

# Bicameralism or Unicameralism

## A Case of the United Kingdom and Uganda

Esther Majambere \*

### Abstract

*This article discusses the advantages and disadvantages of a unicameral legislative system and that of a bicameral legislative system. A unicameral legislature has one chamber whereas a bicameral legislature has two chambers as this article shows in detail. In any democratic state, Parliament is the only organ given power to make laws. Most Constitutions define legislation as the central function of parliament. This is supported by its very name 'the Legislature'. The law making processes in a unicameral legislature are more less the same as those in a bicameral legislature as this article discusses. The only difference is that in a bicameral system the law has to be approved by both chambers. The article therefore explores whether the second chamber is necessary. Bicameralism seems to work best in countries that are larger or socially and ethnically diverse. It helps to resolve regional conflict. In some countries with a bicameral legislative system, the upper house is used as a way of reserving representation for certain societal groups and or to replace a further check on the power of the Lower House. The Parliament of UK is a bicameral legislature with the House of Lords (upper house) and the House of Commons (lower house). The House of Lords includes two different types of members- the Lord Spiritual (the senior bishops of the Church of England) and the Lords Temporal (members of the peerage upper ranks of the British nobility) elected by the population at large, but are appointed by the sovereign on the advice of the Prime Minister. The House of Lords also performed a judicial role through the Law Lords prior to the opening of the Supreme Court. In theory, supreme legislative power is vested in the Queen-in-Parliament; in practice real power is vested in the House of Commons, as will be discussed in this article. Therefore how many chamber a parliament should have is a controversial question in constitutional law.*

**Keywords:** unicameralism, bicameralism , legislative system of Uganda, legislative system of the UK.

\* Esther Majambere is a Senior Legal Officer at the Uganda Law Reform Commission in Kampala, Uganda.

## A. Background

### I. Introduction

Law making is one of the most important functions of any democratic government. It is one of the ways by which government implements policy. In a bid to fulfil the function of law making, parliament is mandated by the constitution (in most countries) with a task of ensuring that laws of a country are enacted.

Legislative process is a culmination of a much longer process that starts with the proposal, formulation and drafting of a bill. It is after a bill has been drafted that the legislative process commences. It is in parliament that a draft bill is debated and passed into law. Although legislative process can be divided into two stages i.e. the preparation of the draft statute and the parliamentary and assent stage, the focus of this essay is on the latter stage. In some jurisdictions parliament is made up of two chambers (bicameral) and in others it is one chamber (unicameral).

However, the role of the second chamber is unclear since in most cases they rubber stamp the decisions of the first chamber. In centralized states with bicameral systems, some countries use the upper house as a way to reserve representation for certain societal groups. In the UK the majority of members of the upper house are hereditary peers. Toqueville in his article had this to say: "The establishment of bicameralism in England was not precipitated by carefully planned political action.<sup>1</sup> It was rather the evolutionary product of sustained pressure and conflict of divergent social interests."<sup>2</sup>

It is therefore my hypothesis that the role of the second chamber in the legislative process is unclear and a one chamber parliament can perform the legislative function sufficiently. This article will show that a unicameral system is more advantageous than a bicameral system.

### II. Methodology

In proving my hypothesis I will compare the UK's and Uganda's parliaments, and look at the practice in the two parliaments. In order to ascertain the role and the necessity of a second chamber, I will look at the legislative process in a bicameral system and the process in a unicameral system and finally make a comparative analysis of the procedures of the two systems. I will explore the advantages and disadvantages of both a bicameral and a unicameral system of parliament. I will then draw conclusions for my essay. The UK and Uganda will be my case studies, one representing a bicameral system and the other a unicameral system respectively. I will mostly rely on the Constitution of Uganda, the Rules of Procedure for the Parliament of Uganda, Standing Orders of the House of Commons and the House of Lords and the official websites for both the parliaments of the UK and Uganda. I will also explore any other available literature, both hard and electronic

1 A. De Toqueville, 'Unicameralism and Bicameralism: History and Tradition', *Boston University Law Review*, 260 (1965) p. 250 at 269.

2 *Ibid.*

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materials, to back up my findings. In this essay I will use the words parliament and legislature interchangeably.

