

Strengthening State Legislatures

Background Note for the Conference on Effective Legislatures

State legislatures are responsible for making laws on key subjects like land, police and health. They are also tasked with approving the expenditure of money for their respective states every year. This note examines certain aspects related to the functioning of state legislatures, and ways in which they can be strengthened.

Responsibilities of state legislatures

The primary responsibilities of the legislature of every state include passing laws, approving government expenditure, and scrutinising the functions of the Executive. The Constitution has specified the subjects on which Parliament and state legislatures can legislate upon. While Parliament legislates on matters such as defence, citizenship and banking, state legislatures pass laws on subjects like land, police and health. Further, there are certain subjects on which the centre and states can legislate upon concurrently. In the last few years, significant legislative reforms in some concurrent areas such as land acquisition, labour and taxation are being carried out at the state level. For example, in 2014, Rajasthan passed amendments to three central labour laws, including the Industrial Disputes Act, 1947 and Factories Act, 1948. The introduction of the Goods and Services Tax (GST) regime has empowered states to impose indirect taxes on both goods and services.

State legislatures are also tasked with approving the budget. Expenditure of states is focused on providing essential services such as, infrastructure like roads and schools, public safety, and subsidies. Further, the last few years have seen an increased devolution of funds from the centre to the states. This is expected to result in greater autonomy in decision making at the state level. In 2015-16, all states together budgeted to spend Rs 23.4 lakh crore: this was 30% more than the centre's budget.

How state legislatures function

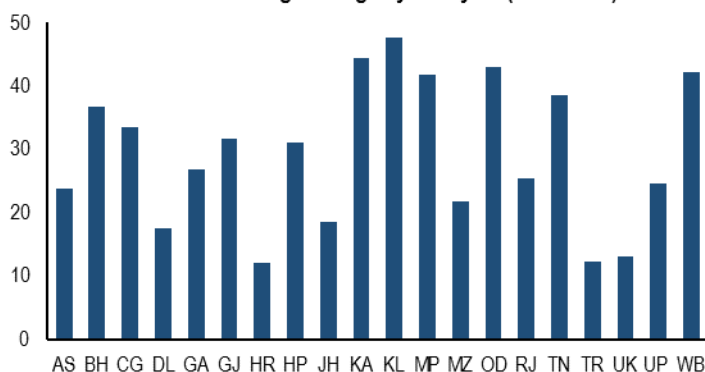
Most states have a unicameral legislature, consisting of a lower house called the legislative assembly. Seven states, such as Uttar Pradesh and Karnataka have a bicameral legislature, with a directly elected legislative assembly and an indirectly elected legislative council. This section presents an overview of the functioning of some state legislative assemblies.

Duration of sitting days

The Constitution does not mandate a minimum number of sitting days for Parliament or state legislatures. It only mandates that a sitting be held every six months. Therefore, every state government decides the duration for which its legislature should meet.

We obtained data for 20 state legislatures over 2011-2015 and observed that, about half the states worked for an average of 30 days or less in a year. Kerala had the highest average sitting days at 48, while Haryana had the lowest average of 12 sitting days. During this period, Parliament sat for an average of 69 days in a year.

Average sitting days in a year (2011-2015)



Note: 2011 data for JH was not available; Sources: State legislature websites; PRS.

The September 2015 session of Puducherry Assembly lasted eight minutes

It was reported that the Puducherry Assembly convened for a total of eight minutes on September 25, 2015, before adjourning the session sine die. The business attended to included obituary references and presentation of a notification by the Electricity Minister. Similarly, on December 28, 2012, the Puducherry Assembly sat for a total of 25 minutes before adjourning sine die.

