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A new index of bicameralism: taking legitimacy seriously

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ABSTRACT

Second chambers frequently form part of national institutional configurations, but their impact on policy making can vary from negligible to all-important veto players. The standard approach is to assess their importance via two dimensions: formal powers and compositional differences vis-à-vis the first chamber. In this paper, we conceptualise a third dimension: the legitimacy of second chambers. We subsequently measure the strength of second chambers in 14 countries and develop a new index of bicameralism. Running several quantitative analyses with a total sample of 29 OECD countries, we show how this index is significantly correlated to lower state intervention in the economy and greater regional autonomy.

KEYWORDS Bicameralism; second chambers; legitimacy; index; policy effects

Introduction

The impact of second chambers derives not only from their authority and specific majority-minority constellations (Lijphart, 2012), but also from their legitimacy (Russell, 2013a). Legitimacy – the widespread acceptance of an institution’s existence and functions – is what enables political decisions to have the requisite effect. If given, it lessens the need for additional resources to be spent on ensuring adherence to the rules thus changed or maintained (e.g. Grafstein, 1981, p. 51). Regarding second chambers in particular, despite repeated and prominent calls for legitimacy to be taken into account (see more fully section 2), we yet lack a widely applicable measurement.

Thus, the first contribution of this paper is to conceptualise second chamber legitimacy by distinguishing between input, throughput, and output aspects and to then measure it across 14 bicameral systems (section 3). We also discuss different aggregation mechanisms to address the complex relationship between powers, parties, and perceptions. Our second contribution lies in assessing the impact of overall second chamber

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strength thus defined on key aspects of regime performance across 29 developed democracies (14 bi- and 15 unicameral). We find that strong bicameralism reduces state intervention in the economy and fosters decentralisation, but is not related to institutional inertia (section 4). The final section concludes and outlines the need for further research.

Why (no) legitimacy?

For all its centrality to political institutions, surprisingly little actual measurement has gone into assessing their legitimacy. At best, the entire set of political institutions – ‘the state’, ‘the government’ etc. – is credited with or described as lacking in legitimacy. That lacuna is even more striking when it comes to second chambers, given that currently some 42 per cent of all countries in the IPU (2021) database are listed as bicameral, from Afghanistan’s House of Elders to Zimbabwe’s Senate. Among democracies, the share of bicameral countries even reaches two thirds (Uhr, 2009, p. 477). And yet the dominant view remains a two-dimensional focus on the formal powers of upper vis-à-vis lower chambers, on the one hand, and on differences in their socio-demographic, territorial and/or partisan composition, on the other (Lijphart, 2012, ch. 11; Sartori, 1994, p. 183ff.; Tsebelis, 2002, p. 143ff.). While both dimensions are closely linked to legitimacy, neither covers it fully.

The formal power of second chambers – the first dimension – is assessed authoritatively through the *symmetry-asymmetry continuum* by Lijphart (2012, p. 192ff.). The benchmark is equality of powers with regards to the first chamber: anything at least approximating this situation results in a symmetrical bicameral system, everything else in asymmetry. Yet already for Lijphart (2012, p. 193) the legitimacy of second chambers was indispensable to comprehending their role: ‘Second chambers that are not directly elected lack the democratic legitimacy, and hence the real political influence, that popular election confers’. However, not only is legitimacy reduced to members’ selection method, but rather than assessing it separately from powers and composition, legitimacy disappears within the symmetry-asymmetry continuum (Lijphart, 2012; cf. also Russell, 2013a, p. 375).

The composition of upper chambers – the second dimension – is assessed by Lijphart (2012, p. 194ff.) along the *incongruence-congruence continuum*. The lower chamber again serves as the yardstick. Lijphart’s categorisation of second chambers on this dimension is a mixture of the population size of electoral districts (inequality and malapportionment), electoral rules (e.g. in France), and the actual importance of parties (e.g. in Ireland; Lijphart, 2012, p. 197f.). Legitimacy of some kind again plays a role, as when ‘British and Botswanan bicameralism, although technically incongruent, is

"demoted" by half a point because the upper houses are relics of a predemocratic era' (Lijphart, 2012, p. 200f.).

The importance of assessing the legitimacy of upper chambers as its own, third dimension has been most forcefully made by Russell (2013a). In comparing the UK House of Lords before and after the 1999 reform as well as drawing on the Canadian and Australian Senates, she shows that also unelected chambers can be seen as legitimate; that an institution's legitimacy co-depends on its composition, in general, and its partisan and/or territorial representativeness, in particular; and that '[e]ven directly elected second chambers can be accused of illegitimacy' (Russell, 2013a, p. 385). Unfortunately, no quantitative measures or even individual indicators to assess the degree of (il-)legitimacy of those three second chambers are proposed.

To our knowledge, the only author to have attempted to measure the legitimacy of second chambers is Vercesi (2017). However, he rests his categorisation on the same official sources used for the first two dimensions. While this enables him to widen his empirical coverage, inevitably a certain rigidity is introduced since such rules only rarely change. Legitimacy is thus assessed via two variables: first, how members of second chambers get there, with the code assigned ranging from 0 = 'wholly hereditary' to 10 = 'wholly directly elected'; and second, who they are supposed to represent. Representation ranges from 1 to 10, with four additive components: 'the chamber represents high-profile figures and expertise' (1 point); 'the chamber represents interest groups and vocational categories' (+2 points); 'the chamber represents minorities' (+3 points); and 'the chamber represents territorial entities' (+4 points) (Vercesi, 2017, p. 612f.). Both measures are then applied to the 10 largest non-presidential EU member-states and normalised to result in an index ranging from 0 to 1. The highest legitimacy values are obtained by the Spanish and French Senates (0.65 each), the lowest by the UK House of Lords (0.15) (own calculations based on Vercesi, 2017, p. 623). Selection and representation are negatively correlated (Vercesi, 2017, p. 616), casting doubt as to the wisdom of simply adding them.

