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# Making Upper Houses Work: A Practical Reform Agenda and Lessons from Nepal's National Assembly

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Khim Lal Devkota\*

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## Abstract

Upper houses play a critical yet often underutilized role in bicameral legislatures, particularly in federal and parliamentary systems where continuity, deliberation, and territorial balance are essential. Nepal's Constitution of 2015 established the National Assembly (NA) as a permanent upper house—the second chamber—to strengthen continuity, inclusion, and federal balance within the parliamentary system. Despite its constitutional significance, the NA remains comparatively understudied and its institutional potential underrealized. Drawing on qualitative and comparative analysis of constitutional and legal provisions, parliamentary records, scholarly literature, and parliamentary practice, this paper argues that the NA performs meaningful functions in legislative revision and constitutional safeguarding, especially during periods of lower-house instability. However, its effectiveness is constrained by a limited constitutional mandate, weak committee systems, inadequate research and technical support, politicized nomination practices, and a narrow oversight role. The paper advances a practical reform agenda that can be pursued largely through legal, procedural, and institutional measures—improving membership quality and nomination norms, strengthening committees and scrutiny tools, enhancing inter-house and intergovernmental coordination, and building dedicated research and analytical capacity. Strengthening these foundations is essential to developing a more effective, accountable, and resilient federal parliament in Nepal.

**Keywords:** national assembly, upper house, bicameralism, lower house, federalism, parliament

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# **I. Introduction**

## ***1.1 Background***

Parliaments are central institutions of modern democracy, enabling citizens to exercise sovereignty through elected representatives and ensuring legislation, executive oversight, and the rule of law (Inter-Parliamentary Union, 2006). In most democratic systems—particularly in federal and socially diverse states—these core responsibilities are exercised through bicameral legislatures, in which authority is shared between two chambers. Typically, the Lower House (first chamber) is designed to reflect the immediate will of the people through population-based representation, regular elections, and strong political accountability. Owing to its majoritarian character, the Lower House often takes the lead in initiating legislation, approving budgets, and determining the confidence of the executive.

Bicameralism historically evolved as a constitutional design to complement a majoritarian chamber with an Upper House (the second chamber) that ensures balance, stability, and territorial representation. Upper Houses typically perform core functions such as legislative review, protection of minority or regional interests, constitutional balancing, and the promotion of deeper deliberation. By tempering the fast-paced, popular, and sometimes politically volatile tendencies of Lower Houses, Upper Houses help ensure that national decision-making remains inclusive, reflective, and institutionally balanced. Bicameral systems are thus designed to offer a “second look” at legislation and to represent interests different from those of the Lower House, including territorial units and social groups (International IDEA, 2017).

Scholarly literature reinforces these foundations. Lijphart (2012) characterizes Upper Houses as integral to consensus democracies, particularly in plural and federal states where the representation of territorial units is essential. Tsebelis and Money (1997) conceptualize second chambers as institutional “veto players” capable of slowing, refining, or reshaping legislation to prevent hasty or partisan decision-making. Watts (2008) similarly emphasizes that, in federal systems, Upper Houses institutionalize “shared rule” by enabling constituent units to participate directly in national law-making.

Comparative constitutional models demonstrate how these principles operate in practice. The United States Senate was designed to stabilize federal decision-making by providing equal representation to states and moderating rapid shifts in public sentiment; James Madison famously

described it as a “necessary fence” against legislative instability (Madison, 1788). Switzerland’s Council of States similarly assigns equal weight to cantons regardless of population, thereby safeguarding federal balance. Germany’s Bundesrat—composed of delegates from state governments—plays a central role in federal governance by exercising mandatory veto power over federal legislation affecting state competencies (Gunlicks, 2003). India’s Rajya Sabha likewise contributes to institutional continuity, federal representation, and more deliberative legislative scrutiny (Austin, 1999).

Nepal’s adoption of bicameralism in the 2015 Constitution reflects widely accepted constitutional principles of federal balance and legislative moderation, while also responding to the country’s specific political history and federal transition. The House of Representatives (HoR) functions as the politically dominant chamber, exercising control over government formation, the initiation of money bills, and the overall direction of public policy. By contrast, the National Assembly, Nepal’s upper house, is designed to serve as a stabilizing institution by ensuring continuity, institutional memory, and equal provincial representation within the federal legislature.

In Nepal’s constitutional design, the National Assembly (NA) embodies these principles. Its staggered membership system—where one-third of members are renewed every two years—mirrors practices in India, the United States, Australia, and Brazil, and is intended to promote stability during periods of political uncertainty (Devkota, 2024). According to the Kathmandu Post commentary “Amping up the Upper House,” the staggered terms and six-year tenure were meant to preserve institutional memory and continuity, particularly in moments of political flux such as the recurring dissolutions and remaking of the HoR (Devkota, 2025b).

Nepal’s bicameral practice since 2018<sup>1</sup> reveals significant institutional shortcomings. Parliamentary committees in both chambers frequently lack technical expertise, operate irregularly, and suffer from weak coordination. As Devkota (2022) observes, prolonged delays in bill processing have created legislative bottlenecks, while inadequate inter-house communication has resulted in duplication and uneven oversight. Moreover, the frequent use of ordinances has

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<sup>1</sup> Although Nepal’s Constitution was promulgated in 2015, it was formally implemented only after elections were held at all three tiers of government between 2017 and 2018, including the federal parliament—the House of Representatives (Lower House) and the National Assembly (Upper House). With the establishment of a three-tier system of government vested with constitutionally guaranteed state powers, Nepal effectively entered the era of federalism in practice. Accordingly, 2018 marks the country’s first parliamentary exercise under the federal constitutional framework.

enabled the executive to bypass parliamentary scrutiny, undermining deliberative and accountable law-making.<sup>2</sup>

Representation within the NA also remains a persistent concern. Although the Constitution prescribes a higher minimum age of 35 years, it does not require educational qualifications, legislative experience, or demonstrated professional competence. As a result, political parties often nominate defeated candidates or loyalists with limited legislative capacity, diminishing the chamber's deliberative strength and prestige. Amping up the Upper House notes that this has weakened the NA's capacity to function as a forum for expertise and deliberation rather than purely political patronage.

Despite these limitations, the NA has demonstrated clear constitutional value during periods of political crisis. As Devkota (2025a) notes, following the dissolution of the House of Representatives in 2021, the NA remained the sole functioning parliamentary chamber capable of questioning the executive and sustaining constitutional continuity. This stabilizing role closely mirrors the functions performed by Upper Houses in Switzerland, the United States, Germany, India, and other federal systems during moments of political disruption.<sup>3</sup>

The need for institutional strengthening was also strongly emphasized during the NA in the Strengthening Federalism interaction program,<sup>4</sup> which underscored the importance of enhancing committee capacity, professional staff support, research and fiscal analysis units, and inter-house communication mechanisms to improve legislative quality and scrutiny.

International standards further reinforce the importance of a strong Upper House. The Inter-Parliamentary Union's Indicators for Democratic Parliaments emphasize diversity, institutional capacity, transparency, independence, and effective oversight as core attributes of democratic legislatures (IPU, 2023). In Nepal's context, strengthening the NA as a genuinely deliberative,

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<sup>2</sup> Federalism and Localization Center (FLC), National Assembly in Strengthening Federalism, interaction program, Kathmandu, December 23, 2025. [flc.org.np/dialogue/24](http://flc.org.np/dialogue/24)

<sup>3</sup> For instance, in the United States the Senate conducts impeachment trials of executive officials under the Constitution, ensuring accountability and continuity during political crises (Senate powers of impeachment). In India, the Rajya Sabha is a permanent chamber that cannot be dissolved, helping sustain legislative continuity and federal representation even when lower house politics are unsettled.

