

Discussion Paper

Working of State Legislatures

The Constitution provides for a Legislature in every State, and the Union Territories of Delhi and Puducherry.¹ Legislatures have three primary responsibilities: discussing and passing Bills, holding government accountable, and scrutinising government finances. State legislatures pass Bills on subjects in the State and Concurrent Lists, such as land, public health, water, agriculture, and police. They also oversee about 60% of the total government expenditure.² This note discusses the functioning of state legislatures and the reforms required to strengthen these institutions.

Sittings of Assemblies

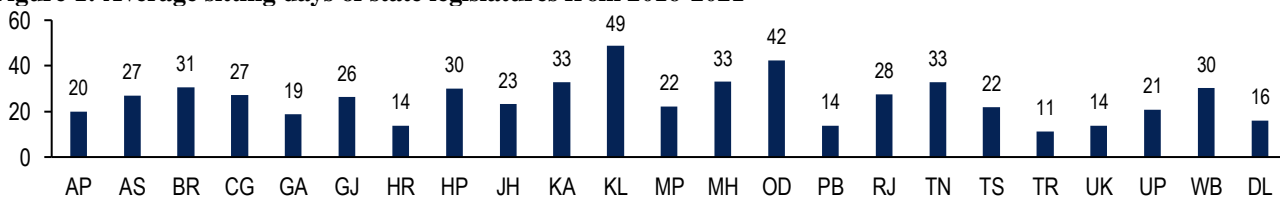
While Parliament usually meets for three sessions a year, the number of sessions of State Legislatures varies across states. For instance, in 2021, the Goa Assembly had four sessions, while Bihar had three and Andhra Pradesh had two. Six states provide for a minimum number of sessions in their Rules of Procedure. Uttar Pradesh, Himachal Pradesh, Odisha and Manipur have fixed the number of sessions in each calendar year at three, and Manipur and Odisha provide that the legislature must have at least three sessions.

In 2021, on average, state legislatures sat for only 21 days.³ Between 2016 and 2021, 23 states (for which we have data) sat for an average of 25 days. Most legislatures sit for around five hours a day. Fewer sittings imply less time with the legislatures to function effectively. This reflects in important business often not being taken up for discussion, or matters not being discussed in depth. For example, 16 Bills were introduced and passed on the last working day of the 15th Punjab Legislative Assembly (2017-2021).⁴ In the Uttarakhand Legislative Assembly’s Winter session of 2022, the session duration was cut short from five to two days. Within these two days, 13 Bills were introduced and passed. The legislative agenda allocated only five minutes for the discussion and passing of most Bills.⁵

The power to convene a session of state legislatures lies with the Governor, who acts on the aid and advice of the council of ministers.⁶ This effectively puts the power to convene legislatures in the hands of the government. Any session can also be cut short by the government as it has a majority of the membership of the Assembly. While the business of the House is decided by its Business Advisory Committee (BAC), the government, which has the most votes in the BAC, has a veto power. These features effectively give control of the session timing and business to the government, which goes against the idea of legislatures holding the executive accountable for its actions. The only constraint is the requirement in the Constitution to have at least one sitting every six months.

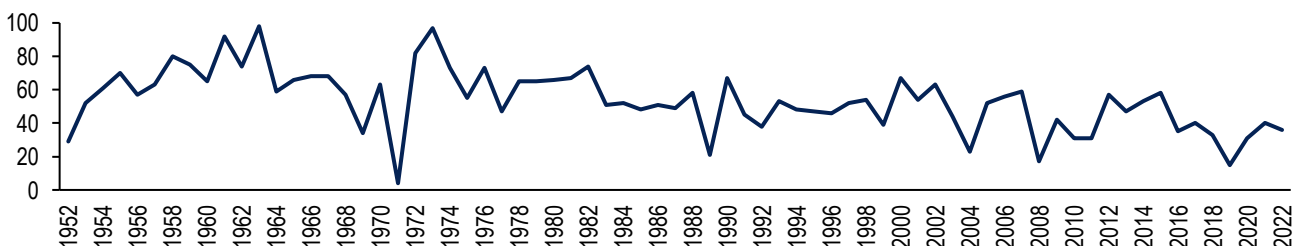
One way to address this could be by allowing legislatures to meet if a minimum number of members demand a session to discuss urgent matters. Another way is to have a pre-decided calendar for the year. There can also be methods to provide a greater say to the opposition. For example, in the UK, the Opposition can set the agenda for 20 sitting days every year.⁷