We are thus left in the rather unsatisfying situation of knowing that we need to know the legitimacy of second chambers, but as yet lacking a solid measure. The former is evidenced by almost all the scholars working on second chambers. In a report commissioned by the EU COMMITTEE OF THE REGIONS, Schmitt (2014) for instance repeatedly insisted on that dimension, stating that 'If the [Committee of the Regions] was to evolve in a European Senate within a long-term horizon, one of the most crucial features for its efficient functioning would be its legitimacy' (p. 109). Even the IDEA's 'primer' on bicameralism concurs with Russell (2013a): '[t]he stronger the legitimacy of a second chamber, the more likely it will be to make full use of its powers' (Bulmer, 2017, p. 14).

Indeed, one could even think of the (il-)legitimacy of second chambers (or any other institution, for that matter) to enable (hinder) it to exercise its formally assigned powers in the first place (Russell, 2013a, p. 376; also Lijphart, 2012, p. 193). The same could be true of partisan and/or territorial incongruence: without at least a modicum of political legitimacy, it matters little what veto players want or who they are. Herein also lies the main problem with Vercesi's (2017, p. 608) and Lijphart's (2012, p. 193) equation of legitimacy with direct elections: the latter are at best an element of the former, but do not yet guarantee that we actually get there. Otherwise, the sometimes quite dramatic legitimacy crises of several European states (e.g. Kriesi, 2013) could simply not have happened.

The connection of special group or interest representation with legitimacy is even more complex, since by their very nature ethnic quotas and the equality of provinces of vastly different population size (Ettinger, 2019) are anti-majoritarian features. Too much emphasis on them might thus damage the legitimacy of second chambers and the system of government of which they are part in the eyes of cultural and other political majority members.¹ Indeed, for special interest representation to produce legitimacy as intended, two conditions must be met: representatives must defend the interests they were chosen to represent, and the so represented must know and accept this (and them) as satisfactory. And so, we are back with perceptions as the single best measure of legitimacy, as discussed next.

A new index of bicameralism

Conceptualising the legitimacy of second chamber

The legitimacy of political institutions can be understood either descriptively, as something that is or isn't, or normatively, as something that should or shouldn't be (Peter, 2017). Since we are primarily interested here in whether and how legitimacy as a third attribute of second chambers – next to their legal authority and political composition – matters for political action, we constrain ourselves to the descriptive notion. Lipset (1959, p. 86) for instance defined legitimacy quite broadly as 'the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate or proper ones for the society', ascribing to it the power to make or break polities especially in times of crisis (p. 90). Later contributions (e.g. Scharpf, 1999; Schmidt, 2013; Papadopoulos & Warin, 2007; also Warren, 2017, p. 45) distinguish three aspects:

- (1) *Input* legitimacy refers to participation and inclusion, by which is usually meant the degree to which the demos (citizens, voters and/or residents) is directly involved in political decision-making. The shorter the

delegation chain from citizens to decisions, the greater the input legitimacy; the minimum distance being of course perfect overlap (as in town meetings, cf. e.g. Zimmerman, 1999).

- (2) *Throughput* legitimacy captures the ‘quality of the governance processes as established by their efficacy, accountability, transparency, inclusiveness and openness to interest intermediation’ (Schmidt, 2013, p. 6). The ideal-type here is deliberative democracy as the free and fair exchange of reasoned opinions among equals regardless of status or origin (e.g. Steiner et al., 2004).
- (3) *Output* legitimacy means government *for* the people (Scharpf, 1999), or what Lipset (1959, p. 86) called ‘the actual performance of a political system, the extent to which it satisfies the basic functions of government as defined by the expectations of most members of a society’.

All three types of legitimacy so defined ultimately operate through perceptions and judgements: is the popular inclusion, procedural quality, and performance *good enough*? Although there might be tensions among these goals, overall legitimacy is highest when the answer to all three questions is yes. But how to operationalise these three aspects of legitimacy in the context of second chambers (cf. also Russell, 2013a, p. 375f.)? Ideally, we would dispose of citizen and/or elite surveys telling us what is thought of second chamber legitimacy. As far as we know, such questions have not been asked cross-sectionally.² Absent (for now) such surveys, the following rules are developed.

First, while popular participation through elections or referendums has undoubtedly become a key yardstick with which to assess democracy *tout court*, in many countries not only individual citizens but also specific groups are – or have to be – acknowledged and included. Federalism and consociationalism are but two of the most widely given answers to such demands, the first operating through territorial, the second through non-territorial social identities. In short, popular elections are but one of two ways to maximise input legitimacy – the other is the direct inclusion of subnational executives, as even Lijphart (2012, p. 193) observed regarding the German *Bundesrat*. By contrast, indirect elections, appointments, hereditary and *ex officio* mandates (e.g. for Church of England members) result in lack of input legitimacy.

Moreover, we do not think that either partial (e.g. in Spain, where 22 per cent of senators are thus chosen) or full (e.g. in Austria) appointment of second chamber members by subnational legislatures qualifies as federal-type inclusion. Such representation not only happens proportional to regional parliamentary party strength, thus diluting the impact any one region can have. What is more, all the regions so included (the Spanish Autonomous Communities and the Austrian *Länder*) are themselves

parliamentary systems. In other words, it is the regional executives and the parties that compose them that call the shots, obviating thereby the supposedly federal link (e.g. Palermo, 2018, p. 53).

Second, regarding throughput legitimacy, different political bodies might be measured using different yardsticks of procedural quality. We think that parliaments, as the only public fora where decisions are openly debated, should above all be compared as to their quality of deliberation (Bächtiger, 2014). Upper chambers in particular, to justify their very existence and live up to the founding myth of ‘sober second thought’, usually have to comply with greater expectations as to their procedural quality than lower chambers. ‘Upper’ then means not only further away from the people, but also meeting higher standards. Answering whether they live up to such expectations through assessing their deliberative quality thus measures their throughput legitimacy.