In Switzerland, the Council of States equally represents cantons in federal law-making, reinforcing institutional balance. In Germany, legislative continuity mechanisms involving the Bundesrat and a constitutional Joint Committee exist to preserve governance in emergencies.

<sup>4</sup> [ekantipur.com/news/2025/12/23/stakeholders-say-those-demanding-federalism-appear-to-be-the-opponents-44-03.html](http://ekantipur.com/news/2025/12/23/stakeholders-say-those-demanding-federalism-appear-to-be-the-opponents-44-03.html)

federal, and stabilizing institution is therefore not merely a matter of institutional refinement but a constitutional necessity for consolidating federalism, enhancing democratic accountability, and ensuring long-term political stability and resilience.

## *1.2 Rationale of the Study*

A focused examination of Nepal's National Assembly is essential for understanding its constitutional mandate, institutional performance, and evolving role within the country's federal parliamentary system. While bicameralism has been extensively examined in comparative constitutional and political science literature, Nepal's Upper House remains relatively understudied, particularly in terms of its practical functioning since the promulgation of the 2015 Constitution.

Foundational scholarship on bicameralism and federal governance underscores the importance of second chambers in improving legislative quality, safeguarding federal and territorial interests, and enhancing constitutional stability. Lijphart (2012) highlights the role of Upper Houses in consensus democracies, especially in plural and federal states, where inclusive representation and moderation are critical. Tsebelis and Money (1997) conceptualize second chambers as institutional "veto players" that can slow, refine, or reshape legislation, thereby preventing hasty or partisan decision-making. Similarly, Watts (2008) emphasizes that in federal systems, Upper Houses institutionalize "shared rule" by enabling constituent units to participate meaningfully in national law-making. Whether Nepal's National Assembly fulfills these theoretical expectations remains an open and empirically important question.

Since the introduction of federalism, Nepal's federal parliament has faced persistent operational and institutional challenges. Devkota (2022) documents recurring delays in bill processing, weak committee performance, limited technical capacity, and insufficient coordination between the two chambers. These deficiencies disproportionately affect the National Assembly, whose effectiveness depends heavily on strong committee systems, structured inter-house cooperation, and adequate research and secretariat support.

Recent political developments further underscore the stabilizing significance of the National Assembly. As Devkota (2025a) observes, the NA's indirect electoral design and staggered tenure reduce the likelihood of domination by a single political force. During the dissolution of the House of Representatives in 2021, the National Assembly remained the only functioning parliamentary

chamber, exercising committee functions, posing questions to the government, and sustaining a degree of constitutional continuity. Moreover, the staggered-term system—under which one-third of members are renewed every two years—has provided institutional memory and continuity, features often absent in the more volatile lower house (Devkota, 2024).

Given these theoretical expectations and practical realities, a comprehensive and comparative study of Nepal’s National Assembly is both timely and necessary. This study examines the extent to which the Assembly’s constitutional design and actual performance align with global principles of bicameralism and federal shared rule; assesses its legislative, oversight, and stabilizing roles; and identifies institutional and representational constraints that limit its effectiveness. Ultimately, the study aims to inform the constitutional, legal, and procedural reforms required to strengthen the National Assembly’s contribution to democratic accountability, federal balance, and resilient governance in Nepal.

This paper contributes to the comparative literature on bicameralism by demonstrating how a moderate-strength upper house can enhance federal stability and legislative quality primarily through institutional practice rather than constitutional redesign

### ***1.3 Objectives and Approach of the Study***

This study examines the constitutional design, composition, and powers of Nepal’s National Assembly; assesses its practical performance in legislation, oversight, and federal coordination; and identifies institutional reform options to strengthen its contribution to Nepal’s federal parliamentary system. It adopts a qualitative, document-based approach, drawing on constitutional and legal provisions, parliamentary rules, official records, and scholarly literature on bicameralism and federal governance.

The analysis is informed by empirical observations of parliamentary practice since 2018, complemented by insights generated through structured policy dialogues and interaction programs on the NA and federalism. In particular, the study draws on deliberations from the National Assembly in Strengthening Federalism interaction program,<sup>5</sup> facilitated by the author, where multiple dimensions of the National Assembly’s role—constitutional, legislative, oversight, and federal—were discussed alongside Nepal-specific challenges and international comparative

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<sup>5</sup> [flc.org.np/dialogue/24](http://flc.org.np/dialogue/24)

practices. These discussions provided an applied platform for contextualizing global good practices and assessing their relevance and adaptability to Nepal's constitutional and institutional setting, including ongoing debates on constitutional and procedural reform.

Selective comparative analysis of upper houses in federal and parliamentary systems—including Australia, Brazil, Canada, Germany, India, South Africa, Switzerland, the United Kingdom, and the United States—provides an additional analytical lens. Comparative references are used to illuminate alternative institutional designs, continuity mechanisms, and oversight functions, with the aim of identifying transferable lessons rather than prescribing institutional replication.

The study relies primarily on constitutional texts, legal documents, parliamentary rules, and publicly available records to analyze both Nepal's National Assembly and selected comparative cases. As a result, the comparative assessment is grounded mainly in constitutional and formal institutional frameworks, which may not fully capture evolving political conventions, informal practices, or recent institutional changes within individual countries. Some constitutional provisions referenced may have been interpreted, supplemented, or modified through subsequent legislation, judicial decisions, or parliamentary practice.

The study does not employ systematic interviews, surveys, or quantitative performance indicators. Accordingly, findings regarding institutional effectiveness and behavior are interpretive in nature and based on triangulation of documentary sources, observed parliamentary practice, and structured policy dialogue. The comparative analysis is illustrative rather than exhaustive, intended to generate practical and policy-relevant insights rather than comprehensive cross-national causal explanations.

#### ***1.4 Theoretical Perspectives on Bicameralism***

Theoretical literature on bicameralism consistently underscores the importance of second chambers in enhancing democratic governance, particularly in plural, divided, and federal political systems. Rather than duplicating the functions of lower houses, upper chambers are conceptualized as institutions designed to moderate majoritarian impulses, broaden representation, and strengthen constitutional stability.

One influential theoretical strand situates bicameralism within the framework of "consensus democracy." Lijphart (2012) argues that strong or moderately strong upper houses are integral to

consensus-oriented systems, as they diffuse power, widen participation, and reduce the risks of winner-takes-all politics. In plural societies, upper houses help prevent the domination of a single political majority by incorporating territorial, minority, or non-majoritarian interests into the legislative process. From this perspective, bicameralism serves not merely as an institutional redundancy but as a corrective mechanism to majoritarian excess.

A complementary analytical framework is provided by "veto player theory." Tsebelis and Money (1997) conceptualize second chambers as institutional veto players whose capacity to delay, amend, or block legislation depends on their constitutional powers, composition, and partisan alignment with the lower house. Upper Houses, even when formally weaker, can significantly influence legislative outcomes by increasing the number of actors whose agreement is required for policy change. This theory helps explain how upper chambers contribute to legislative quality and stability by slowing decision-making and encouraging negotiation, compromise, and policy refinement.

Another important body of scholarship emphasizes the "functional role" of second chambers. Russell (2013) identifies three core functions of upper houses: legislative revision, representation of non-majoritarian interests, and constitutional safeguarding. She argues that the effectiveness of upper chambers often derives less from formal veto powers and more from deliberative capacity, committee expertise, and political legitimacy. This insight is particularly relevant for upper houses that lack strong fiscal or confidence-related powers but retain influence through scrutiny, expertise, and moral authority.

In federal systems, bicameralism is further theorized as an instrument of "shared rule." Watts (2008) explains that federal upper houses institutionalize the participation of constituent units in national decision-making, thereby complementing self-rule at the subnational level. Examples such as the United States Senate, Switzerland's Council of States, Brazil's Senate, South Africa's National Council of Provinces, and Germany's Bundesrat demonstrate how upper houses function as arenas for territorial representation and intergovernmental coordination. From this perspective, bicameralism is central to maintaining federal balance and preventing excessive centralization.