Figure 1: Average sitting days of state legislatures from 2016-2021



In France, the National Assembly is in session for the whole year, and sits for around 130 days a year on average.⁸ The National Commission to Review the Working of the Constitution (NCRWC) recommended that State Assemblies with less than 70 members meet for at least 50 days a year and larger Assemblies for at least 90 days.⁹ Seven state legislatures have stipulated a minimum number of sitting days through their Rules of Procedure. This includes Himachal Pradesh (35 days), Punjab (40), Manipur (50), Rajasthan (60), and Uttar Pradesh (90). However, none of these states met these targets in 2021.³ In some states, such as Karnataka, the number of sittings of the Assembly has been declining over the years. Incidentally, Karnataka enacted a law in 2005 to sit at least 60 days a year, but has never managed to do that.¹⁰

Figure 2: Sittings of the Karnataka Legislative Assembly from 1952

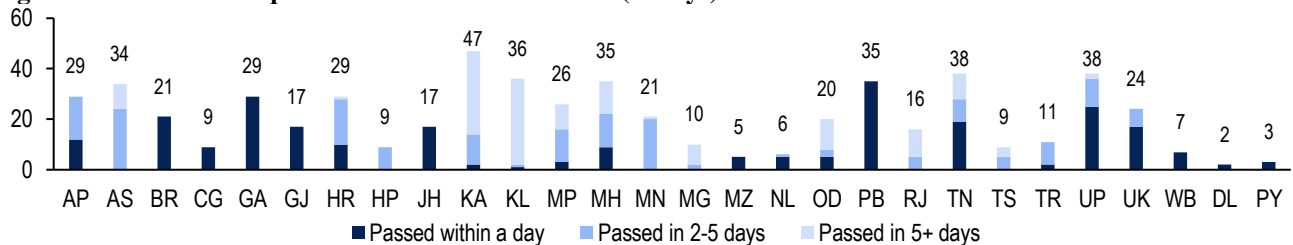


Legislative Work

Discussing and passing Bills is a key function of legislatures. These Bills lay down the law of the land, and can affect a large number of people. Therefore, it is important that the legislatures carefully scrutinise the implications of the proposed law for various segments of society, as well as its legal and financial consequences. The Rules of Procedure of all assemblies provide the process to be followed in passing a Bill. Most include a stipulated minimum duration for each step in the process. However, the House can do away with these timelines.

With assemblies meeting for short sessions, and the legislative agenda being set by the government, in most assemblies, Bills are introduced, considered, and passed quickly, often, within the same day. For example, in the 14th Gujarat Assembly (2018-2022), 91 out of 92 Bills introduced (excluding Appropriation Bills) were passed on the same day.¹¹

Figure 3: Time taken to pass Bills across states in 2021 (in days)



Role of committees in law making

Legislatures are required to deal with diverse and complex issues within a limited period of time. Delegating work to committees, including detailed examination of Bills, allows smaller groups of legislators to examine issues in greater detail. In committees, members can discuss each provision of a Bill in detail and understand the potential implications of a Bill. They can also seek the opinion of outside experts, affected stakeholders, and the public. Their findings are presented to the House as reports, which may carry important recommendations.

The Shakti Criminal Laws (Maharashtra Amendment) Bill, 2020, which increased the penalties for sexual offences against women and children and sought to fast-track such cases, was referred to a Joint Committee. The Committee placed its report before the House a year later, with recommendations such as reconsidering shorter timelines that would have made investigations difficult. Some of these suggestions were incorporated into the Bill before it was passed.³

However, in state legislatures, it is not mandatory to send all Bills to committees. In 2021, only around 40 out of more than 500 Bills passed by state legislatures (excluding Appropriation Bills) were referred to committees.³ One exception is the Kerala Legislative Assembly, which has the convention of sending most Bills to subject committees. However, even there, these committees are headed by the Minister who has piloted the Bill, which could weaken the purpose of independent examination of legislation. In Andhra Pradesh and Chhattisgarh, the Minister piloting a Bill is a member of the Select committee examining it.^{12,13}

