CSEP Working Paper-53
June 2023

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AN ANALYSIS OF OFF-BUDGET BORROWINGS BY INDIAN GOVERNMENTS AND THEIR LEGAL CONTEXT

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Recommended citation:
Gupta, S., and James K. (2023). *An Analysis of Off-Budget Borrowings by Indian Governments and their Legal Context* (CSEP Working Paper 53). New Delhi: Centre for Social and Economic Progress.

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AN ANALYSIS OF
OFF-BUDGET BORROWINGS
BY INDIAN GOVERNMENTS AND THEIR LEGAL CONTEXT

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The authors would like to thank Anoop Singh for his mentorship and guidance throughout this research, and are also grateful to Srinivas Alamuru, Subodh Mathur, Honey Karun, Kandarp Patel, Janak Raj, Rakesh Mohan, Laveesh Bhandari, and other colleagues at CSEP for their valuable insights and comments on earlier drafts of this paper. The authors are solely responsible for any errors. This working paper builds on Gupta and James (2023).

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Abstract

India has a long-standing problem of data gaps, which have serious implications for fiscal policy and economic growth. The lack of transparency around off-budget borrowing is a major example of data gaps in India, and has been persistent across the union and state levels. This paper examines the regulatory framework and institutional gaps surrounding off-budget borrowings in India. It attempts to build a comprehensive understanding of the methods used for such borrowings and ascertains their true extent. The paper relies primarily on data from the CAG audits of the union and state finance accounts. It welcomes the Union's recent actions to make transparent and begin to do away with the use of off-budget borrowings. However, the Union and States need to take more action to close this form of data gap. Meanwhile, the Union should ensure the full reporting of these borrowings. This calls for an improvement in the coverage, timeliness, quality and integrity of fiscal reporting, in line with international standards. Eventually, that could be best achieved with a comprehensive and consolidated Public Financial Management (PFM) law for the Union and the States.

List of Abbreviations

CAG	Comptroller and Auditor General
PFM	Public Financial Management
FFC	Fifteenth Finance Commission
EBR	Extra Budgetary Resources
FCI	Food Corporation of India
FRL	Fiscal Responsibility Laws
SPSE	State Public Sector Enterprises
IMF	International Monetary Fund
FSB	Financial Stability Board
DGI	Data Gaps Initiative
NSSF	National Small Savings Fund
PSU	Public Sector Undertaking
SPV	Special Purpose Vehicle
FCI	Food Corporation of India
CFI	Consolidated Fund of India
AIAHL	Air India Asset Holding Limited
KIIFB	Kerala Infrastructure Investment Board
CDRA	Capital Region Development Authority
SBA	Special Banking Arrangements
RBI	Reserve Bank of India
GST	Goods and Services Tax
GDP	Gross Domestic Product
PPP	Public Private Partnership
FRBM	Fiscal Responsibility and Budget Management

LGFV	Local Government Financing Vehicles
OECD	Organisation for Economic Co-operation and Development
SBE	Statement of Budget Estimates
IEBR	Internal and External Budget Resources
GoI	Government of India
UGFA	Union Government Financial Account
NHAI	National Highway Authority of India
IRFC	Indian Railways Finance Corporation
PFC	Power Finance Corporation
PMAY	Pradhan Mantri Awas Yojana
MoR	Ministry of Railways
LoU	Letter of Undertaking
CRA	Credit Rating Agency
RVNL	Rail Vikas Nigam Limited
GSDP	Gross State Domestic Product
LIC	Life Insurance Corporation
SBI	State Bank of India
NABARD	National Bank for Agriculture and Rural Development
APSCSC	AP State Civil Supplies Corporation
UDAY	Ujjwal DISCOM Yojana
DISCOM	Distribution Companies
TNEB	Tamil Nadu Electricity Board
TANGEDCO	Tamil Nadu Generation and Distribution Corporation
PSPCL	Punjab State Power Corporation Limited
NBC	Net Borrowing Ceiling
RISE	Revitalising Infrastructure and Systems in Education
KUSUM	Kisan Urja Sanrakshan Evam Utthan Mahabhiyan
IWAI	Inland Waterways Authority of India

1. Introduction

Broadly, we define "data gaps" as fiscal data that are either unreported or miscategorised. Data gaps tend to reflect the gaps and inconsistencies in the legal and regulatory framework. The Fifteenth Finance Commission (FFC 2020) highlighted several gaps in India's existing Public Financial Management (PFM) framework.[1] These include inconsistencies in the laws and regulations pertaining to fiscal discipline, budget formulation, public procurement, monitoring and reporting, as well as in their implementation. Beyond such legal gaps, data gaps in India could also stem from institutional gaps. Among these, as the commission highlights, India does not have a dedicated, independent fiscal institution such as a Fiscal Council to help improve the reporting, collation, assessment, and coordination of fiscal data.