The philosophical foundation of bicameralism can be traced to classical constitutional thought. Writing in "Federalist No. 62," Madison described the second chamber as a "necessary fence" against legislative instability, arguing that longer terms, indirect selection, and institutional

separation could protect governance from sudden shifts driven by temporary passions or populist pressures (Madison, 1788). This foundational insight continues to inform modern justifications for upper houses as stabilizing institutions within democratic systems.

Taken together, these theoretical perspectives—consensus democracy, veto player theory, functional institutionalism, federal shared rule, and classical constitutionalism—provide a coherent analytical framework for evaluating bicameral legislatures. They highlight how upper houses can enhance deliberation, protect territorial and minority interests, moderate majoritarian dominance, and contribute to constitutional continuity. These theories collectively inform the criteria used in this study to assess the design, performance, and reform needs of Nepal’s NA within the country’s evolving federal democratic system.

To synthesize the key theoretical arguments discussed above and to clarify their relevance for the analysis of Nepal’s NA, Table 1 summarizes the principal theoretical perspectives on bicameralism and identifies their corresponding analytical focus.

**Table 1. Bicameralism Framework and Relevance for Nepal’s National Assembly**

<b>Perspective</b>	<b>Core Insight</b>	<b>Relevance for National Assembly</b>
Consensus Democracy (Lijphart)	Moderates majoritarian dominance in plural societies	Inclusive NA design (gender, Dalit, minority quotas); moderating role beyond HoR politics
Veto Player Theory (Tsebelis & Money)	Slows and refines legislation	Limited but decisive influence in constitutional amendments, ordinances, treaties, and emergencies
Functional Institutionalism (Russell)	Power flows from scrutiny and expertise	Committee effectiveness, deliberation quality, and need for stronger research support
Federal Shared Rule (Watts)	Constituent units participate in national decisions	Equal provincial representation; indirect election linking provinces and local governments
Classical Constitutionalism (Madison)	Stabilizes governance against volatility	Permanence, staggered tenure, and continuity during HoR dissolution (e.g., 2021)
Democratic Parliamentary Standards (IPU)	Capacity, inclusiveness, and oversight matter	Institutional capacity, transparency, inter-house coordination, and accountability gaps

**Source:** Author’s synthesis based on Lijphart (2012), Tsebelis & Money (1997), Russell (2013), Watts (2008), Madison (1788), and IPU (2006, 2023).

The theoretical perspectives summarized in Table 1 provide the analytical lens through which Chapter 3 evaluates Nepal’s National Assembly in practice. While these frameworks outline the expected roles of upper houses—moderation, continuity, federal representation, and legislative refinement—Chapter 3 examines how far the NA fulfills these functions within its specific constitutional, political, and institutional context. By tracing the Assembly’s historical evolution, electoral design, representational practices, legislative authority, and performance during political crises, the chapter assesses whether the National Assembly operates as a functional stabilizing institution or remains constrained by design limitations and weak institutional practice. In doing so, the empirical analysis connects theory to practice and identifies targeted reform priorities necessary to strengthen the National Assembly’s contribution to federal balance, democratic accountability, and resilient governance in Nepal.

### ***1.5 Structure and Scope of the Paper***

This paper is structured to combine theoretical grounding, comparative insight, and institution-specific analysis in order to inform policy-oriented reform of Nepal’s NA. Chapter One introduces the background, rationale, objectives, methodological approach, and theoretical perspectives guiding the study. Chapter Two situates comparative framework by examining the design, composition, powers, and practices of selected upper houses across parliamentary and federal systems, drawing transferable lessons relevant to Nepal’s context. Chapter Three provides an in-depth analysis of Nepal’s NA, covering its historical evolution, constitutional design, electoral system, legislative and oversight roles, representation concerns, and key institutional challenges. Chapter Four synthesizes the main findings and advances concrete, policy-relevant recommendations aimed at strengthening the National Assembly’s role in legislative scrutiny, federal coordination, and democratic accountability without requiring immediate constitutional amendment.

## **2 Upper Houses in Comparative Perspective**

### ***2.1 Introduction***

This Chapter compares Upper Houses in Australia, Brazil, Canada, Germany, India, South Africa, Switzerland, the UK, and the US to place Nepal’s National Assembly in context. It shows wide

variation in composition and powers-from co-equal veto chambers to mainly revising bodies-and draws design lessons for Nepal's reform.

## 2.2 *Structure and Practices of Upper Houses Globally*

### 2.2.1 Australia (Senate)

Australia's Senate is a constitutionally strong upper house within a Westminster-derived federal parliamentary system, designed to represent the States on an equal basis.<sup>6</sup> Legislative power of the Commonwealth is vested in a Federal Parliament consisting of the Crown, a Senate, and a House of Representatives (Section 1).

- The Constitution provides that the Senate shall be composed of senators for each State, directly chosen by the people.
- The Senate consists of 76 senators, 12 from each of the six States and two from each mainland territory (Section 7).
- Senators serve six-year terms, with half of the Senate renewed every three years, ensuring continuity and institutional stability (Section 13).
- The House of Representatives, by contrast, is population-based and composed of members directly elected by the people (Section 24).
- The Senate enjoys co-equal legislative authority with the House of Representatives over most legislation. Although money bills may not originate in the Senate and certain amendments are restricted, the Senate may reject such bills or request amendments, giving it substantial influence over fiscal and policy outcomes (Section 53).

In cases of persistent legislative deadlock, the Constitution provides a distinctive resolution mechanism. The Governor-General may dissolve both Houses simultaneously (double dissolution), followed, if necessary, by a joint sitting to resolve the dispute (Section 57).

Key Features:

- Equal state representation constitutionally entrenched, regardless of population.
- Direct election with long, staggered terms, ensuring continuity and independence from lower-house volatility.
- Strong revising and veto capacity, including the indirect power to block money bills.

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<sup>6</sup> This section draws on *The Constitution of Australia*, published by the Australian Government Solicitor, 2022.

- Clear constitutional deadlock-resolution mechanisms preventing prolonged inter-house paralysis.

Australia demonstrates that even within a Westminster parliamentary system, a constitutionally empowered upper house can play a decisive role in safeguarding federal balance, restraining executive dominance, and strengthening legislative accountability.

### 2.2.2 [Brazil \(Federal Senate\)](#)

Brazil's Federal Senate<sup>7</sup> is a constitutionally strong upper house within a presidential federal system, designed to represent the States and the Federal District on an equal basis. Legislative power is vested in the National Congress, composed of the Federal Senate and the Chamber of Deputies (Article 44).

- The Senate consists of 81 senators, three from each of the 26 States and three from the Federal District, ensuring equal territorial representation regardless of population (Article 46).
- Senators are directly elected by popular vote and serve eight-year terms, with staggered renewals of one-third and two-thirds every four years, promoting continuity and institutional stability (Article 46).
- The Chamber of Deputies, by contrast, is population-based and consists of 513 members elected for four-year terms through proportional representation (Article 45).

The Federal Senate is co-equal with the Chamber of Deputies in ordinary legislation and constitutional amendments (Articles 44 and 60). In addition, it exercises several exclusive constitutional powers central to federal governance, including conducting impeachment trials of high officials, approving appointments to senior judicial and constitutional offices, and authorizing federal, state, and Federal District borrowing—placing the Senate at the core of Brazil's macro-fiscal and accountability framework (Article 52).

Key Features:

- Equal representation of States and the Federal District, constitutionally entrenched.
- Direct election with long, staggered terms, ensuring independence and continuity.

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<sup>7</sup> This section draws on *Constitution of the Federative Republic of Brazil (1988)*.

- Strong legislative, fiscal, and oversight powers, including impeachment and borrowing authorization.