Proper scrutiny of Bills may be ensured by sending every Bill to a committee, and allowing the discussion of its reports on the floor of the House. This practice is seen in other countries. In the UK, every Bill (except a Money Bill) is automatically sent to a committee, and a Bill cannot be passed without the committee report on it being discussed in the House of Commons.^{14,15} Even if a Bill is 'fast-tracked' through British Parliament, it still has to go through committees.¹⁶ In Denmark, a Bill may be referred to committees more than once, after the first and second readings.¹⁷

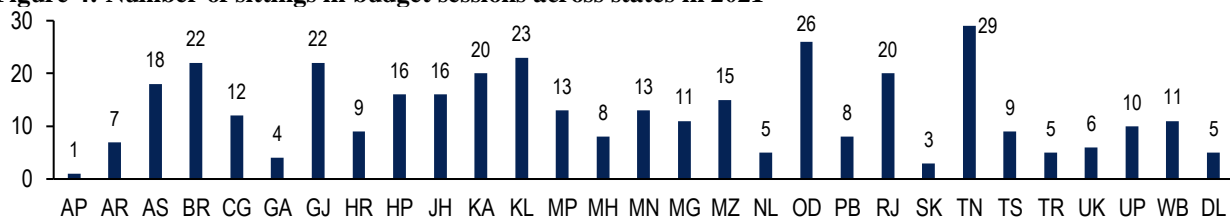
Scrutiny of subordinate legislation

Once a Bill becomes an Act, the government prepares rules and regulations to implement its provisions. These are called subordinate or delegated legislation. They need to be examined to ensure that the government does not assume excessive powers and go beyond the mandate set in the law. Rules of Procedure of state assemblies allow the Speaker to allot time to discuss delegated legislation. Members can also move amendments and vote on them. However, delegated legislation is rarely discussed in Parliament or state legislatures. A 2011 report of the Lok Sabha Committee on Subordinate Legislation noted delays in every step of the rule-making process, from framing of rules, to printing them in the official Gazette, to laying them in Parliament.¹⁸ This deprives the House of the power to adequately scrutinise rules and amend them. While almost all states have constituted such Committees on Delegated Legislation, little information is available about their functioning.

Financial Accountability

In India, 60% of revenue is collected by the central government, but 60% of expenditure is borne by state governments.² Budgets are important to understand how state governments plan to spend money over the upcoming year. Any money spent by the government out of the Consolidated Fund of the state must be approved by the state legislature. As people's representatives, MLAs are responsible for ensuring that tax payers' money is spent efficiently.

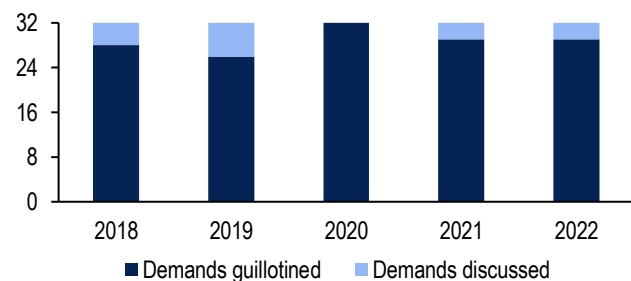
Every year, state legislatures discuss and pass the state budget. Typically, the budget session is longer than other sessions across all states. In 2021, on average, 61% of the sittings were held during the budget session.

Figure 4: Number of sittings in budget sessions across states in 2021

Note: Budget Session for Kerala, Manipur, Odisha, Tamil Nadu, and West Bengal includes the session in which Interim Budgets were presented.

As is the case with Parliament, the annual budget of states is also discussed in two parts – the first is a general discussion on the budget, and the second is to discuss departmental/ministry-wise allocations (also known as Demands for Grants, or DFGs). Rules of Procedure of state legislatures provide minimum durations of time between the budget presentation, the general discussion, and detailed discussion on DFGs. This gives members and committees sufficient time to study the budget. However, state legislatures do not always follow these guidelines. For example, the Goa Rules of Procedure provide that the general discussion must take place at least two days after the budget presentation, and must last for at least three days. Voting on DFGs must take place over at least 15 days.¹⁹ However, in 2021, Goa's budget session lasted only four days.

While budget sessions tend to be longer, they are still not adequate to discuss all the DFGs in detail. This means that not all demands for grants are individually discussed and voted on in the House. Parliament faces a similar issue, but the lack of scrutiny has been partly addressed by department related standing committees. These committees examine the budget of each Ministry in detail and the reports are tabled in the House (typically before the budget is passed, but delays have also been seen). Since most states do not have such committees, a majority of the budget is passed without any discussion. Reports of the Comptroller and Auditor General on state finances are also rarely discussed in the House. State legislatures could emulate Parliament in this case, and ensure that all demands are discussed in detail by subject committees before they are approved.