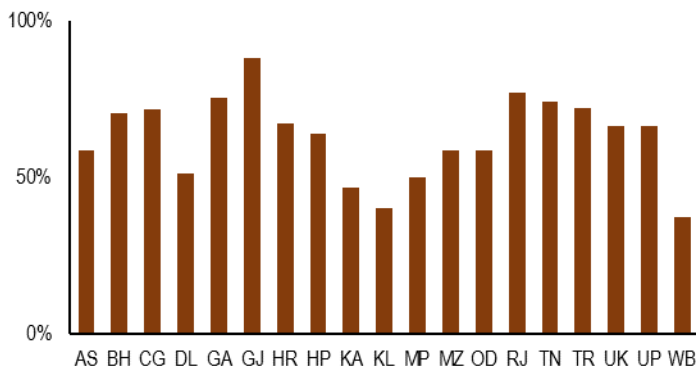
Sources: Various newspaper reports;¹ PRS.

Budget session vs. non budget session

Most state legislatures convene two or three sessions in a year. However, sometimes some states convene additional sessions. For example, Karnataka held four sessions in the years 2012 and 2013. The duration of each session varies across state legislatures.

Note that, in several states, the budget session is longer than the non-budget session. For example, in 2012, Himachal Pradesh had a 21-day budget session, followed by a 4 day non budget session, four months later. In 2015, Madhya Pradesh had a 24-day budget session, followed by two non-budget sessions of 10 days each. Over the last five years, several states like Goa, Gujarat and Rajasthan spent over 75% of their sitting time on discussing the budget.

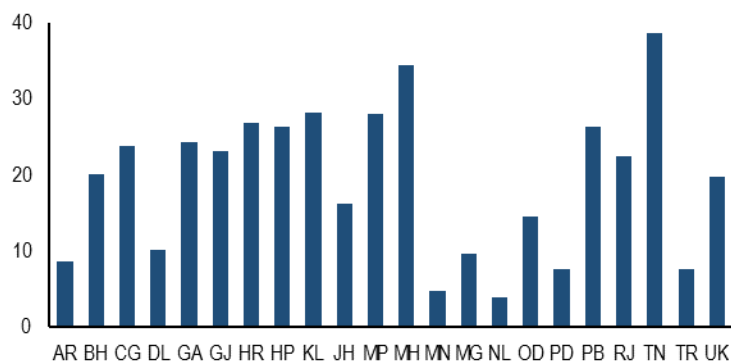
Budget days as a % of total sitting days (2011-2015)



Sources: State legislature websites; PRS.

Legislative business

Average number of Bills passed in a year (2001-2015)



Notes: Data includes Acts passed and assented to in a year. This number does not include Bills that may have been passed in a year but did not receive assent. Data for OD and PD for 2015 was not available; Source: Response to RTI request by PRS.

Between 2001-2015, of the 22 state legislatures for which we could collect data, the average number of Bills passed in a state in a year is about 19. Note that Parliament has passed 45 Bills per year, over the last 15 years.

During this period, Tamil Nadu and Maharashtra have passed around 38 and 34 laws a year, respectively. However, certain years like 2006 in Maharashtra and 2008 in Tamil Nadu witnessed a spike – 51 and 62 Bills were passed, respectively.

Several states in the north-east, such as, Manipur, Nagaland, Tripura and Arunachal Pradesh passed less than 10 Bills a year.

Haryana Vidhan Sabha passed 14 Bills within 90 minutes during its August 2016 session

The Haryana Vidhan Sabha sat for a total of four days during its August 2016 session. During this period, 14 Bills were introduced and passed within 90 minutes without much debate.

On August 30th, nine Bills were introduced and passed within a span of 56 minutes. This included a Bill related to right to receive time bound public services, private universities, court fees, and facilities for the members of the Haryana Assembly. Further, two Bills for the setting up universities for skills and AYUSH were also passed.

On August 31st, five Bills were introduced and passed within a span of around 30 minutes. This included two Bills related to the taxation of luxury goods and motor vehicles, and an amendment Bill related to the development of urban areas.

Sources: Haryana Vidhan Sabha, Bulletin No. 3, August 30, 2016 and Bulletin No. 4, August 31, 2016;² PRS.