Brazil demonstrates how a powerful Upper House can anchor fiscal federalism, executive accountability, and subnational protection, even within a strong presidential system-offering important lessons for strengthening oversight and intergovernmental balance in Nepal.

### 2.2.3 [Canada \(Senate\)](#)

Canada's Senate<sup>8</sup> is the upper house within a federal parliamentary system, designed to represent regional and provincial interests and to provide legislative review and institutional balance. The Constitution establishes the Parliament of Canada as consisting of the Crown, the Senate, and the House of Commons (Section 17).

- The Senate consists of 105 senators, allocated to provinces and regions through constitutionally defined divisions rather than population-based representation (Sections 21–22).
- Senators are appointed by the Governor General and must meet specified age, residency, and property qualifications, including a minimum age of 30 years (Sections 23–24).
- Senators originally held office for life; however, a constitutional amendment introduced mandatory retirement at the age of 75, ensuring continuity alongside gradual renewal (Section 29).
- The House of Commons, by contrast, is population-based and composed of members directly elected by the people, with its size periodically adjusted following each decennial census (Sections 37, 51). It currently consists of 343 members.

The Senate is co-equal with the House of Commons in ordinary legislation. However, money bills must originate in the House of Commons, reflecting the principle of democratic accountability over public finance (Section 53).

Key Features:

- Region- and province-based representation constitutionally entrenched.
- Appointed membership with defined qualifications and mandatory retirement.
- Co-equal legislative authority, with limits on the origination of money bills.

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<sup>8</sup> This section draws on the Constitution Acts, 1867–1982 (Canada), as consolidated by the Department of Justice.

- Strong revising and deliberative role shaped primarily by parliamentary convention rather than executive dominance.

For Nepal, the Canadian case illustrates how an Upper House in a parliamentary federation can function as a chamber of regional balance and legislative refinement even without direct election, underscoring the importance of institutional design, political practice, and legislative culture in shaping upper-house effectiveness.

#### 2.2.4 [Germany \(Bundesrat\)](#)

Germany's Bundesrat is a strong intergovernmental upper house within a parliamentary federal system, designed to represent the Länder (states) directly through their governments rather than through popular election.<sup>9</sup> The Federal Parliament consists of the Bundestag and the Bundesrat, reflecting Germany's model of executive-based federal representation.

- The Bundesrat consists of 69 members, appointed as delegates by the governments of the 16 Länder rather than elected as individual legislators.
- Each Land exercises between three and six votes, allocated according to population, with votes cast en bloc by each state delegation (Article 51).
- Members are typically Minister-Presidents or senior state ministers and serve in the Bundesrat as long as they hold executive office at the state level.
- The Bundestag, by contrast, is a directly elected lower house chosen through mixed-member proportional representation; its size varies due to overhang and compensatory seats.<sup>10</sup>

The Bundesrat participates directly in federal legislation, administration, and European Union affairs (Article 50). Its consent is mandatory for all federal laws affecting Länder administrative responsibilities, finances, or shared federal–state competencies. For other legislation, the Bundesrat may raise objections or trigger a formal mediation process between the two chambers (Articles 77–78).

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<sup>9</sup> This section is based on the Basic Law for the Federal Republic of Germany (1949).

<sup>10</sup> The Bundestag has a base size of 630 members under the Federal Electoral Act; following the 2021 federal election, its membership stood at 736 members due to overhang and compensation seats under Germany's mixed-member proportional electoral system.

Germany's Bundesrat<sup>11</sup> not only represents Länder governments constitutionally but also participates directly in federal legislative processes, conducting initial and final readings of bills and using its veto power and mediation role to safeguard provincial autonomy—a core feature of executive federalism.

Key Features:

- Direct representation of state governments rather than individual legislators.
- Population-weighted voting by Länder, exercised collectively by each state delegation.
- No fixed terms, with membership linked to state executive office.
- Strong consent and veto powers over legislation affecting Länder interests.

For Nepal, the German Bundesrat illustrates how an upper house can institutionalize provincial governments within national decision-making, particularly in fiscal, administrative, and intergovernmental matters, through constitutionally mandated consent rather than direct election.

### 2.2.5 India (Rajya Sabha: Council of States)

India's Rajya Sabha (Council of States) embodies the federal principle within a parliamentary system by providing institutional representation to the States at the Union level.<sup>12</sup> The Parliament of India consists of the President, the Rajya Sabha, and the Lok Sabha, reflecting a bicameral structure designed to balance popular representation with federal stability.

- The Rajya Sabha has a maximum membership of 250. Of these, 238 members are elected indirectly by the elected members of State Legislative Assemblies and Union Territory legislatures using proportional representation by the Single Transferable Vote (STV) system, while 12 members are nominated by the President for their special knowledge or practical experience in fields such as literature, science, art, and social service (Article 80).
- Members serve six-year terms, with one-third of the membership retiring every two years, ensuring continuity, institutional memory, and insulation from short-term political fluctuations (Article 83).

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<sup>11</sup> [kathmandupost.com/columns/2023/11/28/takeaways-from-german-federalism](https://kathmandupost.com/columns/2023/11/28/takeaways-from-german-federalism).

<sup>12</sup> This section draws on the Constitution of India as amended up to the Constitution (One Hundred and Sixth Amendment) Act, 2023.

- The Lok Sabha, by contrast, is directly elected and population-based, with 545 members, and holds dominance over Money Bills, which the Rajya Sabha may only review and recommend upon.

The Rajya Sabha is co-equal with the Lok Sabha in ordinary legislation and most constitutional amendments (Article 107). Despite its limited authority over financial legislation, it exercises significant influence through legislative scrutiny, committee work, and its role as a forum for federal deliberation and expertise.

Key Features:

- Indirect election by State and Union Territory legislatures, reinforcing federal representation.
- Staggered six-year terms promoting continuity and stability.
- Presidential nomination mechanism to incorporate expertise and non-partisan perspectives.
- Strong revising and federal-balancing role despite weaker financial powers.

For Nepal, the Rajya Sabha offers a particularly relevant model of a moderate-strength, indirectly elected upper house within a federal parliamentary system, demonstrating how continuity, expertise, and territorial representation can enhance legislative quality without co-equal financial authority.

#### 2.2.6 South Africa (National Council of Provinces, NCOP)

South Africa's National Council of Provinces (NCOP) is a distinctive upper house designed to institutionalize provincial participation within a constitutionally mandated system of cooperative government, rather than to provide equal territorial representation. Parliament consists of the National Assembly and the NCOP, reflecting South Africa's model of executive-linked provincial representation.<sup>13</sup>

- The NCOP consists of 90 delegates, with 10 delegates from each of the nine provinces (Section 60). Each provincial delegation includes six permanent delegates and four special delegates, one of whom is the Premier of the province or a designated representative.

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<sup>13</sup> This section is derived from the Constitution of the Republic of South Africa (1996).

- Delegates are appointed by provincial legislatures in proportion to party representation, ensuring political alignment between provincial governments and their NCOP delegations (Section 61).
- Unlike most upper houses, voting in the NCOP is exercised collectively: each province casts one vote, reinforcing provincial equality in decision-making rather than individual mandates (Section 65).
- The National Assembly, by contrast, is a population-based lower house consisting of 400 members elected through proportional representation (Section 46).

The NCOP is not co-equal with the National Assembly in all legislative matters. However, it exercises strong amendment and veto powers over legislation affecting provincial interests, constitutional amendments impacting provinces, and matters central to intergovernmental relations (Sections 74–76).

Key Features:

- Delegation-based representation rather than individual membership.
- Strong linkage between provincial executives and national legislation.
- Equal provincial voting through a one-province-one-vote system.
- Central role in laws affecting provincial powers, functions, and intergovernmental relations.
- Embedded within a constitutionally mandated framework of cooperative government.