### III. *Bicameralism (the UK's Parliament)*

Bicameralism is a legislative system in which the power of law making is vested in two houses or chambers, both of which must approve a bill before it becomes law. The parliament of the UK is a bicameral parliament with an upper house, the House of Lords and a lower house, the House of Commons. The Queen is the third component of the legislature. In the UK for the lower chamber, the popularly elected House of Commons has evolved into the superior legislative power, and its decisions override those of the upper chamber, the House of Lords.<sup>3</sup> Having two legislative chambers grew out of the monarchy system in the UK and other European countries where there was the need to represent both the aristocracy and the common man.<sup>4</sup> The inclusion of a common body in the 'Great Parliament' was apparently not an act of compelling legislative reform, but a mere political ploy. Nonetheless, it marked the beginning of the House of Commons and bicameralism in the national assembly.<sup>5</sup>

### IV. *Unicameralism (Uganda's Parliament)*

Unicameralism is a system of legislature with one chamber. The parliament of Uganda is a unicameral system of parliament. It derives its mandate from the 1995 Constitution and its own Rules of Procedure. Unicameral legislatures are mostly established in countries with a centralized or unitary structure and small. Looking at Uganda, the first elements of a legislative organ can be traced as far back as the turn of the century, when in 1888 the then Imperial British East African Company started some kind of administration in Uganda. Although this company was a private one, its character authorised it, *inter alia*, to undertake the duties of general administration, imposition and collection of taxes and administration of justice. In 1962, when the general elections were held, the Uganda People's Congress won and it was the party which received the instruments of independence. Under the Independence Constitution of 1962, the first Parliament of Uganda, the National Assembly was elected and partly nominated. Although Uganda has gone through different leaderships and different constitutions, the parliamentary system has remained a unitary one with one chamber.<sup>6</sup>

## B. **A Comparative Analysis of the Legislative Process in a Bicameral Parliament of the UK and a Unicameral Parliament of Uganda**

### I. *Legislative Process*

The enactment of a statute is the culmination of a long, detailed and often tedious process. The legislature, the government, the bureaucracy and interest groups

3 <<http://megga.essays.com> accessed on 03 March 2010>.

4 <<http://198.103.111.55/aia/ro/doc/dist1e.htm>> accessed on 3 March 2010.

5 *Supra* (note 1) at 254.

6 <[www.parliament.go.ug](http://www.parliament.go.ug)> accessed on 05/05/2010.

in the community all play particular roles in that process.<sup>7</sup> The parliamentary stages of the legislative process are normally subordinate to the antecedent formulation of policy; it is during the pre-parliamentary stage that the main lines and content of proposed legislation are effectively settled<sup>8</sup>. The legislative process is a process of formulating the legal expression of those policies in documentary form (drafting) and authenticating and approving that document so it passes into law (enactment)<sup>9</sup> which in most jurisdictions is done by parliament.

A bill goes through several stages before it is passed into law. The procedure followed in the UK's parliament is more less the same as that followed in Uganda's parliament save that in the UK it goes through two chambers which is rather cumbersome because the House of Commons is well equipped for the purposes of legislative function as will be seen in this essay.

## II. Procedure in the UK Parliament<sup>10</sup>

Bills can be introduced by any member of either house but usually a bill is introduced by a minister of the Crown. A bill introduced by a minister is known as a 'Government Bill', one introduced by another member is called a 'Private Members Bill'. (Details are in Table 1.)

## III. Procedure in Uganda (Unicameralism)

In Uganda, legislation may be introduced into parliament on the initiative of the minister, a member of parliament or a standing committee. Bills introduced by ministers are called Executive Bills, while those introduced by a member of parliament or a standing committee are referred to as Private Member's Bills.<sup>11</sup> The major form of legislation in Uganda has been Executive Bills. These are usually based on government policy requiring legislation and a Cabinet decision reflected in a Cabinet Minute. (Details are in Table 1.)

7 S. Mason, Law Making, Drafting and Law Reform, in: D. St. L. Kelly, (Ed.) *Essays on Legislative Drafting*. The Adelaide Law Review Association, Law School University of Adelaide, 1988 p. 111 at 112.

8 Griffith & Ryle, *Parliament, Functions, Practice and Procedures*, 2<sup>nd</sup> Edition, 2002.

9 *Supra* (note 12).

10 This information was accessed from <[http://en.wikipedia.org/wiki/Parliament\\_of\\_the\\_United\\_Kingdom](http://en.wikipedia.org/wiki/Parliament_of_the_United_Kingdom)> accessed on 18 May 2010 and D.R. Miers & A.C. Page, *Legislation*, Sweet & Maxwell, London 1982.