In this paper, we focus on the data gap of off-budget borrowings, which has been widespread and generally entrenched in India's fiscal reporting, at both the union and state levels. The Comptroller and Auditor General (CAG) of India and the FFC (2020) have expressed concerns on the growing prevalence of off-budget borrowings in the country. Fortunately, at the union level, this issue has been taken up by the government over the last few years. The 2019–20 union budget enclosed a statement of extra budgetary resources (EBR) employed by the (central) public sector entities. The budgets that followed dealt with such borrowings to varying degrees. The financial year (FY) 2020–21 witnessed a discontinuation of off-budget borrowings for the Food Corporation of India (FCI), which is generally the largest off-budget borrower at the union level. The estimated extra budgetary allocation to all the ministries was brought down to zero in FY 2022, barring a Rs 30,000 crore provision for meeting additional resource requirements of public agencies, under specific schemes or projects; this provision was eliminated in the following year. With much attention given to off-budget resources, and the increasing amounts involved, public attention to this subject has also grown, especially in the States.

Characterising off-budget borrowing as a data gap operating in the context of a legal gap, this paper studies its modalities, extent, trends, and regulatory context at the union and state levels in India. On this basis, the paper makes some recommendations and outlines a way forward for India to address this issue across the levels of government. The primary issue that this paper seeks to address is the lack of adequate reporting of the full extent of government finances. Rather than evaluating how governments choose to conduct their fiscal operations, we are more concerned with how they report them. It is worth noting here that given the very nature of the problem, data relating to off-budget borrowing are scarce, and for some states, simply unavailable. The analysis, naturally, focuses on the States for which data are available in the public domain. This does not necessarily mean that the States discussed in this paper are those resorting to off-budget borrowing the most. For the other states, it is difficult to arrive at any conclusion because the extent of their off-budget borrowings still cannot be gauged.

The paper is organised as follows. The section II elaborates on the general problem of data gaps, and how legal gaps contribute to them. In section III, the data gap of off-budget borrowings is introduced, with a detailed explanation of what it entails, and the modalities through which governments resort to it. , section IV undertakes detailed analysis of the available data on off-budget borrowings at the union and state levels, identifying trends and bringing out insights. Given the legal and regulatory contexts of data gaps, section V then surveys the existing statutes and rules that seek to regulate off-budget borrowing, at the union and state levels. Building on the range of existing regulatory models revealed by this exercise, section V also makes an argument for the manner in which off-

[1] See table A1 in the Appendix; PFM broadly refers to how governments manage public resources, and covers "a set of systems aimed at producing information, processes, and rules that support fiscal policymaking" (Andrews et al, 2014; Cangiano, Curristine & Lazare, 2013).

budget borrowing should be regulated in order to adequately fill this data gap. This discussion lays the groundwork for the section VI to critically evaluate the Union's recent intervention in regulating sub-national off-budget borrowing, via Article 293 of the Constitution. Section VII outlines the way forward for India to sustainably tackle off-budget borrowings.

2. Data Gaps and Legal Gaps

2.1 The problem of data gaps

The presence of data gaps suggests shortcomings in a country's PFM system. Deficiencies in fiscal reporting make it difficult to accurately assess the quality of fiscal spending, use fiscal policy as a tool for economic growth and development, and correctly prioritise expenditure. Some of the data presently generated by India's PFM system is neither comprehensive in its coverage nor subject to timely external scrutiny.[2] This is because India's fiscal data is replete with discrepancies,[3] misclassifications,[4] and non-comparability,[5] which creates challenges in consolidating fiscal data. Such data gaps are an especially concerning issue in the present context, as India seeks to emerge from the enormous fiscal strain of the COVID-19 pandemic and use government capital expenditure as a catalyst for recovery and growth. Thus, transparency in fiscal reporting is critical for India to effectively monitor its fiscal position, and use the available resources efficiently (Singh, 2023).