For Nepal, the South African NCOP provides an important comparative model of an intergovernmental upper house that emphasizes provincial voice, executive coordination, and functional federalism, rather than territorial equality or direct popular representation.

### [2.2.7 Switzerland \(Council of States\)](#)

Switzerland's Council of States is a strong territorial upper house representing the cantons and constitutes a cornerstone of Switzerland's federal and consensus-based constitutional order. The Federal Assembly consists of the National Council and the Council of States, reflecting a bicameral design that balances popular representation with cantonal equality.<sup>14</sup>

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<sup>14</sup> This section is derived from the Federal Constitution of the Swiss Confederation (1999, status as of 3 March 2024).

- The Council of States consists of 46 members, two representatives from each full canton and one from each half-canton, ensuring equal cantonal representation regardless of population size (Article 150).
- Members are directly elected, with electoral systems and term lengths determined by cantonal law, most commonly for four-year terms (Article 150).
- The National Council, by contrast, is population-based and consists of 200 members elected by proportional representation for four-year terms (Article 149).

Both chambers of the Federal Assembly are fully co-equal. Every federal law, federal decree, and most international treaties require approval by both the National Council and the Council of States, granting each chamber an effective mutual veto (Articles 156–159). This bicameral symmetry ensures that federal legislation reflects not only popular majorities but also cantonal consent, thereby protecting smaller and less populous cantons.

Beyond formal legislative powers, the Council of States plays a crucial moderating role in Swiss politics. Its smaller size, strong cantonal anchoring, and consensus-oriented political culture foster negotiation, compromise, and inter-cantonal balance. This institutional design closely aligns with Switzerland’s constitutional principles of subsidiarity, cantonal autonomy, and cooperative federalism (Articles 3, 5a, and 44).

Key Features:

- Equal territorial representation of cantons regardless of population.
- Direct elections under cantonal autonomy.
- Full co-equality with the National Council in legislation.
- Strong protection of smaller cantons through mutual veto powers.
- Central role in consensus democracy and negotiated federalism.

Switzerland’s long-standing federal experience also demonstrates broader institutional practices that reinforce the Council of States’ role -including strong cantonal autonomy with cantons holding their own constitutions and governments, constitutional requirements for bicameral consent on key issues, robust subsidiarity in governance, and systems of fiscal equalization and consensus decision-making, offering deeper lessons for Nepal’s federal evolution.<sup>15</sup>

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<sup>15</sup> [kathmandupost.com/columns/2025/09/02/swiss-lessons-for-nepal-s-federal-journey](https://kathmandupost.com/columns/2025/09/02/swiss-lessons-for-nepal-s-federal-journey)

For Nepal, Switzerland illustrates how an upper house with equal territorial representation and co-equal legislative authority can enhance federal stability, promote intergovernmental trust, and prevent the domination of populous regions over smaller provinces.

### 2.2.8 United Kingdom (House of Lords)

The House of Lords is the unelected second chamber of the UK Parliament and functions primarily as a revising and scrutinizing body rather than as a co-equal legislative chamber. Parliament consists of the Crown, the House of Commons, and the House of Lords, reflecting a bicameral structure rooted in parliamentary sovereignty rather than federal representation.<sup>16</sup>

- The House of Lords has around 800–830 members,<sup>17</sup> making it larger than the 650-member elected House of Commons.
- Its membership includes life peers, 26 bishops of the Church of England (Lords Spiritual), and 92 hereditary peers retained on an interim basis under the House of Lords Act 1999, which removed the automatic right of hereditary peers to sit in the House.
- Members are appointed rather than elected, with life peers nominated by the Prime Minister or recommended by an independent appointments commission.

Although its formal powers are limited, the House of Lords plays a significant constitutional role. Under the Parliament Acts of 1911 and 1949, it possesses only a suspensive veto and cannot permanently block most legislation, particularly Money Bills. Nevertheless, it exerts substantial influence through legislative revision, delay, committee scrutiny, and the contribution of professional expertise and non-partisan perspectives.

Key Features:

- Unelected membership composed of life peers, bishops, and a limited number of hereditary peers.
- Large chamber size relative to the lower house.
- Weak formal veto powers combined with strong revising and delaying authority.
- High levels of expertise and non-partisan scrutiny.

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<sup>16</sup> This section is derived from the House of Lords Act 1999 and the UK Parliament website.

<sup>17</sup> The UK Parliament website states that “there are about 800 members who are eligible to take part in the work of the House of Lords”, with most being life peers ([www.parliament.uk/about/mps-and-lords/about-lords/lords-types/](http://www.parliament.uk/about/mps-and-lords/about-lords/lords-types/)).

- Complementary role focused on oversight and legislative refinement rather than government formation.

The UK House of Lords has influenced several parliamentary democracies—most notably India and, indirectly, Nepal, where upper houses are conceived primarily as revising, deliberative, and moderating institutions rather than territorially co-equal chambers.

### 2.2.9 [United States \(Senate\)](#)

The United States Senate is a powerful upper house designed to ensure equal representation of states within a presidential federal system.<sup>18</sup> Under the U.S. Constitution, Congress consists of the Senate and the House of Representatives, establishing a bicameral structure that balances population-based representation with federal equality (Article I).

- The Senate consists of 100 senators, with two senators from each state, elected by direct popular vote, ensuring equal state representation regardless of population size (Article I).
- Senators serve six-year terms, with elections staggered so that one-third of the Senate is renewed every two years, promoting continuity, institutional memory, and independence from short-term political swings.
- The House of Representatives, by contrast, is population-based and consists of 435 members elected from single-member districts for two-year terms.

Federal legislation requires approval by both chambers of Congress. In addition, the Senate exercises several exclusive constitutional powers central to checks and balances, including the confirmation of executive and judicial appointments, ratification of international treaties by a two-thirds majority, and the conduct of impeachment trials, including presidential impeachments.

The Senate's equal territorial representation, long and staggered terms, and strong committee-based legislative process make it a central institution for federal stability, inter-branch accountability, and constitutional governance.

Key Features:

- Equal representation of each state regardless of population.
- Staggered six-year terms ensuring continuity and independence.
- Strong committee-centered legislative process.

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<sup>18</sup> This section draws on the Constitution of the United States of America (1787), including subsequent amendments.

- Exclusive powers over appointments, treaties, and impeachment.
- Co-equal legislative authority with the House of Representatives.

For Nepal, the U.S. Senate illustrates how equal territorial representation, combined with staggered terms and robust oversight powers, can reinforce legislative continuity, federal balance, and effective checks on executive authority.

### **2.3 Nepal in Comparative Perspective**

Nepal's National Assembly is designed as a moderate-strength revising chamber within a federal parliamentary system, sharing several institutional features with India's Rajya Sabha and, to a more limited extent, South Africa's National Council of Provinces (NCOP) and the UK House of Lords.

Key characteristics include:

- Indirect election through an electoral college comprising representatives from provincial assemblies and local governments.
- Six-year terms with staggered renewal, under which one-third of the membership is renewed every two years, ensuring continuity and institutional memory.
- Limited authority over Money Bills and ordinary legislation, combined with decisive constitutional roles in matters such as constitutional amendments, treaty ratification, and states of emergency.
- Constitutionally mandated inclusion quotas for women, Dalits, and minority communities, reflecting Nepal's commitment to social inclusion and representative federalism.

In comparative terms, Nepal's National Assembly occupies an intermediate position. It is stronger than purely advisory or ceremonial second chambers, yet less powerful than co-equal territorial upper houses such as the United States Senate or Switzerland's Council of States. Consequently, its effectiveness depends less on formal veto powers and more on institutional practice, political culture, committee capacity, and the quality of representation.

A detailed analysis of Nepal's National Assembly; covering its historical evolution, composition, constitutional powers, performance since federalization, and reform priorities; is presented in Chapter 3. Comparative information on selected upper houses, along with a summary table of lower-house characteristics, is provided in the Annex.