Again, in an ideal world we would dispose of data assessing that feature for both chambers of parliaments separately, systematically, and regularly. Bächtiger (2005, 2014; Steiner et al., 2004), for instance, uses the Discourse Quality Index (DQI) to assess debates in all parliamentary chambers of the US, Germany, and Switzerland. In the absence of such data, we have asked one of the foremost parliamentary deliberation experts to code all our 14 second chambers from 0 to 4. Anything at 2+ corresponds to high throughput legitimacy – a feat achieved only by the second chambers of Ireland, Switzerland, and the UK (Table 1).³ Coding was done by applying the general insights gained from those prior studies, notably as regards the importance of polarisation, a consensual political culture, and free mandates (for details, see Annex 1).⁴

Third, on the output side, also the question of how to assess the decisions of second chambers must be nuanced for one simple reason: they are not alone. Indeed, oftentimes being ‘second’ means precisely this: they can have a say on political decisions only after the first chamber has had a go – or not even that, for some decisions in some countries. However, some second chambers even have *more* powers, such as the US Senate alone being able to veto executive appointments and international treaties. What matters, then, is whether the (in)actions of second chambers are widely perceived as corresponding to what they are expected (not) to do. Our proxy to answer that final point are major reform and abolition attempts. While certainly not ideal and often related (also) to other aspects such as its composition, attempting to abolish an institution is perhaps the clearest indicator that a large – or at least a powerful – segment of society is deeply unhappy about its impact on government. Moreover, when abolition or reform attempts result in a referendum, as in Ireland or Italy (see below), this even allows assessing citizen preferences directly.⁵

Table 1. Second chamber legitimacy.

Country	Input		Throughput		Output		Final legitimacy score
	Selection mode	Score	Deliberative quality	Score	Attempts at abolition or major reforms	Score	
Switzerland	Regional direct elections	1	High	1	No	1	3
Germany	Regional governments	1	Low	0	No	1	2
USA	Regional direct elections	1	Low	0	No	1	2
Australia	Regional direct elections	1	Low	0	Yes	0	1
Italy	98 per cent directly elected in regions (with N seats proportional to population size), 2 per cent appointed + ex officio	1	Low	0	Yes	0	1
UK	83 per cent appointed, 17 per cent hereditary + ex officio	0	High	1	Yes	0	1
Ireland	82 per cent indirectly elected, 18 per cent appointed	0	High	1	Yes	0	1
France	Indirect elections	0	Low	0	No	1	1
Czech Republic	Direct elections but with low turnout	0.5	Low	0	Yes	0	0.5
Spain	78 per cent directly elected in (sub-regional) provinces, 22 per cent indirectly elected by regional parliaments	0	Low	0	Yes	0	0
Canada	Appointment	0	Low	0	Yes	0	0
Netherlands	Indirect elections	0	Low	0	Yes	0	0
Austria	Indirect elections	0	Low	0	Yes	0	0
Belgium	Indirect elections	0	Low	0	Yes	0	0

Source: own compilation based on IPU (2021), Vercesi (2019), own coding, and references mentioned in the text.

Vercesi (2019, p. 11), for instance, compared eight (attempted) senate reforms in seven countries over ten years, identifying the widely perceived ‘inefficiency of the [second] chamber’ as their main driver. Such inefficiency was defined by the author as ‘cases where the second chamber is considered a

source of detrimental gridlocks for the decision-making, a not justified institution as it is, or even a useless chamber' (Vercesi, 2017). While obviously related to composition and powers, this is as close as we get to an institution's 'actual performance' (Lipset, 1959, p. 86). In Spain and Belgium, reforms were justified in terms of representational concerns (Vercesi 2019, p. 8ff.), meaning their respective second chambers' failure to adequately bring sub-national interests to bear onto state-wide decision-making (Harguindéguy et al., 2017, p. 534ff.; Dandoy et al., 2015).

In the UK, finally, debates on reforming the House of Lords 'concerned both the composition and the type of legitimation' (Vercesi 2019, p. 9), showing again how 'interconnected' (Russell, 2013a, p. 376) the different dimensions of legitimacy are in practice. Conversely, reform and abolition attempts do not even emerge where second chambers operate effectively. In fact, a second chamber might excel in a broad range of functions that are widely deemed as useful, such as exercising a moderating role (e.g. the Swiss Council of State, cf. Vatter, 2020) or assembling territorial expert knowledge (e.g. in France), leading to high output legitimacy and hence no reform attempts (see also next section).

Measurement

The scope of our analyses contains economically developed, stable liberal democracies. This ensures both the reliability of measures as well as the comparability of results. To gather the kind of data we later need for analytical purposes (section 4), we focus on OECD countries. Not fully covered by the same standardised information are Turkey, Japan, Mexico, South Korea, Poland, Chile, and Slovenia, which leaves us with 29 countries. Our legitimacy measure is next applied to all 14 remaining bicameral systems (Table 1) as of today, with reform attempts of the last few decades considered. The remainder of this section briefly discusses each country's second chamber.

The second chambers which by our assessment possess the highest legitimacy are those of Switzerland, Germany, and the United States. Although the **German Bundesrat** is not de jure a second chamber, it is de facto (e.g. Eith & Siewert, 2010, p. 102). Its members are the *Land* executives or their delegates, voting on subnational instructions and weighed slightly by population size (Jun & Leunig, 2009; Schmedes, 2019; Vatter et al., 2017, p. 742). While this speaks positively to the council's input legitimacy, it does constrain its throughput legitimacy. However, although the Bundesrat is not without its critics regarding, for instance, the need for Land delegations to vote *en bloc*, the relatively high threshold for approval in some cases, or the undefined balance between territorial and partisan interests (e.g. Eith & Siewert, 2010, p. 115; Jun 2010: 351ff.; Leunig, 2009a, p. 110f.), no

major reform has ever been proposed to date. Even the famous ‘federalism reforms’ left the institution as such untouched.