In the post-pandemic period, the union government has focused on increasing capital expenditure. However, despite capital-intensive projects being typically spread across multiple years, the annual budgeting exercise generally only lays down short-term (yearly) funding plans. The difference between the total and budgeted period of a project constitutes another major data gap. The lack of effective public investment management practices risks cost overruns and revenue shortfalls. In order for long-term projects to be financially viable, a revaluation of the extent of resources absorbed by them is necessary. Projects can often suffer from inadequate or non-allocation of funds in the years after they are announced, and run the risk of leading to significant sunk costs. The lack of a regularly published medium-term expenditure framework[6] that lays out spending plans over a period of time, has resulted in an inefficient allocation of resources. Standard budgeting exercises, which can help ensure that long-term commitments are fulfilled and evaluate the available fiscal space to accommodate new projects, are not practised currently. With a 33% rise in capital expenditure in the 2023 annual budget, performance-based budgeting is another area that needs to be considered (Kukreja, 2023). Defining outcome indicators to assess the development of priority and high-importance projects is needed to improve transparency and accountability in their execution.

Additionally, since the current budgeting practices are almost entirely annually oriented, the process of legislative scrutiny and approval follow this same orientation. However, given that multi-year projects foreseeably involve medium-term expenditure commitments, legislatures should be given the opportunity to assess the impact of such commitments as well, when approving the budget.

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2 CAG audits of government accounts often take more than a year after the accounts are published.

3 CAG reports discrepancies in the figures of State Finance Accounts of West Bengal and financial statements of state public sector enterprises (SPSEs). Difference in equity figures of 64 SPSEs were found to the extent of Rs 384 crore, and loan amounts of 53 SPSEs of Rs 1,158 crore was found.

4 For example, as per the CAG, states often misclassify revenue expenditure as capital expenditure. Uttar Pradesh, for example, understated the revenue deficit by Rs. 86.57 crore in 2020–21 by misclassifying maintenance of vehicles, purchase of petrol, legal/consultancy fees, minor construction works, and computer purchase as capital expenditure, instead of revenue expenditure. On the contrary, capital expenditure of purchase of vehicle was misclassified as revenue expenditure.

5 For example, different states define debt differently in their FRLs, which makes it difficult to compare reported debt figures across states.

6 The erstwhile system of the five-year plans used to perform a part of this function. Ever since the dissolution of the Planning Commission in 2014, there exists a gap in this regard.

Medium- and long-term planning and scrutiny for financing infrastructure can better ensure the financial viability of projects with long gestation periods and improve fiscal discipline.

An International Monetary Fund and Financial Stability Board (IMF & FSB 2009) report highlighted that data gaps arising from exposures taken through off-balance sheet entities left markets and policymakers unprepared for the North Atlantic Financial Crisis of 2007–08. As part of the Data Gaps Initiative-2 (DGI-2)[7] recommendations, G-20 countries are expected "to provide comprehensive general government debt data with broad instrument coverage" (Heath & Goksu, 2016, p. 30). In June 2022, at the end of DGI-2, a progress report noted that, for India, "an estimate of a comprehensive general government data including centre, states, local government and public sector enterprises is not available with us" (IMF & FSB, 2022b, p. 13). At the completion of DGI-2, India was the only G20 country that had not even partially met this target (IMF & FSB, 2022a). Despite having made some progress in other aspects of fiscal reporting, India's problem of off-budget borrowing remains largely unaddressed. As India has assumed the G20 Presidency for 2023, the urgency of addressing this data gap is significant.

2.2 How legal gaps contribute to data gaps

As the FFC (2020) highlighted, there are gaps between the broad PFM structure outlined in the Constitution, and the operational rules, regulations, guidelines, and manuals that operationalise the PFM system. These gaps lead to avoidable complexities and inconsistencies, and ultimately affect the quality of the fiscal data that the PFM system generates. They also enable the circumvention of fiscal rules contained in the fiscal responsibility legislations (FRLs) at the union and state levels, through practices such as off-budget borrowings and misclassifying revenue expenditure as capital expenditure.[8] Legal gaps, in terms of inconsistencies between definitions in the FRLs, also lead to discrepancies in reported debts and deficits, and affects the veracity of projected numbers and scenarios.