### 3 Nepal's National Assembly: Evolution and Mandate

#### 3.1 Historical Evolution

The idea of a bicameral legislature in Nepal predates the current federal system.<sup>19</sup>

- The Government of Nepal Act, 2004 BS (1948) first proposed a Bhardari Sabha (Upper House) of 20–30 members and a Rastra Sabha (Lower House) of 60–70 members. Although never implemented, this was the earliest formal recognition of a two-chamber model.
- The 1959 Constitution (2015 BS) established Nepal's first democratic bicameral parliament with a Pratinidhi Sabha (Lower House, 109 members) and a Maha Sabha (Upper House, 36 members). This experiment ended with the 1960 royal coup.
- The 1962 Panchayat Constitution replaced bicameralism with a unicameral Rastriya Panchayat, a party-less legislature lacking democratic legitimacy and pluralist representation.
- The 1990 Constitution (2047 BS) reintroduced bicameralism with a 205-member Pratinidhi Sabha and a 60-member Rastriya Sabha. However, irregular elections, politicized appointments, and weak capacity limited the Upper House's effectiveness.
- The Interim Constitution of 2007 again abolished the National Assembly, creating a unicameral Legislature–Parliament for the transitional peace and constitution-writing period.

The Constitution of Nepal, 2015 re-established bicameralism with a clear federal orientation, creating a Federal Parliament consisting of:

- House of Representatives (HoR), 275 members
- National Assembly (NA), 59 members

The National Assembly is designed as a permanent, indirectly elected Upper House that:

- Represents federal, provincial, and local levels,

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<sup>19</sup> This section is based on the Constitution of Nepal and official publications of the Federal Parliament Secretariat, including Introduction to the National Assembly (2018) and Six Years of the National Assembly (2024). In addition, it draws on the author's direct experience as a member of the National Assembly from May 2021 to March 2024, incorporating practitioner insights into parliamentary practice, institutional dynamics, and the functioning of the Upper House.

- Ensures continuity through staggered terms (one-third of the members retire every two years), and
- Promotes inclusive and considered law-making within the federal system.

The Constitution further mandates that at least 33 percent of the total membership of the Federal Parliament, including the National Assembly, shall be women, thereby embedding gender inclusion as a binding constitutional requirement rather than a policy preference.

This trajectory—from early constitutional conceptualization to modern federal bicameralism—demonstrates that the National Assembly is not an accidental institution, but rather the outcome of repeated constitutional learning and political negotiation.

### ***3.2 Composition and Electoral Design***

The National Assembly consists of 59 members, reflecting a hybrid constitutional design that combines indirect election and presidential nomination. Of these, 56 members are elected through an electoral college consisting of members of the Provincial Assemblies and the chiefs and deputy chiefs of local governments, in accordance with the constitutional and statutory framework governing National Assembly elections.

With respect to the vote-weighting mechanism within the electoral college, the voting weight assigned to each Provincial Assembly member is fixed at 53, while the voting weight<sup>20</sup> assigned to each local-level chief or deputy chief is fixed at 19. Consequently, the voting weight of one Provincial Assembly member is equivalent to that of three local-level representatives.

Each province elects eight members, subject to constitutionally mandated gender and social inclusion requirements, including at least three women, one Dalit, and one person from a minority or persons-with-disability category.

The remaining three members, including at least one woman, are nominated by the President on the recommendation of the Government of Nepal. Notably, the Constitution does not prescribe specific professional qualifications or subject-matter expertise for such nominations; any Nepali citizen who has attained the age of 35 years is eligible for nomination to the National Assembly.

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<sup>20</sup> [kathmandupost.com/politics/2025/10/30/national-assembly-vote-set-for-jan-25-next-year](https://kathmandupost.com/politics/2025/10/30/national-assembly-vote-set-for-jan-25-next-year)

Members of the National Assembly serve six-year terms, with one-third of the membership retiring every two years, thereby ensuring institutional continuity and legislative memory.

This hybrid electoral design integrates territorial representation (provinces and local governments), and social inclusion (gender, Dalit, minority, and disability representation), thereby situating the National Assembly at the intersection of federalism and social justice, as envisaged by the Constitution.

### **3.3 Representation and Selection Concerns**

Despite its formally inclusive design, the National Assembly's representational legitimacy and functional capacity remain contested. Constitutionally, the only eligibility requirement is a minimum age of 35, with no prescribed qualifications or expertise. In practice, political parties often nominate defeated candidates from federal, provincial, or local elections, as well as individuals with limited legislative or deliberative capacity.

As a result, public confidence in the National Assembly's competence and prestige has weakened, and the chamber is frequently perceived as a repository for party loyalists rather than a forum of experience and expertise.

By contrast, many comparative systems place greater emphasis on merit and experience: India's Rajya Sabha includes eminent public figures, the UK House of Lords draws on distinguished professionals, and Germany's Bundesrat is composed of senior state-level ministers. For Nepal, the central challenge is to align the composition of the National Assembly with its constitutional purpose—as a chamber of informed deliberation, federal insight, and long-term policy thinking.

### **3.4 Legislative Functions**

The National Assembly participates in the legislative process primarily as a revising chamber, by debating bills passed by the House of Representatives, proposing amendments, and contributing to more deliberative law-making. However, its formal authority is constitutionally constrained. Ordinary bills must be returned to the HoR within 60 days; money bills may originate only in the HoR, cannot be amended by the NA, and must be returned within 15 days. Moreover, when a bill originates in the NA, the Constitution sets no deadline for action by the HoR, allowing such bills to remain pending indefinitely.

An exception exists for ordinances (Article 114), where the NA enjoys equal authority with the HoR: ordinances issued by the President must be approved by both Houses within 60 days of their respective sessions.

Overall, Nepal's National Assembly functions more like a revising upper house, comparable to the UK House of Lords and India's Rajya Sabha, rather than a co-equal chamber such as the U.S. Senate. Unlike Germany's Bundesrat, it lacks a direct intergovernmental veto over legislation affecting provincial interests.

### **3.5 Constitutional Amendments and Other Key Roles**

Although the National Assembly (NA) plays a limited role in routine legislation, it exercises decisive authority in high-stakes constitutional and governance matters. Any constitutional amendment requires a two-thirds majority of the total membership of both Houses, including the NA, and the same supermajority applies to decisions on national referendums (Articles 274–275). Similarly, under Article 279, treaties relating to peace and friendship, national security, territorial integrity, and the division or use of natural resources must be ratified by a two-thirds majority of both chambers. In the case of a state of emergency (Article 273), the declaration must be tabled in both Houses and approved within prescribed time limits; where the House of Representatives (HoR) is dissolved or not in existence, the NA alone is constitutionally empowered to consider and approve the declaration. In addition, the NA performs important deliberative and oversight functions through parliamentary questions, urgent public discussions, and resolutions, and through its committees it may summon Prime Minister, Ministers, and, senior administrative officials and review the implementation of laws and policies. Collectively, these powers give the NA an effective veto in matters central to constitutional stability, federal balance, national sovereignty, and long-term governance, despite its weaker role in ordinary legislation and finance.

### **3.6 Oversight, Committees, and Institutional Challenges**

In principle, National Assembly committees are mandated to monitor the implementation of federal laws, review intergovernmental relations and fiscal federalism, and scrutinise executive actions. In practice, however, these functions remain under-developed, constrained by limited resources, weak research and technical support, inadequate follow-up mechanisms, and party-driven nominations that prioritise loyalty over expertise. Moreover, the Constitution assigns exclusive oversight over constitutional bodies—such as the Public Service Commission, the

Commission for the Investigation of Abuse of Authority, and the Election Commission—to the HoR, leaving the NA with no formal supervisory role in this critical accountability domain. This institutional design significantly limits the NA’s oversight capacity when compared with upper houses such as the U.S. Senate or South Africa’s NCOP, which exercise robust scrutiny over key appointments and institutional performance.