Bills passed vs. sitting days

State legislatures pass, on average, around 20 laws a year. Most state legislatures sit for an average of 30 days in a year. Some state legislatures sit for very short periods. For example, during the period of 2011-2015, Uttarakhand passed an average of 20 Bills a year, but convened for around 13 days in a year. Haryana passed an average of 27 Bills, but convened for 12 days in a year.

Typically, the business of a state legislature includes several other functions, other than that of passing Bills. This includes approving government expenditure, discussing matters of public importance, and questioning the government's policies. As a result, by convening for shorter durations, legislators may not have adequate time to discuss and debate Bills as well as examine the functioning of the government on the floor of the Assembly.

Legislature Committees

Committees to examine legislation

While state legislatures do not have Departmentally related Standing Committees (DRSCs), they may constitute ad hoc Select Committees to examine certain Bills. However, not all Bills are referred to such committees. As a result, a legislator may not have adequate time to scrutinise the Bill or seek inputs from experts and stakeholders before it is passed in the Assembly.

Financial Committees

Most state legislative assemblies have financial committees, including the (i) Estimates Committee; (ii) Public Accounts Committee; and (iii) Public Undertakings Committee. The mandate of the three committees in the state legislative assemblies is similar to the corresponding committees in Parliament, which is post-facto examination of use of funds as well as determining whether the funds have been used for the sanctioned purpose. However, the committees vary in composition and features in some states. For example, the Estimates Committee of the Andhra Pradesh legislature comprises of members of both Houses-nine members of the legislative assembly, and three members of the legislative council. The Parliamentary Estimates Committee does not have members from Rajya Sabha.

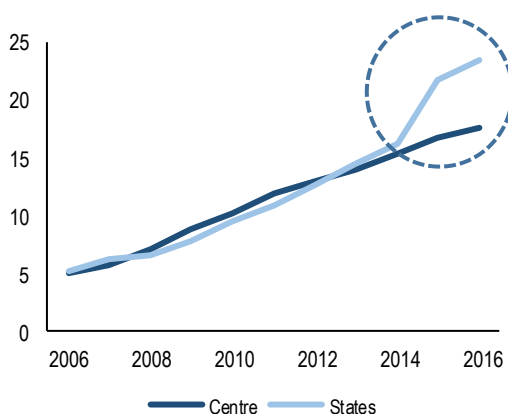
The Himachal Lokayukta Bill and Kerala protection of privacy of women Bill were referred to Committees

Himachal Pradesh: In 2014, a Select Committee was set up to examine the Himachal Pradesh Lokayuktas Bill, 2014. This Bill was similar to that of the Lokpal and Lokayuktas Act, 2013. However, issues related to the jurisdiction of the centre and that of the states had not been incorporated into the 2014 Bill.

Kerala: The Kerala Protection of Privacy and Dignity of Women Bill, 2013, introduced in the Kerala Assembly on February 14, 2013, was referred to a Select Committee. The Bill prohibited harassment against women, and intruding into women's privacy. It also created several offences, some of which were already covered by a central law.

Sources: Texts of the relevant Bills; respective state legislative assemblies; PRS.

Scrutiny of the budget



Sources: Indian Public Finance Statistics, Ministry of Finance; PRS.

During the 2016 budget session, several state legislatures passed their budgets without extensive debate or scrutiny. Note that, in 2015-16, all states together budgeted to spend approximately Rs 23.4 lakh crore. This was 30% more than that of the central government, which budgeted to spend Rs 17.6 lakh crore.

As in Parliament, most state legislatures usually do not have time to discuss the budgetary proposals of each ministry (Demands for Grants). Demands of only a few ministries may be discussed; the rest are 'guillotined', i.e. put to vote without any discussion.

The Demands for Grants of every central ministry is referred to the respective DRSC for examination. However, most state legislatures do not have standing committees attached to certain ministries or departments for conducting scrutiny of the budget before it is passed. The rules of procedures of some state legislatures like Goa and Assam have provisions for the constitution of a budget committee. Such a budget committee is tasked with scrutinising the overall budget before it is approved by the Assembly.