Figure 5: DFGs guillotined (passed without discussion) vs DFGs discussed in Himachal Pradesh

Holding Government Accountable

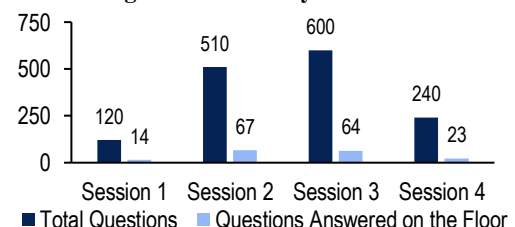
Legislators hold governments accountable using questions, which are typically taken up in the first hour of every sitting. Starred questions are answered orally by Ministers, and members may ask supplementary questions. This allows legislators to probe deeper into matters by further questioning the minister's responses. Unstarred questions receive written replies. In most states, question hour is televised, and citizens can see a Minister's responses to questions. In several instances, disruptions in an Assembly have also led to question hour being cut short. Currently, only 30% of starred questions are orally answered in Parliament. In state legislatures also, few starred questions are answered on the floor of the House. A resolution was passed at the 82nd All India Conference of Presiding Officers (2021) to build consensus between all parties to prevent disruption of question hour.²⁰

In Parliament and state assemblies, the Prime Minister or the respective Chief Ministers are not asked questions. The Jharkhand Assembly's rules provided for questions to be posed directly to the Chief Minister. However, this provision was removed in March 2022 following a recommendation of the Jharkhand Assembly Rules Committee.^{21,22} In the House of Commons in the UK, the Prime Minister answers questions for 30 minutes every Wednesday. Unlike other questions which are sent to Ministries beforehand, these questions need not be previously notified.²³

Functioning of the Legislature Secretariat

Legislature Secretariats provide information and research support to legislators. However, these offices are resource-constrained and cannot provide adequate support to all legislators. In its report, the NCRWC listed a few techniques which could help legislators gather sufficient information, such as briefing sessions on topical issues by experts, background notes, and fact sheets.⁹ Building institutional research support for legislators could also help further strengthen legislative work. The NCRWC had also recommended capacity building and upgradation of the professional competence of secretariats.⁹

The Government is accountable to the people through the legislature. Government is answerable to MLAs, and they, in turn, are accountable to their constituents. Citizens can hold their representatives accountable only if they are aware of how their legislatures are functioning.

Figure 6: Questions answered orally in the 15th Kerala Legislative Assembly

Legislature secretariats are responsible for collecting, collating, and disseminating information about the functioning of the legislatures. This information is provided through documents such as bulletins and session resumes. However, documents are often published months after the concerned session has ended. Currently, the Rules of Procedure of states do not provide a time period within which details of a session must be published. Most states do not publish complete information about the functioning of legislature committees, including details of their sittings and copies of their reports.

State legislatures do not publish information uniformly. While some states provide session-wise compilations of House proceedings, others only publish daily summaries. Some states, like Rajasthan, have created online portals that allow advanced searches through debates.²⁴ However, little information is available on the legislatures of north-eastern states and Puducherry. The diversity of languages also creates barriers to accessing information. The Constitution allows state legislatures to conduct business in languages determined by the state, or Hindi, or English.²⁵ Some states have chosen to publish documents only in regional languages.

From the 1990s, legislature secretariats across India have discussed reforms like live telecast of proceedings, digitising legislatures, and e-connectivity between Parliament and state legislatures.²⁶ Few states telecast full proceedings of the legislature on TV. Around 15 states livestream proceedings on different websites. More recently, the National eVidhan Application (NeVA) was launched, which aims to host all information relating to Parliament and state legislatures. At the 82nd All India Presiding Officers Conference, a resolution was adopted to make the proceedings of Parliament and all state legislatures public through a single platform.²⁰ While most states have either a website or publish some information on NeVA, some north-eastern states do not do either.

¹ Article 168, Constitution of India.

² State of State Finances, November 2022, PRS Legislative Research,

https://prsindia.org/files/policy/policy_analytical_reports/State%20of%20State%20Finances%202022-23.pdf.