Legal gaps can also subvert constitutional principles in unintended and unforeseen ways, as illustrated through the example of the Public Account. Under the Government of India Act, 1935, the executive's final sanction was required to withdraw funds from the public account (which was the only government account at the time) (Government of India Act, 1935, S. 151(1)). In order to establish legislative supremacy over financial matters, the framers of the Constitution did away with this executive sanction, and replaced it with an Appropriation Act, to be passed by the legislature itself (Constituent Assembly Debates, 1949a, para 112; India. Const. Arts. 114 & 204). However, in order to exempt routine withdrawals, such as to repay depositors under small saving schemes, from formal legislative approval, the Constitution does not require an Appropriation Act for withdrawal of money from the Public Account (Constituent Assembly Debates, 1949b, para 308). The framers of the Constitution applied different standards of scrutiny to the Consolidated Fund and Public Account because they did not envisage the latter as containing revenues that the government would use to finance its regular expenditures. However, as this paper will illustrate in the case of the National Small Savings Fund (NSSF), the Public Account has been routinely misused as an instrument for off-budget borrowing, thus subverting the cardinal constitutional principle of legislative supremacy over fiscal affairs.

[7] The DGI was launched to address the gaps that had been identified by the IMF & FSB (2009). It has now completed two phases (DGI-1 & DGI-2).

[8] Two illustrative examples of such misclassification are: (i) The Union classifying grants-in-aid disbursed to states under Article 275 (as per Finance Commission recommendations) as capital expenditure, despite the relevant Indian Government Accounting Standard (IGAS 2, on Accounting and Classification of Grants-in-aid) requiring them to be accounted as revenue expenditure (Ministry of Finance, 2011, para 9); (ii) Classifying expenditure on routine maintenance of assets as capital expenditure, despite the Government Accounting Rules clearly specifying that the criteria for classifying any expenditure as capital expenditure is that it should be incurred for increasing concrete assets of a material or permanent character (Government Accounting Rules, 1990, rule 30(1)).

While the constitutional distinction between the Consolidated Fund and Public Account remains relevant, there is a legal gap insofar as regulation of the Public Account is concerned, which has, in turn, contributed to the data gap of off-budget borrowing. This is illustrative of how the broad structure of the Constitution has not been adequately filled in with appropriate regulation at the statutory level, resulting in constitutional principles being compromised in practice.

3. Introducing Off-budget Borrowings

3.1 What are off-budget borrowings?

In this paper, we define off-budget borrowings as borrowings that are not reflected in the budget, even though budgetary resources will have to be used for their repayment, either in the current or future periods. Off-budget borrowers may include public sector units (PSUs), special purpose vehicles (SPVs), as well as the government itself. A lot of PSUs rely substantially on budgetary support in the form of equity, loans, grants/subsidies from the government in order to run their operations and perform their functions (for example, Heavy Engineering Corporation Limited, Bharat Gold Mines Limited, and many other state PSUs). Beyond budgetary support, PSUs also rely on other sources of financing, including borrowing. A typical example of off-budget borrowing involves a PSU borrowing an amount in its own name, but the responsibility for repayment lying with the government, and this liability is not reflected in the government's budget (for example, Andhra Pradesh State Civil Supplies Corporation). Another example is the finance ministry resorting to off-budget borrowings on behalf of other government ministries or departments. For example, instead of paying food subsidy to the FCI, it was given loans from the Public Account. These loans are to be repaid by the government at a later date.

One of the reasons for governments resorting to off-budget borrowings is to bypass the debt and fiscal deficit targets under their FRLs. State governments are also bound by the hard borrowing limits imposed on them by the Union under Article 293(3) of the Constitution. This could serve as a strong incentive for such governments to access funds through off-budget means, when they do not have any further scope to do so on-budget.

It might also be the case that, at the time the PSU borrows an amount, the government does not bear the primary responsibility for repayment, and yet, at the time of repayment, budgetary resources are utilised for this purpose. This occurs in the case of contingent liabilities, where, for example, if the PSU defaults on repayment, the government (as the guarantor) has to step in to repay the debt. For example, Andhra Pradesh had outstanding guarantees worth Rs 91,330 crore at the end of FY 21, which had been provided to its PSUs such as AP Markfed, AP Power Development Company Ltd., AP Seed Development Corporation, etc. However, since in these cases, it is not clear at the outset of borrowing itself that the repayment liability rests with the government, we do not consider contingent liabilities as off-budget borrowings. After all, it is also possible that the contingency does not arise, such as when the PSU was able to repay the debt by itself.