11 See Rules 96 and 98 of the Rules of Procedure of Parliament.

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**Table 1** *Legislative Process in a Bicameral Parliament of the UK and a Unicameral Parliament of Uganda*

UK	Uganda
<ul style="list-style-type: none"> <li>• <b>The First Reading</b> This is the first stage. The clerk reads the short title of the bill without any question being put.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>The First Reading</b> After introduction into parliament and all the necessary requirements are met, the clerk reads the short title and the bill is taken to have been read the first time.<sup>12</sup></li> </ul>
<ul style="list-style-type: none"> <li>• <b>Second Reading</b> At the second reading the general principles and the policy upon which the bill is based are debated. Following the second reading, the bill is sent to a committee. In the House of Lords the committee of the whole house or the Grand Committee is used. Each consists of all members of the house; the latter operates under special procedures and is used only for uncontroversial bills. In the House of Commons the bill is usually committed to a public committee and the committee of the whole house is used for important legislation. Several other committees such as select committees may be used, but rarely. A committee considers the bill clause by clause and reports the bill as amended to the house, where further detailed consideration occurs ('consideration stage' or 'report stage').</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Second Reading</b> After the first reading, the bill is referred to the appropriate committee which examines the bill in detail The committee reports to the whole house the merits and principles of the bill based on explanatory memorandum and the committee's report is debated.<sup>13</sup> After the debating the report and the motion are carried, the clerk reads the short title and the bill is taken as read the second time. The bill then is committed to the whole house unless the house on motion committees it to a select committee.<sup>14</sup></li> </ul>
<ul style="list-style-type: none"> <li>• <b>Third Reading</b> Once the house has considered the bill, the third reading follows. In the House of Commons no further amendments may be made, and the passage of the motion 'that the Bill be now read a third time' is a passage of the whole house. In the House of Lords further amendments to the bill may be moved. After the passage of the third reading motion, the House of Lords must vote on the motion 'that the Bill do now pass'. Following its passage in one house, the bill is sent to the other house. If passed in identical form by both houses, it may be presented for Sovereign's Assent. If one house passes amendments that the other will not agree to, and the two houses cannot resolve their disagreements, the bill fails.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Third Reading</b> After the committee of the whole house has reported, the house may proceed to the Third Reading of the bill upon a motion.<sup>15</sup> The mover of the motion moves that 'the bill entitled...be read the third time and do pass'.</li> </ul>

12 Rule 103 of the Rules of Procedure.

13 Rule 104 of the Rules of Procedure.

14 Rule 105 of the Rules of Procedure.

15 Rules 110 and 111 of the Rules of Procedure.

*Table 1*

<b>UK</b>	<b>Uganda</b>
<p>The last stage of a bill involves the granting of the Royal Assent.</p> <p>Thus every bill obtains the assent of all the three components of Parliament before it becomes law except where the House of Lords is overridden under the Acts of Parliament Act 1911 and 1949.</p>	<p>It is the duty of the clerk to ensure that copies of the passed bill are prepared and sent for the Presidential Assent which is the final stage for a bill to become law. Constitutionally, this is supposed to be done immediately after the bill has been passed.<sup>16</sup></p> <p>Once a bill has received Presidential Assent it becomes an Act of Parliament and it is published in the Gazette.</p>

#### *IV. Analysis of the Procedures in both the UK's and Uganda's Parliaments*

As has been shown above, the procedure in both parliaments is more less the same. In the UK, although bills can be introduced in either the House of Commons or the House of Lords as Table 1 shows, the effective scope for their introduction in the House of Lords is limited by the House of Commons' exclusive privilege in relation to the granting of supplies and the imposition and appropriation of charges, a privilege which ordinarily necessitates the introduction of Bills with financial implications in the lower house. The work of the House of Lords tends to be concentrated towards the end of the Session when a backlog of Bills may have built up waiting to complete their stages.<sup>17</sup> It is my contention that most of the legislative work is done by the House of Commons which would have even been sufficient without the House of Lords. As one writer stated, in theory, supreme legislative power is vested in the Queen-in-Parliament; in practice, real power is vested in the House of Commons, as the sovereign generally acts on the advice of the prime minister and the powers of the House of Lords have been limited.<sup>18</sup>

It is true that a second chamber can reduce the workload of the first chamber but the whole essence of having legislative programmes is to avoid workloads.