³ Annual Review of State Laws 2021, PRS Legislative Research, <https://prsindia.org/policy/analytical-reports/annual-review-of-state-laws-2021>.

⁴ Bulletin No. 2, November 11, 2021, Punjab Legislative Assembly,

<http://punjabassembly.nic.in/images/Bulletins/bullitin%20%20english%20dated%2011%20nov%202021.pdf>.

⁵ Agenda 30.11.2022, Uttarakhand Vidhan Sabha, <https://ukvidhansabha.uk.gov.in/contents/view/2/188/87-agenda>.

⁶ Article 163, The Constitution of India.

⁷ Opposition Days, UK Parliament, <https://www.parliament.uk/site-information/glossary/opposition-days/>.

⁸ Structure, National Assembly, France, IPU Parline Data, https://data.ipu.org/node/61/working-methods?chamber_id=13396.

⁹ Chapter 5, Parliament and State Legislatures, Volume I, Report of National Commission to Review the Working of the Constitution,

<https://web.archive.org/web/20101125193040/http://lawmin.nic.in/ncrwc/finalreport/v1ch5.htm>.

¹⁰ The Karnataka Conduct of Government Business in the State Legislature Act, 2005

<https://www.indiacode.nic.in/bitstream/123456789/7130/1/26%20of%202005%20%28E%29.pdf>

¹¹ Vital Stats Functioning of the 14th Gujarat Legislative Assembly, PRS Legislative Research, <https://prsindia.org/legislatures/state/vital-stats/functioning-of-the-14th-gujarat-legislative-assembly>.

¹² Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Assembly, <https://www.ablegislature.org/web/ablegislature/rules-and-procedures>.

¹³ Rules of Procedure and Conduct of Business in the Chhattisgarh Vidhan Sabha, <https://cgvidhansabha.gov.in/english/rules.htm>.

¹⁴ Public Bill Committees, UK Parliament, <https://www.parliament.uk/mps-lords-and-offices/offices/commons/scrutinyunit/public-Bill-committees/>.

¹⁵ Report Stage (Commons), UK Parliament, <https://www.parliament.uk/about/how/laws/passage-Bill/commons/coms-commons-report-stage/>.

¹⁶ Fast-track Legislation: Constitutional Implications and Safeguards, Volume I, Select Committee on the Constitution, 15th Report of the Session 2008-09, House of Lords, UK Parliament, <https://publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/116.pdf>.

¹⁷ The Parliamentary System of Denmark, Folktinget, https://www.ft.dk/-/media/pdf/publikationer/2english/the-parliamentary-system-of-denmark_a4_opslag_24s-pdf.ashx.

¹⁸ 21st Report, Committee on Subordinate Legislation, 15th Lok Sabha, Presented on December 16, 2011,

http://164.100.47.193/isscommittee/Subordinate%20Legislation/15_Subordinate%20Legislation_21.pdf.

¹⁹ Rules 258(1), 259(1), Rules of Procedure, Goa Legislative Assembly, https://www.goavidhansabha.gov.in/uploads/downloads/19_file_Goa-Legislature-Assembly-Rules-Pdf.pdf.

²⁰ Resolutions adopted at the 82nd All India Presiding Officers Conference – cum – Centennial Year Celebration, 2021, The Journal of Parliamentary Information, Vol. LXVIII No. 1, March 2022, <https://loksabhaph.nic.in/writereaddata/JPI/jpi%20march%202022.pdf>.

²¹ Fifth Jharkhand Vidhan Sabha Eighth Session, Daily Brochure, March 8, 2022,

<https://jharkhandvidhansabha.nic.in/sites/default/files/DainikVivarnika08032022.pdf>.

²² Rule 52 (deleted), Jharkhand Vidhan Sabha - Rules of Procedure, <https://jharkhandvidhansabha.nic.in/sites/default/files/Niyamawali2022.pdf>.

²³ Question Time, UK Parliament, <https://www.parliament.uk/about/how/business/questions/>.

²⁴ Rajasthan Legislative Assembly Website, <https://rlaaprise.rajasthan.gov.in/Search.aspx>.

²⁵ Article 210, Constitution of India.

²⁶ Some of the important issues discussed at the Conferences of Presiding Officers of Legislative Bodies in India (1921-2021), Legislative Bodies of India, <https://legislativebodiesinindia.nic.in/POCNEW1921.pdf>.

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.