Official definitions of off-budget borrowings vary across authorities, with different governments, laws, and the CAG having their own versions. One example of an official definition that aligns with our proposed one is as follows: "'Off-Budget Borrowings' mean non-budgetary receipts that need to be serviced by way of interest and principal repayment directly from the budget and in which the liability is not contingent in nature (Maharashtra Fiscal Responsibility and Budget Management Rules, 2006, rule 2(h)). However, for cases in which the interest and/or principal amount is repaid by the borrowing entity from grants received from the government, and not directly paid by the government itself, it is difficult to distinguish the component of the grant that will be used for repayments.

India lags behind its peers in the G20 when it comes to debt reporting. A prerequisite for effectively implementing fiscal policies is access to the right data. The existence of off-budgetary debt is a problem as it is generally unscrutinised and unreported. This asymmetry in information is a concern in systems that are based on democratic accountability. Citizens have a legitimate interest in knowing the full extent of the fiscal affairs of the governments they have voted into power. By resorting to off-budget operations, governments place themselves beyond democratic scrutiny. Not only is this problematic in and of itself, but it also leads to sub-optimal governance and policy outcomes. The need for accurate data escalates when the economy is in a worrying, post-pandemic state. The budgeting system needs to stay true to certain principles, one of these being the principle of universality, which states the need for one budget for all transactions– including extra budgetary. The union budget, which, unlike state budgets, receives much limelight and robust scrutiny, still stops short of full disclosure by not exhaustively revealing the off-budget borrowings.

3.2 How do governments resort to off-budget funds?

Governments at the union and state levels undertake off-budget borrowing in a variety of ways. In this sub-section, we highlight the most commonly used methods.

NSSF Borrowings

The NSSF, a part of the Union's Public Account, receives deposits under National Savings Schemes. The balance in the fund is regularly invested in special government securities. Withdrawals from the NSSF do not require prior approval from Parliament (since it is part of the Public Account). This makes it easier for the union government to use this fund as a source of extra budgetary financing. The government often makes use of this gap, and many entities, such as central PSUs and union ministries receive loans from this fund for projects implemented by them.

The NSSF liabilities are included in the Statement of Liabilities of the Central Government, which forms part of the Union Receipt Budget. Even though these liabilities are included in the government's total liabilities, they are not reflected in the fiscal deficit. This is because, for calculating the Union's fiscal indicators, such as the fiscal deficit, and revenue and capital expenditure, only the Consolidated Fund of India's (CFI) balance is considered. The expenditure incurred from the NSSF balance is not included in the total government expenditure. Furthermore, the NSSF deficit is not merged with that of the CFI, resulting in an under-inclusive deficit statistic. The Union's fiscal deficit, legally capped at 3% of the gross domestic product (GDP), thus remains unaffected by the use of NSSF funds (Fiscal Responsibility and Budget Management Act, 2003, S. 4(1)(a)).

The issues with this method do not end here. For example, in 2017–18 and 2018–19, we found that resources received by the FCI, as recorded in the NSSF account of the budget, were lower than the actual numbers reported by the CAG. This understatement of the fund allocation indicates a bigger problem than issues with accounting categories: one of intentional misrepresentation. The problem has persisted over several years and across public entities, and needs close scrutiny.

Government Fully Serviced Bonds

A bond is defined as a debt instrument by which an entity borrows money from an investor for a predetermined period and interest rate. Public sector units and SPVs, like Air India Assets Holding Limited (AIAHL), make use of union government bonds to raise funds from the market. Special securities issued by the government to banks, PSUs, and other entities are listed in the Asset and Liability Statement of the Receipt Budget. Sometimes the securities are in the form of government fully serviced bonds, for which the entire liability falls on the union government and is not shared by the PSU. Despite this, some of these bonds do not feature under government liabilities in the budget. Basumatari & Tarwadi (2021) state that "The debt servicing of these bonds is a charged expenditure on the central budget. Given that these bonds will be a part of the central government's budget, debt servicing will form a part of the government's deficit, and thus, debt." For this reason, the inclusion of such bonds in the budget is crucial at the time of creation of the liability. Such an inclusion would provide a full picture of the government's fiscal health and prevent unforeseen strains on budgetary resources at the point when these liabilities materialise.