The same high output legitimacy applies to the Swiss and US Senates. Despite differences in the electoral system and party strength, the **Swiss Council of States** has the exact same legislative and oversight powers as the National Council (e.g. Leunig, 2009b, p. 215ff.; Vatter, 2020, p. 326ff.; Mueller & Vatter, 2020). More than in Germany, the Swiss senate has repeatedly been the object of media and expert criticism, especially since the perfect territorial equality is increasingly at odds with demographic developments. However, surveys attest to a rather high degree of trust in the federal parliament, of which each chamber forms an integral part, and the introduction of electronic voting further contributed to bring light into a hitherto ‘dark and dusty’ place (Vatter et al., 2017, p. 763).

The **US Senate** has perhaps been the least subject to criticism of all ‘strong’ second chambers considered here. It is also the only one that in some cases – most famously during impeachments, but also when it comes to ratifying international treaties and confirming executive appointments – possesses *more* powers than the House of Representatives (e.g. Gellner & Kleiber, 2012, p. 34ff.; Haas, 2010a, p. 28f.). The only major reform since its creation, the popular election of its members (Träger, 2009, p. 27f.; Haas, 2010a, p. 52), has strengthened its input legitimacy. Of course, the US Senate is not without its critics either, but for the most part these have centred on procedure (i.e. the filibuster) or parties (waning bipartisanship and gaining polarisation which depress deliberation; see also Annex 1), not the polity as such (Haas, 2010a, p. 52ff.; Träger, 2009, p. 272ff.; Sinclair, 1999, p. 55f.).

At least some legitimacy is attributed to the second chambers of Australia, France, Italy, the UK and Ireland. The members of the **French Sénat** are chosen by a college of ‘grand electors’, themselves directly elected politicians. Nevertheless, in a survey published some years ago (IFOP, 2008), 61 per cent of respondents thought the Senate (very) important, compared to only 9 per cent who regarded it as unimportant. Apart from the expert knowledge there assembled, also the territorial links with France’s still important departmental organisation are cited as contributing to its legitimacy (Kempf, 2017, p. 142 f.; Russ, 2010, p. 361 ff.). Criticised, in turn, are the over-representation of rural parts, the Senate’s conservatism, and running costs; yetwhile its abolishment has been demanded occasionally, it has never seriously been contemplated (Edip, 2018).

The **Australian Senate** is composed of an equal number of directly elected members per State (Haas, 2010b, p. 84 f.; Russell, 2013a, p. 383). However, despite its legislative strength and indeed parity with the first chamber – which can lead as far as to the dissolution of and early elections for both houses – the institution is frequently questioned. Particularly the basic

idea of ‘one person, one vote’, which in majoritarian parliamentary systems acquires greater importance than in presidential or proportional systems, is seen to be violated by giving Tasmania with 540’000 inhabitants as many seats as New South Wales with 8.1 million (ABS, 2020). Ironically, just like in the UK at some point, partisan strength in the second chamber better approximates the diverse political preferences of the electorate, which in turn strengthens its input legitimacy (Russell, 2013a, p. 384 f.; O’Donnell, 2018, p. 18ff.). Nevertheless, its electoral system has repeatedly been modified (Muller, 2018), and various reform attempts have failed only because of the high hurdles for Australian constitutional change (Haas, 2010b, p. 93).

The **Italian Senato** has equally been the object of numerous (failed) reform attempts over the past decades, most recently in 2006 and 2016 (Vercesi 2019). Criticised for merely duplicating the *Camera dei Deputati* in both operation and high costs (Hornig, 2010, p. 287), the Italian second chamber neither represents the regional electorates, nor their executives, nor even the entire electorate, as only those 25+ years old can vote in Senate elections (Fusaro, 2012, p. 14). The Italian parliament is generally held in rather low esteem by citizens (Demos & Pi, 2016). Finally, it seems that the 2016 reform, which would have significantly weakened the Senate, would have been approved had it not been for then-Prime Minister Renzi turning the referendum into a personal plebiscite (Colombo et al., 2016).

Also in that category is the **UK House of Lords**. This reflects its ambivalent nature as both a core element of one of the oldest democracies and possessing predemocratic origins. The legitimacy of that chamber has been questioned as early as in the nineteenth century (Norton, 2020; Russell, 2013b; Shell, 2007), but it has remained in place. Its powers have been curtailed, but not obviated fully; and despite the lack of direct elections and connections to the devolved regions there are times when its composition better reflects the overall electorate than the House of Commons (Bochel & Defty, 2012; Russell, 2013a, p. 381). However, the high level of throughput legitimacy is unable to compensate for the lack of input and output legitimacy, resulting in a final score of 1.

The same is true for the **Irish Seanad**, even if for slightly different reasons: its work is appreciated not least due to its complex neo-corporatist complexion, but just like elsewhere the public and elite members often wonder whether such a task could not also be fulfilled by other bodies (e.g. Braune, 2010, p. 433f.). A referendum to abolish the Seanad failed only narrowly, in 2013 (McGee, 2013) – neither an overwhelming vote of confidence nor a damning verdict.

A special case is the **Czech Senát** (Novotný, 2018, p. 112ff.; Walter, 2010, p. 334ff., Olson, 1996, p. 49f.). Although directly elected in full, electoral participation is far below that for the first chamber – for instance, 42 per cent in

2018 (first chamber, one year before: 61 per cent; cf. IPU, 2021). Especially populist parties demand its abolition, and experts likewise criticise its (non-)actions (Novotný, 2018, p. 122). Nevertheless, none of the many reform proposals has been enacted thus far (Walter, 2010, p. 355 f.). On the other hand, around half of all legislative modifications proposed by the Senát are usually approved by the first chamber (Novotný, 2018, p. 122f.; Walter, 2010, p. 351), indicating at least some elite appreciation of its workings.

A final group of second chambers assessed here has no legitimacy. The **Spanish Senado** is paradigmatically caught between a rock and a hard place: for centralists, the concessions to have at least some members elected indirectly by regional parliaments goes much too far; for federalists, this amounts to far too little – especially as the majority of members is popularly elected in mostly small and rural provinces, which are a Napoleonic legacy (Cordes & Kleiner-Liebau, 2010, p. 193ff.; Gordon, 2019, p. 76f.). Finally, just like in Canada and Italy, several major reforms have been proposed but none succeeded (Harguindéguy et al., 2017; Roller, 2002), and partisan ties and discipline impede true deliberation.