### ***3.7 Key Issues in the Functioning of the National Assembly***

The National Assembly faces several structural and functional limitations that constrain its institutional effectiveness. It plays no constitutional role in forming the executive: only members of the House of Representatives may become Prime Minister or participate in prime ministerial elections, leaving the NA outside core executive accountability functions. The NA also lacks formal oversight authority over constitutional bodies, a significant gap when compared with upper houses that exercise confirmation or review powers. Representation and competence concerns persist as well; minimal eligibility criteria and patronage-based nominations have raised questions about the chamber’s deliberative strength and legitimacy, with commentators noting that nomination practices often prioritise political loyalty over expertise and national contribution, undermining the upper house’s prestige and potential role in thoughtful federal governance.

Insights from the National Assembly in Strengthening Federalism interaction programme<sup>21</sup> further confirm the institutional and behavioral constraints identified in this chapter. Participants—including National Assembly members, provincial chief ministers, and constitutional experts—emphasized that a persistent centralized political and administrative mindset has weakened both provincial autonomy and the National Assembly’s capacity to function as an effective federal chamber. The dialogue also highlighted concerns that nomination and election practices often prioritize political accommodation over expertise, undermining the Assembly’s deliberative strength and public credibility. These practitioner perspectives reinforce the conclusion that the National Assembly’s underperformance stems less from constitutional design than from political practice and institutional culture.

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<sup>21</sup> Federalism and Localization Center (FLC), National Assembly in Strengthening Federalism: Interaction Programme, Kathmandu, 23 December 2025, [flc.org.np/dialogue/24](http://flc.org.np/dialogue/24); see also Nepal News (2025); Kantipur (2025).

### 3.8 Summary and Comparative Position

Nepal's NA is the outcome of deliberate constitutional design and decades of bicameral experimentation. It is intended as a permanent, indirectly elected upper house with staggered terms and inclusive representation. While its routine legislative powers are modest, it holds decisive authority in constitutional amendments, treaty ratification, and states of emergency. In comparative terms, the National Assembly occupies a moderate-strength position, closer to India's Rajya Sabha and South Africa's NCOP than to co-equal territorial chambers such as the U.S. Senate, Brazil's Federal Senate, Switzerland's Council of States, or Germany's Bundesrat.

For Nepal, the central challenge is not merely to expand the formal powers of the National Assembly, but to strengthen its role in intergovernmental coordination, legislative scrutiny, and checking executive dominance. Comparative experience demonstrates that even a formally weaker upper house can enhance the quality, balance, and stability of federal governance when it functions as a credible forum for deliberation, provincial voice, and institutional oversight. As summarized in Table 2, the effectiveness of Nepal's National Assembly depends less on expanding formal powers and more on improving institutional practice, membership quality, and oversight capacity.

**Table 2. Key Features of Nepal's National Assembly**

Subject	Description
Creation & Size	Established by the Constitution of Nepal (2015); first constituted in 2018. The National Assembly consists of 59 members.
Lower House	House of Representatives with 275 members (165 elected through FPTP and 110 through PR).
Electoral / Selection Model	56 members elected indirectly (8 per province) by an electoral college comprising Provincial Assembly members and local government representatives; 3 members nominated by the President. Members serve six-year terms, with one-third renewed every two years (staggered terms).
Powers & Veto Strength	No authority over money bills; may review, amend, and delay ordinary bills, but final decision-making authority rests with the House of Representatives. The veto power is suspensive rather than absolute.
Coordination & Oversight Role	Provides indirect representation of provincial and local governments; holds potential to strengthen intergovernmental coordination, enhance legislative scrutiny, and review ordinances and executive actions, particularly in high-stakes constitutional matters.

**Source:** Author's compilation

## 4 Conclusion and Recommendations

This study contributes by linking Nepal's upper-house practice with comparative federal bicameralism and identifying reform pathways that do not require immediate constitutional amendment.

### 4.1 Findings

This paper examined Nepal's National Assembly through theoretical, comparative, and practice-based lenses to assess how a moderate-strength upper house functions within a federal parliamentary system. The comparative analysis confirms that upper houses vary widely in strength, composition, and function, ranging from powerful co-equal chambers such as the U.S. Senate and Switzerland's Council of States to moderate-strength or primarily revising bodies such as India's Rajya Sabha, the UK House of Lords, and South Africa's NCOP. Nepal's National Assembly clearly falls within the moderate-strength category: it lacks dominance in routine legislation and finance, yet wields decisive authority in constitutional amendments, treaty ratification, states of emergency, and ordinance approval.

From a theoretical perspective, Nepal's National Assembly aligns closely with the logic of consensus democracy and federal shared rule rather than majoritarian parliamentary dominance. Its indirect election, staggered tenure, and permanent character are constitutionally designed to promote continuity, moderation, and institutional memory—objectives consistent with Madison's classical justification of a second chamber as a “necessary fence” against instability, as well as with modern scholarship emphasizing deliberation over veto power.

At the same time, the study finds that institutional design alone has not translated into optimal performance. Weak committee capacity, limited research support, patronage-driven nominations, and constrained oversight powers—particularly over constitutional bodies—have reduced the National Assembly's ability to fully realize its constitutional mandate. These gaps are not unique to Nepal but are characteristic of many upper houses whose influence depends more on practice, expertise, and political culture than on formal authority.

Deliberations from the interaction programme further validate the study's findings. Stakeholders noted that despite constitutional commitment to federalism, centralized decision-making and weak political ownership have constrained the National Assembly's role in legislative scrutiny and

federal coordination. Several participants observed that those who once demanded federalism now resist meaningful devolution in practice, limiting the Assembly’s ability to act as a stabilizing and federal-balancing institution.<sup>22</sup>

## **4.2 What Nepal Can Learn from Comparative Experience**

Comparative practice offers several clear and practical lessons for strengthening Nepal’s NA without fundamentally altering the constitutional balance of power.

First, experiences from Australia, Germany, Switzerland, and the United States underscore the importance of strong committee systems supported by professional research, legal, and fiscal expertise. In these systems, much of the upper house’s real influence is exercised through committees rather than plenary vetoes. For Nepal, strengthening NA committees; through dedicated research units, expert staff, and systematic follow-up mechanisms; would significantly enhance legislative scrutiny and oversight capacity.

Second, practices in India’s Rajya Sabha and the UK House of Lords highlight the value of merit-based membership and expertise. Although Nepal’s Constitution does not prescribe professional qualifications for National Assembly members, comparative experience demonstrates that informal norms and nomination practices matter greatly. Encouraging the nomination of individuals with demonstrated expertise in law, public policy, economics, federal governance, and social inclusion would improve deliberative quality without requiring constitutional amendment.

Third, the German Bundesrat and South Africa’s NCOP illustrate how upper houses can function as effective platforms for intergovernmental coordination. Nepal’s National Assembly, while not an intergovernmental chamber in the Bundesrat sense, could play a stronger role in facilitating structured dialogue between federal, provincial, and local governments, particularly on matters of shared competence, fiscal federalism, and implementation challenges.

Fourth, comparative cases emphasize that formal weakness does not preclude political relevance. The UK House of Lords and India’s Rajya Sabha demonstrate how revising chambers can exert substantial influence through reasoned debate, public legitimacy, and sustained scrutiny. For

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<sup>22</sup> Nepal News (2025), “Centralized mindset obstacle to deliver results”; Kantipur (2025), “Stakeholders say those demanding federalism appear to be the opponents.”

Nepal, enhancing transparency, public engagement, and evidence-based deliberation would strengthen the NA's moral and political authority.

### **4.3 *What Nepal Offers as a Comparative Model***

Importantly, Nepal should not be viewed solely as a recipient of comparative lessons. The study identifies innovative features of Nepal's National Assembly that are of potential relevance to other federal and transitioning democracies.