Strengthening of state legislatures

The role of state legislatures may be strengthened by reforming the current institutional mechanisms. This includes increasing the number of sitting days and strengthening the role of committees. We discuss these below.

Increasing the number of sitting days

Presently state legislatures convene for an average of 30 days in a year. This does not give them adequate time to transact business in the Assembly, including scrutiny of the budget and a thorough consideration of Bills before they are passed. The National Commission to Review the Working of the Constitution (NCRWC) had recommended setting a minimum period of sitting days for state legislatures.³ The NCRWC suggested that state legislatures with less than 70 members should meet for at least 50 days in a year, while the rest should meet for at least 90 days in a year.

Enabling scrutiny of the budget by state legislature committees

Most state legislatures do not have permanent committees to examine budgetary proposals, before they are approved by the Assembly. Over the last few years, states have been receiving a greater devolution of central taxes. These are untied funds, which implies that states can spend them according to their priorities. Further, with the introduction of GST, the taxation powers of states in relation to indirect taxes on goods and services have been enhanced. This reinforces the need for state legislatures to conduct greater scrutiny of financial allocations and expenditures, through permanent committees, before the budget is approved by the Assembly.

Examination of Bills by Assembly committees

Parliament has Departmentally Related Standing Committees attached to specific ministries which examine Bills referred to it, after it is introduced in the House. However, most state legislatures do not have such permanent standing committees. Occasionally, some state legislatures refer Bills to ad hoc Select Committees for examination. However, it is not obligatory to refer a Bill to a Committee, before its consideration and passing. The relevant Minister may move that the Bill be taken into consideration at once. Referring every Bill to a Standing Committee would provide for more in depth discussion and debate on it, than is possible on the floor of the Assembly. It would also enable legislators to build consensus across party lines and allow for inputs from independent experts and stakeholders.

Research support for Members of Legislative Assemblies

At present, the technical support available to parliamentary committees and state legislature committees is very limited and only includes a secretariat that enables scheduling of meetings, note-taking etc. Committee members deal with complex, technical issues across a variety of subjects. In order to perform their role on the committee more effectively, members require dedicated full time, high quality, and broad based research support. For example, the Scrutiny Unit, in the UK Committee Office, provides specialist expertise to Select Committees on financial matters and draft Bills. The Unit consists of 14 staff members who include lawyers, accountants, an economist and a statistician, House of Commons Clerks and a small team of administrative staff.⁴

1. "Puducherry assembly session concludes in eight minutes, condoles death of Kalam, Haj pilgrims", The Times of India, September 26, 2015, <http://timesofindia.indiatimes.com/city/puducherry/Puducherry-assembly-session-concludes-in-eight-minutes-condoles-death-of-Kalam-Haj-pilgrims/articleshow/49113207.cms>; "Puducherry witnesses second shortest Assembly session", The Hindu, December 29, 2012, <http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/pondicherry-witnesses-second-shortest-assembly-session/article4251668.ece>.

2. Haryana Vidhan Sabha, Bulletin 3 (August 30, 2016), [http://haryanaassembly.gov.in/WriteReadData/Bulletins/Bulletin%20No.%203.%2030.%20august%202016%20-%20\(1\).pdf](http://haryanaassembly.gov.in/WriteReadData/Bulletins/Bulletin%20No.%203.%2030.%20august%202016%20-%20(1).pdf); Bulletin 4 (August 31, 2016), <http://haryanaassembly.gov.in/WriteReadData/Bulletins/Bulletin%20No.%204.%2031.august.2016%20-%20.pdf>.

3. The National Commission to Review the Working of the Constitution, Vol. 1, Chapter 5, "Parliament and state legislatures", Ministry of Law and Justice, 2002, <http://lawmin.nic.in/ncrwc/finalreport/v1ch5.htm>.

4. Scrutiny Unit, UK Select Committees, UK Parliament, <http://www.parliament.uk/mps-lords-and-offices/offices/commons/scrutinyunit/>.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research ("PRS"). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.