The **Canadian Senate**, modelled somewhat as a compromise between the centralist UK and the territorial US upper houses, shows how even extensive formal powers can translate into low overall legitimacy. Especially Prime Minister Harper (2006–2015) repeatedly questioned its existence (Russell, 2013a, p. 382f; also Globe & Mail, 2013; Tasker, 2017). Several minor reforms took place after 2015 (Parisella, 2013; Furey, 2017, p. 2 ff; Tasker, 2017), the long-term effect of which could be to strengthen its legitimacy.

The Dutch second chamber equally possesses hardly any legitimacy. The **Eerste Kamer** (Berndt, 2010, p. 389 ff.) is elected indirectly, by the 12 provincial parliaments. It thus falls short of the democratic participation ideal, while the Dutch territorial dimension is not that important anymore. Despite far-reaching powers (Wilp, 2012, p. 100 ff.; Berndt, 2010, p. 392 ff.), there are many different types of criticism, from classic redundancy (when the veto is not used: an output criticism) to anti-democratic reproaches (when the veto is used: an input criticism; cf. Berndt, 2010, p. 399ff.; Wilp, 2012, p. 114ff.; Bulmer, 2017, p. 14). This forms a stark contrast to the Swiss senate, which although equally not representing cantonal governments directly has at least managed to be seen as a place where serious politicians do serious work (Mueller & Vatter, 2020).

Our final two second chambers are also situated in federal states. The **Austrian Bundesrat** carries but the name of its German counterpart, as it lacks both its law-making powers and direct connection to *Land* executives (Leunig, 2009c, p. 172). Instead, seats are distributed in proportion to population size and filled by the *Land* parliaments mirroring their own composition (Leunig, 2009c, p. 174f.; Fallend, 2010, p. 167). Worse still than

denying it its proper place, in 2005 some 91 per cent of respondents indicated they simply did not know what the Austrian *Bundesrat* was for; accordingly, around a third favoured of its abolition (Fallend, 2010, p. 166). All reform proposals, from increasing its veto rights to making it the political arbiter between federal and *Land* governments, have failed without even making much noise (Ehs & Willroider, 2012, p. 40 ff.; Fallend, 2010, p. 182 ff.; Leunig, 2009c, p. 182 ff.).

The **Belgian Senate** is held in an equally low esteem. Indirectly elected only, with an additional 10 members co-opted (Zink, 2010, p. 211; Dandoy et al., 2015, p. 1ff.; Popelier, 2018, p. 217 ff.), it cannot claim input legitimacy. The 1995 state reform took away some of its powers, and since 2012/14 co-opted members are selected considering the results of the elections for the first chamber (Goossens & Cannoot, 2015, p. 39.). Some thus go far as to speak of Belgium as a de facto unicameral system (Popelier, 2018, p. 235; Walkowiak, 2014).

Aggregation and index formation

Now that we have measured the democratic legitimacy of second chambers, how best to aggregate this into a new index of second chamber strength as such? Two main methods are available: addition or multiplication. Goertz (2006) advises that measurement should correspond to conceptualisation as closely as possible. Thinking in terms of a ‘substitutability continuum’ (Goertz, 2006, p. 45), the question then becomes whether one of the three dimensions of second chamber strength – legal powers, composition, and democratic legitimacy – is indispensable, or whether one or several of them can substitute for the other(s).

In other words: is a strong second chamber one that is both powerful on paper and incongruent as well as highly legitimate? If so, we can simply add our legitimacy scores to Lijphart’s index (2012), as both have a range of 4 (0–3 and 1–4, respectively). In that way high legitimacy can compensate for lack of legal powers. Another possibility is that legitimacy, given its above-discussed all-importance and inclusion here also of political effectiveness, potentiates (if given) or annihilates (if lacking) both symmetry and incongruence. In that case we would need to multiply Lijphart’s bicameralism index with our legitimacy score.

We have opted for the first solution – addition of our scores to Lijphart’s (2012) index – for two reasons. First, while it might be important normatively that legitimacy was the all-important factor, the reality does not always conform to such an expectation. Far-reaching decisions are taken by actors or bodies perceived at least by some as illegitimate all the time; suffice to think of international tribunals, supranational bodies, or even plurality governments. In turn, even the most legitimate body or set of people – a

group of wise women and men, for instance – cannot impose its will if lacking the formal powers to do so, at least not in liberal democracies where the rule of law is upheld.

Second, symmetry and incongruence have themselves been aggregated by Lijphart (2012) in an additive manner. While the legal powers provide the institutional framework for political action, incongruence is necessary so that these powers are acted upon in a manner potentially at odds with the first chamber (and/or the executive). Adding legitimacy on top of those two thus provides for yet another dimension – one that is neither more, nor less important as such. In a sense it prolongs the inter-institutional struggle into extra-time: highly illegitimate but legally powerful and incongruent second chambers can be more safely ignored or countered than legitimate ones; yet even highly legitimate but legally powerless and congruent chambers can play a role in some instances.

In practice, both aggregation methods yield almost identical indices anyway. Lijphart's (2012) index, expanded in coverage by Bernauer and Vatter (2019) and somewhat corrected here, and our legitimacy score (see Table 2) are also positively and significantly correlated (Pearson's $R = 0.571$, $N = 14$ bicameral countries). That bolsters our claim that symmetry, congruence, and legitimacy all measure the same underlying concept: the strength of a second chamber. In other words, strong upper chambers by Lijphart's (2012) account are also highly legitimate, weak ones less so. Nevertheless, the correlation is not perfect, indicating that legitimacy indeed forms its own, separate dimension. This is further developed in the next section.

So what? The effect of bicameralism on polity and policy

We are now in a position to assess the impact of bicameralism as measured here on key policy and polity outputs. Building on Vatter (2005), three specific hypotheses are assessed, namely that strong bicameralism

- (1) reduces state intervention in favour of market forces: a *laissez faire* effect;
- (2) weakens reform forces in favour of status quo interests: a *conservative* effect; and
- (3) restrains the central government in favour of sub-national units: a *decentralising* effect.