Most notably, Nepal's inclusion of local government representatives in the electoral college for National Assembly elections is a rare and distinctive institutional innovation. Unlike most federal upper houses that represent only states or provinces, Nepal's design integrates local governments into national-level representation, thereby deepening vertical democratic linkage and reinforcing the multi-tiered nature of federalism. This model offers valuable insights for countries seeking to strengthen local–national integration in federal systems.

Nepal's constitutionally mandated inclusion quotas; covering women, Dalits, minorities, and persons with disabilities—also represent a significant normative contribution. While many upper houses worldwide struggle with social representativeness, Nepal's constitutional approach embeds inclusion as a binding requirement rather than a discretionary policy choice. This feature is particularly relevant for plural, post-conflict, and transitioning societies seeking to combine federalism with social justice.

The permanent character of the National Assembly, coupled with staggered terms, further provides a stabilizing institutional design in politically volatile contexts. Nepal's experience during periods of House of Representatives dissolution demonstrates how an upper house can sustain constitutional continuity even when the lower chamber is absent, an insight of relevance to fragile democracies and hybrid parliamentary systems.

### **4.4 *Recommendations***

#### **4.4.1 Strengthening Membership Quality and Nomination Practices**

The credibility and effectiveness of the NA depend fundamentally on the quality of its membership. While constitutional amendment may not be immediately necessary, nomination and selection practices should prioritize expertise, experience, and deliberative capacity, particularly in areas such as governance, law, federal affairs, public finance, and public administration.

Presidential nominations should move away from patronage-based selections and instead reflect the expert-oriented logic found in India's Rajya Sabha (Article 80) and the UK House of Lords. Avoiding the routine nomination of defeated electoral candidates and leveraging staggered terms to preserve institutional memory, an approach evident in the U.S., India, and Switzerland, would strengthen both legitimacy and continuity.

#### 4.4.2 Strengthening Legislative Scrutiny, Committees, and Federal Coordination

The National Assembly's influence should be built primarily through strong committees and effective scrutiny, rather than expanded veto powers. This requires permanent expert staff, research and analytical units, and institutionalized practices such as pre-legislative review, fiscal scrutiny, and post-legislative scrutiny (PLS); areas where current capacity remains weak. Comparative experience shows that Brazil's Senate offers a useful model for fiscal oversight, while Germany's Bundesrat and South Africa's NCOP demonstrate how upper houses can institutionalize intergovernmental coordination. Nepal's National Assembly should therefore function as a structured forum for federal–provincial; local dialogue, particularly on fiscal transfers, shared competencies, and intergovernmental relations, drawing inspiration from Switzerland's cooperative federal culture.

#### 4.4.3 Enhancing Oversight, Procedures, and Institutional Capacity

Although constitutional limits restrict the National Assembly's oversight over constitutional bodies, its role can be strengthened through thematic reviews of federal laws, ordinance scrutiny, and joint hearings with the House of Representatives. Procedural reforms; such as introducing a time-bound requirement for the HoR to act on NA-originated bills, harmonizing legislative calendars, and improving inter-house coordination; would reduce bottlenecks and enhance legislative efficiency. Equally important are institutional autonomy, adequate resources, transparency, and public engagement, including open hearings, published committee reports, and a dedicated federalism research unit to support evidence-based decision-making.

#### 4.4.4 Reform through Institutional Practice, Not Constitutional Change

Consistent with comparative experience, the interaction programme underscored that strengthening the National Assembly does not require immediate constitutional amendment but demands improved nomination norms, stronger committee systems, enhanced research support,

and a more proactive role in intergovernmental dialogue-areas where political commitment and institutional practice are decisive.

#### **4.5 Final Reflections**

The National Assembly is a crucial yet underutilized pillar of Nepal's federal parliamentary system. Although its formal powers are moderate, its constitutional roles in ensuring continuity, fostering deliberation, maintaining federal balance, and safeguarding the Constitution are indispensable. Strengthening the National Assembly does not require altering Nepal's constitutional architecture; rather, it depends on improving membership quality, strengthening committee systems, ensuring adequate research and institutional resources, and deepening intergovernmental engagement. If developed along these lines, the National Assembly can significantly enhance the quality, balance, and stability of Nepal's federal governance, while also offering a meaningful comparative reference for other plural and transitioning democracies.

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## 6 Annex

*Table A1. Upper Houses, Comparative Features*

Country	Name of Upper House & Size	Term Length	Renewal System	Mode of Membership	Key Comparative Features
<b>Nepal</b>	National Assembly (59)	6 years	One-third every 2 years	Indirect election + presidential nomination	Inclusion quotas; staggered continuity; local government participation
<b>Australia</b>	Senate (76)	6 years (States); variable (Territories)	Half every 3 years (States)	Direct election (PR-STV)	Strong federal chamber; proportional elections limit majoritarian dominance
<b>Brazil</b>	Federal Senate (81)	8 years	One-third in one election; two-thirds in the next	Direct election	Strong macro-fiscal oversight; territorial equality
<b>Canada</b>	Senate (105)	Until age 75	Continuous (no staggered cycle)	Appointment	Long tenure ensures independence and continuity
<b>Germany</b>	Bundesrat (69)	No fixed term	Not applicable	Delegation by state governments	Intergovernmental body; binding consent on federal laws
<b>India</b>	Rajya Sabha (245)	6 years	One-third every 2 years	Indirect election + presidential nomination	Federal representation; expertise through nominated members
<b>South Africa</b>	National Council of Provinces – NCOP (90)	5 years	Entire chamber renewed after provincial elections	Delegation by provincial legislatures	Cooperative federalism; one vote per province
<b>Switzerland</b>	Council of States (46)	4 years	Entire chamber renewed	Direct election (cantonal rules)	Strong shared rule; equal cantonal representation
<b>United Kingdom</b>	House of Lords (~800)	Life tenure / variable	Not applicable	Appointment + limited hereditary + bishops	Expert scrutiny; strong committees; unelected

Source: Author's compilation

**Notes:**

- Canada: Senators are appointed and serve until the mandatory retirement age of 75, creating quasi-life tenure distinct from the UK House of Lords.

- United Kingdom: Life peers generally serve without a mandatory retirement age; tenure is convention-based rather than electoral.
- Germany: The Bundesrat is not a chamber of individuals but of state governments, with membership tied to provincial executive office.
- Australia: Senators from States have fixed six-year staggered terms; territorial senators serve shorter, variable terms.

**Table A2. Comparative Table, Lower House**

<b>Country</b>	<b>Name of Lower House</b>	<b>Size (Members)</b>	<b>Term Length</b>	<b>Mode of Election</b>
<b>Nepal</b>	House of Representatives	275	5 years	Mixed system: FPTP + PR
<b>Australia</b>	House of Representatives	151	Up to 3 years	Preferential voting
<b>Brazil</b>	Chamber of Deputies	513	4 years	Direct election (open-list PR)
<b>Canada</b>	House of Commons	343	Up to 5 years	Direct election (single-member districts, FPTP)
<b>Germany</b>	Bundestag	736	4 years	Mixed-member proportional (MMP)
<b>India</b>	Lok Sabha	545	5 years	Direct election (FPTP)
<b>South Africa</b>	National Assembly	400	5 years	Proportional representation (closed list)
<b>Switzerland</b>	National Council	200	4 years	Proportional representation
<b>United Kingdom</b>	House of Commons	650	Up to 5 years	Direct election (FPTP)
<b>United States</b>	House of Representatives	435	2 years	Direct election (single-member districts)

**Source:** Author's compilation

**Notes:**

- Germany: The size of the Bundestag varies due to overhang and compensation seats under the MMP system.
- Australia & UK: Maximum term limits exist, but early dissolution is constitutionally permitted.