In a bicameral parliament, there have to be methods for reconciling different versions of bills and processes for consultation. Pieces of legislation on the same subject may be very different in each house reflecting that each chamber collectively represents different interests. Most bicameral legislatures use a shuttle system, whereby a bill is sent from one chamber to another for review and amendment until an agreement is reached. Under this system, one chamber presents its version of a bill or counter with an amendment. This process can go on until both houses agree on one version. If one house prevails, the bill dies. In extreme circumstances it can lead to parliament's dissolution. One writer stated that "if the

16 Article 91(2) of Uganda's Constitution.

17 D.R. Miers & A.C. Page, *Legislation*, Sweet & Maxwell, London 1982. At 114.

18 <[http://en.wikipedia.org/wiki/Parliament\\_of\\_the\\_United\\_Kingdom](http://en.wikipedia.org/wiki/Parliament_of_the_United_Kingdom)> accessed on 18 May 2010.

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second chamber agrees with the first one, it is useless, if it disagrees it is dangerous".<sup>19</sup>

Another factor which favours unicameralism is the fact that after a lengthy process, bills must pass. There are no incidences where a bill may fail due to disagreements like in the two chambers of a bicameral parliament. Thus Benjamin Franklin attacked the concept of a two house legislature for he perceived that its development in England was not the product of wisdom, but rather that of the feudal system, that it produced obstruction to legislation and that it was an attempt by vested property classes to retain minority control.<sup>20</sup>

According to the first Parliament Act 1911 (1 & 2 Geo.5.c.13), the supremacy of the House of Commons was asserted by limiting the legislation-blocking powers of the House of Lords (the Supremacy veto) provided the provisions of the Act are met, legislation can be passed without the approval of the House of Lords. The Parliament Act of 1911 was amended by the Parliament Act 1949 (12, 13, & 4 Geo 6.c.103) which further limited the power of the lords by reducing the time that they could delay bills, from two years to one. Also the Parliament Act has been used to pass legislation against the wishes of the House of Lords on seven occasions since 1911 and the Parliament Act 1949 was passed against the wishes of the House of Lords.<sup>21</sup> All these trends show that the House of Commons can act on its own without the House of Lords which put the legislative functions of the second chamber in question.

I will therefore proceed to show the advantages and disadvantages of each system.

### C. Advantages and Disadvantages of a Bicameral and a Unicameral System of Parliament

#### I. Bicameral

**Table 2** *Advantages and Disadvantages of a Bicameral System of Parliament*

<b>Advantages</b>	<b>Disadvantages</b>
A bicameral system has the capacity to represent diverse constituencies (regional, class, ethnic etc.).	Because members are not directly elected by the public, they may not be representative enough.
A bicameral system hinders the passage of flawed legislation. One chamber can act as a check on the other.	The procedure of passing legislation tends to be lengthy and because of differences, legislation tends to take a long time.

19 Abbe Siyes quoted by K. Newton & I.V. Deth, *Controversies, Foundations of Comparative Politics*, 2005 accessed at <<http://en.wikipedia.org/wiki/Bicameralism>> on 27 May 2010.

20 *Supra* note 14 at 262.

21 <[http://en.wikipedia.org/wiki/Parliament\\_Acts\\_1911\\_and\\_1949](http://en.wikipedia.org/wiki/Parliament_Acts_1911_and_1949)> accessed on 29 May 2010.

*Table 2*

<b>Advantages</b>	<b>Disadvantages</b>
With two legislative bodies, there is enhanced oversight of the executive branch.	In some cases where both chambers do not agree on a bill it may never be passed. In rare cases the situation may force parliament's dissolution
It provides a check on hasty, rash or ill-considered legislation.	In most cases they play a consultative role e.g. in Botswana and hence they become costly and expensive.
	Legislators can resort to passing a bill well knowing that it will be killed in the other house.
	It complicates the process of legislation, tends to distract public attention and interests and thereby enables legislators to evade responsibility.
	The most criticized structural feature of a bicameral legislature is the conference committee: "it maintains a small group of men sitting in secret and obeying no will but their own..." <sup>22</sup> (Willoughby, 1934)