These expectations for the effects of second chambers are of fundamental relevance for our study because they are based not only on the empirical findings of second chambers and their (polity and policy) effects in general, but also on the basic assumptions of the influential neo-institutional approach (Vatter, 2005, p. 197). Next to our 14 bicameral countries, we also

Table 2. Expansion of Lijphart's bicameralism index.

Country	Lijphart original ^a	Corrections	Legitimacy ^d	New index
Switzerland	4		3	7
USA	4		2	6
Germany	4	-1 ^b	2	5
Australia	4		1	5
France	3		1	4
Italy	3		1	4
Ireland	2		1	3
UK	2.5	-0.5 ^c	1	3
Canada	3		0	3
Netherlands	3		0	3
Spain	3		0	3
Czech Republic	2		0.5	2.5
Austria	2		0	2
Belgium	2		0	2
Denmark	1		n.a.	1
Estonia	1		n.a.	1
Finland	1		n.a.	1
Greece	1		n.a.	1
Hungary	1		n.a.	1
Iceland	1		n.a.	1
Israel	1		n.a.	1
Latvia	1		n.a.	1
Lithuania	1		n.a.	1
Luxembourg	1		n.a.	1
New Zealand	1		n.a.	1
Norway	1		n.a.	1
Portugal	1		n.a.	1
Slovakia	1		n.a.	1
Sweden	1		n.a.	1

^aBelgium after 1995, Denmark after 1953, Iceland after 1991, New Zealand after 1950, Norway after 2009, Sweden after 1970 (Lijphart, 2012); data for Czech Republic, Estonia, Hungary, Latvia, Lithuania, Portugal, and Slovakia from Bernauer and Vatter (2019).

^bto factor out legitimacy (asymmetrical and incongruent, not symmetrical and congruent).

^cBased on Russell (2010) and Bernauer and Vatter (2019). ^d"n.a." for unicameral systems.

compare unicameral Denmark, Estonia, Finland, Greece, Hungary, Iceland, Israel, Latvia, Lithuania, Luxembourg, New Zealand, Norway, Portugal, Slovakia, and Sweden. The *independent variable* is our new, expanded bicameralism index (last column of Table 2).

Our first dependent variable, *state interventionism in the economy*, is measured using three indicators, all from the OECD (2020) for the year 2015: the size of the state (general government spending), tax revenue, and the importance of public sector employees. The first two are expressed in percentage of GDP, the third in percentage of total employment.⁶

The second dependent variable, *reforms*, is measured using Armington et al.'s (2019) 'Liberalization Database'. We focus on the number of reforms enacted by law (rather than enforced by the courts or in collective bargaining) and count the number of status quo changes; of liberalising steps; and the total extent of liberalisation for 1973–2013. While far from

perfect, these data at least allow us to compare the reform activity of all our 29 countries.

The third dependent variable, *centralisation*, is measured using both revenues and expenditures, both times in the form of the central government's share of the total,⁷ in 2015 (OECD, 2020). A third specification uses the 'self-rule' or regional autonomy dimension of the Regional Authority Index (Hooghe et al., 2016; updated by Shair-Rosenfield et al., 2021).

As *control variables* are used GDP (in USD per capita, for 2015); Lijphart's (2012) first dimension of consensus democracy, the executive-parties indicator, updated, extended and refined by Bernauer and Vatter (2019) into the 'proportional power diffusion'⁸; the share of left-wing parties in the national government in the year 2015 (Armingeon et al., 2020); and the share of seniors, i.e. residents aged 65+, of the total population in 2015 (OECD, 2020). The goal of including these alongside our independent variable is to rule out spurious correlations, as all of them could equally affect economic policy, reforms, and regional autonomy.

Table 3 shows that our new bicameralism index is correlated with all three measures of state interventionism (m1–3), all three de/centralisation variables (m7–9), but none of the reform indicators (m4–6). All significant correlation coefficients point in the hypothesised direction: a strong second chamber dampens the size of the state, keeps both taxes and the share of public employees low, hampers revenue and expenditure centralisation, and boosts regional self-rule.

Annex 2 replicates these analyses using Lijphart's corrected, two-dimensional index.⁹ Here, no significant correlation with two out of three measures for economic interventionism is found, and all three coefficients for decentralisation are much larger than when taking into account legitimacy, revealing perhaps the overly federal focus of Lijphart (2012). Adjusted R²s are also generally smaller for the first three models in Annex 2 than Table 3, which includes legitimacy, but higher for the last three models which focus on territorial aspects.

In sum, 'strong' second chambers do seem to be associated with a reduced size of the state, providing corroborative evidence for their veto player role. Although our research design is unable to detect causality, adding legitimacy to Lijphart's de facto two-dimensional index reveals two significant correlations where previously there were none. Moreover, while the intimate connection between bicameralism, decentralisation and federalism remains, it is tempered notably by the lack of legitimacy of second chambers in (quasi-) federal countries such as Austria, Belgium, Canada, Spain, and also Australia. Not by chance are all these (de facto) parliamentary regimes, where strong party discipline and the fusion of governmental with parliamentary majority powers sits oddly with a vertical division of labour. In that sense our analyses

Table 3. OLS models for state interventionism, reform activity and de/centralisation.

