executive power under the conditions of unicameralism. In a unicameral system, amidst a polarized and weakly competitive party system, a rigid concentration of executive power occurs, which creates risks of disintegration and the deformation of democracy. Bicameralism, as a classical variation of parliamentarism, is recognized even by the Constitution of Georgia as a superior model and choice (and not only because of the Autonomous Republic of Abkhazia). Precisely for this reason, linking it to the full restoration of jurisdiction over the entire territory of Georgia is inexplicable, and its prolonged delay fails to ensure the fundamental right to the free development of a human being. Severing the link between the perspective of bicameralism and the full restoration of the

jurisdiction of Georgia over its entire territory, and its timely establishment, can also be utilized as an extended hand for conflict resolution.

Ultimately, the implementation of bicameralism in Georgia should be viewed as a strategic institutional reform that serves not only to increase the efficiency of state governance but also to strengthen democratic pluralism, reduce the concentration of power, and ensure the integration of the multi-ethnic society. The formation of the Senate, as a body of regional representation, will create the opportunity for the interests of various territorial and ethnic groups to be fully reflected in the sovereign policy of the unified state. In this manner, a bicameral parliament can become the constitutional instrument that ensures the deepening of democratic consolidation, the strengthening of state unity, and the enhancement of the perspective of peaceful conflict resolution.

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