## II. Unicameral

*Table 3 Advantages and Disadvantages of a Unicameral System of Parliament*

<b>Advantages</b>	<b>Disadvantages</b>
There is potential to enact proposed legislation more rapidly since differences do not have to be reconciled by two chambers.	In one chamber the laws that are passed may not represent the needs of society since it lacks the element of being checked by another chamber.
There is greater accountability since only one body is responsible for legislation. When there is one house closer rapport becomes possible.	
It is less expensive to maintain one body and fewer legislative members.	
There is a tendency to concentrate public notice on the legislative process. As a direct result of this focus, legislation becomes more responsive to and reflective of the constituent's interests.	
With a single house, the organs of legislation are established along clear and uncomplicated lines. Power is mainly located in one assembly. There is no need for the conference committee, or duplication of standing committees, legislative personnel and adjunct agencies and services. Moreover, the passage of bills is speedier and more meaningful when only one hearing is required. <sup>23</sup>	

22 Willoughby, *Principles of Legislative Organisation and Administration* (1934) cited in Toqueville *supra* (note 1) at 267.

23 Bates & Field, *State Government* 217 (1928) cited in Toqueville (*supra* note 1).



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## D. Conclusion

A statute must of course accurately reflect the legal elements of the policy decisions to be implemented. Parliament is a national debating chamber where different views, concerns and interests can find expression and find a common good. This is a two way system where people relay their wishes and opinions to their representatives who in turn seek to share with and explain to those they represent the outcomes of a parliamentary debate.

The findings of this essay show that one chamber can perform the legislative function sufficiently. In centralized states with bicameral systems, the upper house is used as a way to reserve representation for certain societal groups and to replace a further check on the power of the lower house.<sup>24</sup> In other countries the upper house is merely a consultative body. Toqueville adds that the theorists who propounded bicameralism argued principally from the position that two chambers would accommodate a necessary check on one another, rather than from the conviction that the different interests needed to be presented.<sup>25</sup>

It is true the second chamber checks the laws that are passed by the other chamber in order to remove any aspects that do not represent the needs of society; however this can be done at verification stage when an Act is verified to ascertain whether the intended government policy was achieved.

Indeed Franklin attacked the concept of a two house legislature for he perceived that its development in England was not the product of wisdom, but rather that of the feudal system, that it produced obstruction to legislation and that it was an attempt by vested property classes to retain minority control. Bicameralism seems to work best in countries that are larger or socially and ethnically diverse. It helps to resolve regional conflicts. In the UK, there have been proposals to reform the House of Lords some of which have been at least partly successful; the House of Lords Act 1999 limited the number of hereditary peers (as opposed to life peers, appointed by the government) to 92, down from around 700.<sup>26</sup> Also prior to the opening of the Supreme Court in October 2009, the House of Lords also performed a judicial role through the Law Lords,<sup>27</sup> a factor which was not in line with the doctrine of separation of powers. Recently, Matt Yglesias writes “Nick Clegg has released a big program for political reform in the UK and it includes the idea of replacing the House of Lords with an elected upper house...”<sup>28</sup>

The dichotomy of power between two assemblies permits the shifting of political responsibility to the other chamber.<sup>29</sup> Legislators can resort to the practice of passing a bill knowing well that it will be killed in the other house.<sup>30</sup> Also,

24 The Works of Benjamin Franklin 166 (Ed. Sparks 1837) cited in Toqueville, (*supra* note 1).

25 *Supra* (note 1) p.260.

26 <<http://en.wikipedia.org/wiki/Bicameralism>> accessed on 27 May 2010.

27 *Supra* (note 23).

28 <<http://trueslant.com/erikain/2010/05/19-Unicameralism-is-fine-but-so-is-bicameralism-without-a-filibuster>> accessed on 27 May 2010.

29 Holcombe, State Government 147 (1926) (*supra* note 1).

30 Hall, ‘The Bicameral Principle in New Mexico Legislature’, 16 *Nat’l Munic. Rev.* 185 (1927).

measures can be defeated by both houses passing bills which differ only in detail<sup>31</sup> but cannot or will not be agreed upon. A unicameral system on the other hand would be precluded from indulging in such tactics.

This essay shows that the advantages of a unicameral system outweigh the advantages of a bicameral system. Also it is evident that the functions performed by two chambers can be well performed by one chamber. However, given the historical, cultural and political factors, government must decide whether one chamber or two chambers better serve the needs of its country.

31 *Supra* (note 31).