	State size (1)	Tax quota (2)	Public employees (3)	Reforms 1 (4)	Reforms 2 (5)	Reforms 3 (6)	Revenue centralis. (7)	Expenditure centralis. (8)	Self-rule (9)
Bicameralism (new index)	-1.515** (0.730)	-1.331** (0.589)	-1.986*** (0.553)	-2.810 (2.605)	9.058 (7.585)	2.534 (7.451)	-4.927*** (1.409)	-3.966** (1.671)	3.066*** (0.664)
Per capita GDP	0.0001 (0.0001)	0.0001* (0.0001)	-0.00000 (0.0001)	-0.001*** (0.0003)	-0.003** (0.001)	-0.004*** (0.001)	-0.0001 (0.0002)	-0.0002 (0.0002)	-0.00001 (0.0001)
Proportional power diffusion	0.607 (1.612)	1.732 (1.300)	0.490 (1.215)	-7.106 (5.754)	-29.384* (16.754)	-21.330 (16.457)	-0.610 (3.111)	-4.175 (3.692)	-0.413 (1.468)
Per cent left-wing parties in govt.	-0.003 (0.034)	-0.002 (0.027)	-0.008 (0.025)	0.217* (0.120)	0.579 (0.350)	0.784** (0.344)	0.132* (0.065)	0.168** (0.077)	-0.012 (0.031)
Per cent seniors	1.610*** (0.503)	1.442*** (0.406)	0.188 (0.390)	-0.656 (1.796)	11.590** (5.230)	2.903 (5.137)	-0.776 (0.971)	-2.060* (1.152)	0.796* (0.458)
Constant	17.430 (10.222)	7.835 (8.243)	20.030** (8.091)	91.818** (36.481)	66.091 (106.222)	222.683** (104.338)	105.767*** (19.725)	119.545*** (23.407)	-7.943 (9.305)
Observations	29	29	27	29	29	29	29	29	29
R ²	0.400	0.471	0.434	0.519	0.573	0.574	0.474	0.420	0.566
Adjusted R ²	0.270	0.356	0.299	0.415	0.480	0.482	0.360	0.294	0.472
Residual Std. Error	6.199 (df = 23)	4.999 (df = 23)	4.596 (df = 21)	22.125 (df = 23)	64.420 (df = 23)	63.277 (df = 23)	11.963 (df = 23)	14.195 (df = 23)	5.643 (df = 23)
F Statistic	3.067** (df = 5; 23)	4.101*** (df = 5; 23)	3.223** (df = 5; 21)	4.972*** (df = 5; 23)	6.175*** (df = 5; 23)	6.209*** (df = 5; 23)	4.146*** (df = 5; 23)	3.332** (df = 5; 23)	6.007*** (df = 5; 23)

Note: * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$. All Variance Inflation Factors ≤ 1.3 .

add more nuance to debates not only about second chambers, but also other aspects of governmental systems.

Conclusion and way forward

Second chambers are far from a ubiquitous phenomenon, yet where they exist we are confronted with the question of how best to make sense of them and understand their impact. This paper has developed a systematic approach to assess their democratic legitimacy in addition to their formal powers and specific composition. In distinguishing between input, throughput and output legitimacy, the full nature of second chambers can be better grasped. Our empirical analyses on a set of 29 OECD countries, of which roughly half are bi-cameral, have shown that adding our dimension to Lijphart's (2012) existing typology helps explain governmental hesitation to both intervene in the economy and centralise.

Several limitations remain, which further research is encouraged to remedy. First, of course, is the lack of comparative survey evidence among either citizens or elite members (or both) as to their perceptions of the legitimacy of second chambers and other political institutions to adjust for nationally differing benchmarks. Such kind of data is perhaps best able to reassure us that our index travels across countries.¹⁰ For a general problem with assessing perceptions empirically is the possibility of contextually varying standards as to what counts as 'good enough'. This problem is usually dealt with by calculating net perceptions or using the national mean as an anchor, but for this we would again need specific answers on second chamber legitimacy overall and its three aspects.

Second, lacking the resources to systematically gauge the deliberative quality of debates in all 14 second chambers (and their corresponding first chambers), we had to rely on expert coding. While for the most part in agreement with secondary literature, one could certainly do better. Also other aspects to do with the procedural and deliberative quality, such as for instance outreach to civil society (Bächtiger, 2014) or government control over the parliamentary agenda and committee autonomy (e.g. Cheibub & Limongi, 2002), could be considered. Similar criticism can be levelled against our operationalisation of input and output legitimacy. One could certainly also factor in not just legal provisions for special representation (Vercesi, 2017), but also the actual presence of women, of members of ethnic minorities, and territorial diversity. The problem then, however, would be to decide a priori what type and extent of presence would be needed to satisfy legitimacy. Resorting to reform and abolition attempts to measure output legitimacy, finally, has highlighted just how intertwined the different dimensions of legitimacy often are – and how complex

interactions between two chambers can become after changes take effect (Russell, 2013b, p. 162ff.).

Third, while we do not find an effect of strong second chambers on liberalisation reforms, this could be due to the particular nature of that measure: as veto players, second chambers obstruct reforms, while as traditional centre-right institutions (Vatter, 2005), they might be pulling towards liberalisation. This calls for in-depth analyses across a number of other, less ambiguous policy areas from that point of view such as gender equality, climate change or moral politics (e.g. abortion, religious freedom or same sex marriage).

Overall, our study not only presents a new multi-dimensional measurement of bicameralism, but additionally confirms the empirical effects of second chambers on policy and polity found by Vatter (2005). We also provide new and differentiated findings: if we take legitimacy seriously, strong bicameral structures act as a significant brake on state intervention and centralisation, but have no impact on liberalisation reforms.

Notes

1. This point is acknowledged also by Lijphart (2012, p. 109), although in the discussion of ‘horizontal’, not ‘vertical’ power sharing: ‘a legislative vote of no confidence in a popularly elected executive would be seen as defiance of the popular will and of democratic legitimacy.’ On federalism and democracy more generally, see Benz and Sonnicksen (2021).
2. For instance, the Afrobarometer merely asks whether respondents ‘trust the parliament/national assembly’ (Round 7, Q43B). The same is true of the Eurobarometer (e.g. of Summer 2020, QA6a), the Latinobarometro (e.g. wave of 2018, P15STGBSC.D: ‘confidence in National Congress/Parliament’), the European Social Survey (e.g. Wave 9, 2018, B6-12), and the World Values Survey (e.g. Wave 7, 2017–2020, Q73: ‘confidence in national parliament’)
3. Note that it is beyond the scope of this paper to assess *why* the deliberative quality of some second chambers is higher than in others – whether that is due to particular party constellations or a specific committee system, for instance (cf. Bächtiger, 2014).
4. Bächtiger et al. (2005, p. 234) summarise the most important empirical findings on the favourable conditions for a high quality of deliberation in parliamentary debates as follows: ‘consensus institutions, presidential regimes, second chambers, non-publicity, and low-issue polarization further respectful exchanges among participants’.
5. One advantage of (binding) referendums over surveys is that the opinions expressed therein matter politically. A disadvantage, however, is that choices can be driven by factors other than those linked to the institution as such, e.g. dissatisfaction with the government in Italy in 2016 (Vercesi 2019, p. 10).
6. Iceland and New Zealand have missing data on the share of public employees.
7. The consolidated revenue of each level of government is defined as total revenue minus the intergovernmental transfer revenue of that government level; in turn, the consolidated expenditure of each level of government is

defined as total spending minus the inter-governmental transfer spending of that government level.

8. In other words, as composed of electoral disproportionality, the effective number of parties, power sharing in cabinets and the power of the parliament vis-à-vis the executive branch; we use the mean values for the entire period studied by Bernauer and Vatter (2019), namely from 1990 to 2015.
9. Using his uncorrected index (first column of Table 2) results in virtual identical numbers (not shown).
10. We thank an anonymous reviewer for highlighting that aspect.

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Annexes

Annex 1. Deliberation scores for 14 bicameral systems

Nr.	Country	Name of upper chamber (original)	Code [0–4]
1	Australia	Senate	1
2	Austria	Federal Council (Bundesrat)	1
3	Belgium	Senate (Sénat)	1
4	Canada	Senate	1
5	Czech Republic	Senate (Senát Parlamentu České republiky)	1
6	France	Senate (Sénat)	1
7	Germany	Bundesrat	1
8	Ireland	Senate (Seanad Éireann)	2
9	Italy	Senate (Senato)	1
10	Netherlands	Senate (Eerste Kamer)	1
11	Spain	Senate (Senado)	1
12	Switzerland	Council of States (Ständerat/Conseil des Etats/Consiglio degli Stati)	3
13	United Kingdom	House of Lords	3
14	USA	Senate	1

Notes: Deliberative quality was assessed by Prof. André Bächtiger considering two core dimensions: justification rationality and mutual respect. All codes reflect an overall assessment of the respective chamber and its political system as a whole, using the following benchmarks:

1. In government-opposition systems, second chambers are not particularly deliberative (e.g. Australia, but also Canada), but still more than first chambers, hence the code of 1. Moreover, next to party discipline also lack of actual veto power often reduces incentives for sophisticated argumentation.
2. The US Senate (the 'greatest deliberative body') was much more deliberative than the House of Representatives in the past (code 2), encouraged by the presidential system and lack of party discipline. Since the Gingrich Revolution and partisan polarisation, however, the Senate has lost in deliberative quality.
3. Second chambers composed of regional delegates (e.g. the German Bundesrat) do not offer a particularly fertile ground for enlightened discussions among free and equal members either. In case of conflict with the first chamber, the mediation committee (Vermittlungsausschuss) takes over (cf. Steiner et al., 2004, p. 102).

Annex 2. Replication of Table 3 with Lijphart's two-dimensional index (corrected)

	State size (1)	Tax quota (2)	Public employees (3)	Reforms 1 (4)	Reforms 2 (5)	Reforms 3 (6)	Revenue centralis. (7)	Expenditure centralis. (8)	Self-rule (9)
Lijphart (2012) index, corrected	-1.799 (1.213)	-1.528 (0.989)	-3.189*** (0.893)	-4.801 (4.145)	17.597 (11.930)	4.851 (11.884)	-8.102*** (2.213)	-7.430*** (2.543)	5.351*** (0.961)
Per capita GDP	0.00005 (0.0001)	0.0001 (0.0001)	-0.00001 (0.0001)	-0.001*** (0.0003)	-0.003*** (0.001)	-0.004*** (0.001)	-0.0001 (0.0002)	-0.0002 (0.0002)	-0.00001 (0.0001)
Proportional power diffusion	0.725 (1.689)	1.852 (1.377)	0.345 (1.228)	-7.381 (5.769)	-27.783 (16.606)	-20.906 (16.541)	-0.987 (3.080)	-4.784 (3.540)	-0.075 (1.337)
Per cent left-wing parties in govt.	-0.004 (0.035)	-0.002 (0.029)	-0.012 (0.026)	0.210* (0.120)	0.607* (0.346)	0.792** (0.345)	0.121* (0.064)	0.157** (0.074)	-0.004 (0.028)
Per cent seniors	1.544*** (0.522)	1.379*** (0.426)	0.147 (0.389)	-0.664 (1.784)	11.450** (5.134)	2.870 (5.114)	-0.816 (0.952)	-2.020* (1.094)	0.796* (0.413)
Constant	19.353* (10.585)	9.533 (8.629)	22.874** (8.131)	95.140** (36.154)	55.737 (104.072)	219.774** (103.668)	111.643*** (19.301)	124.125*** (22.183)	-11.549 (8.381)
Observations	29	29	27	29	29	29	29	29	29
R ²	0.350	0.414	0.431	0.523	0.586	0.575	0.491	0.474	0.644
Adjusted R ²	0.208	0.287	0.296	0.419	0.496	0.483	0.380	0.359	0.567
Residual std. error	6.454 (df = 23)	5.261 (df = 23)	4.608 (df = 21)	22.044 (df = 23)	63.454 (df = 23)	63.208 (df = 23)	11.768 (df = 23)	13.525 (df = 23)	5.110 (df = 23)
F statistic	2.475* (df = 5; 23)	3.257** (df = 5; 23)	3.183** (df = 5; 21)	5.043*** (df = 5; 23)	6.505*** (df = 5; 23)	6.233*** (df = 5; 23)	4.438*** (df = 5; 23)	4.138*** (df = 5; 23)	8.335*** (df = 5; 23)

Note: * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$. All Variance Inflation Factors ≤ 1.3 .