Domestic Market borrowings

State PSUs and SPVs raise resources from markets to meet the financial requirements for providing services for which the government is typically responsible (for instance, a drinking water supply project which is a government welfare scheme, but being implemented by a PSU or SPV). In several cases, the state government is liable for servicing the principal and interest obligations of the debt picked up by state PSUs, despite not being listed as an explicit guarantor. Since PSUs are distinct legal entities, formally separate from the state government, the latter argue that PSU borrowings are on the strength of the PSU's balance sheet alone. Ultimately, despite the government being liable, this liability escapes the state government's accounts, and can only be found in the PSU accounts.

Foreign Market Borrowings

Apart from raising funds from domestic markets, PSUs have also directly approached external funding agencies. As per Articles 292 and 293(1) of the Constitution, only the union government has the power to borrow from overseas, and states are expressly restricted to borrowing only within the territory of India. Despite this constitutional prohibition, there are examples of state PSUs resorting to overseas off-budget borrowings which will have to be repaid by their state government, through the issue of masala bonds[9]. These rupee-dominated bonds are instruments of debt raised in foreign markets in Indian currency, instead of the local currency or dollars. For example, the Kerala Infrastructure Investment Board (KIIFB) raised Rs 2,150 crore in 2018–19 through masala bonds, which the CAG observed to be in violation of Article 293(1). The repayment of the KIIFB borrowings was done from the state petroleum cess and motor vehicle tax, which makes them a direct liability of the State. In 2018-19, the Andhra Pradesh State government cleared Rs 2,000 crore of bonds to be raised by the Capital Region Development Authority (CDRA), which also included masala bonds.

Special Banking Arrangements

Special banking arrangements (SBAs) refer to the arrangements made by the government with banks to facilitate cash and credit flow outside the budgetary appropriation. The beneficiary body can be a PSU, SPV, or any Implementing Agency involved in quasi-fiscal operations with the government. In the past, SBAs have been used to postpone budgetary expenditure on fertiliser subsidies, to be paid to fertiliser companies. Often, the payment is not made in the same year, leading to carryover liabilities. To make up for non-payments, the Department of Fertilizers arranges loans from PSU banks to the fertiliser companies. The department also partially bears the interest on these loans. Fertiliser companies, at times, leverage the pending subsidy payments with banks to avail credit.

In all the five cases discussed above, the government's use of off-budget borrowing had the effect of deferring expenditure for the future, which would otherwise have to be incurred in the present. The interest repayments on borrowings are reflected in the year they are due, the repayment of the principal is postponed and is neither reflected as an expenditure, nor a liability in that year.

[9] Masala bonds are rupee-denominated debt instruments issued by Indian entities in overseas markets. They can be used by both government and private entities to raise money in local currency from foreign investors. Masala bonds can be used to fund infrastructure projects, promote domestic growth, and internationalise the Indian rupee (Clear Tax, 2022)

Not only did this create a liability requiring future repayment, sometimes lasting well beyond that government's term, but crucially, this liability was also hidden, unaccounted, and unreported. When the time of repayment did arrive, the CAG audits have revealed that in some cases a new debt was taken by the union government or PSU, in order to service the old one.[10] This creates a potentially indefinite debt loop. Not having to pay their dues within a stipulated time, and not having to face any scrutiny from legislatures, markets, or citizens, can result in imprudent spending by the entities availing the loan.

3.4 Contemporary relevance of off-budget borrowings

India exhibits much higher levels of deficit and debt than other emerging economies (Rao, 2022). At a time when fiscal resources are strained and economic conditions are volatile, the practice of resorting to off-budget borrowing is especially fraught with risk. The prevalence and extent of this practice is a significant hidden liability that can cast a long shadow on the fiscal health and capacity of governments for years to come. While the union government has made progress in addressing this issue in recent times, states have done very little. The fiscal strains on Indian states have been increasing due to a number of factors, including the growing population in many states, increasing need for infrastructure development, low and stagnant state and local government tax receipts (RBI, 2022), and rising cesses and surcharges by the Union, which have reduced the divisible pool for the transfers to states, as recommended by the Finance Commissions.

In recent years, several state governments have faced difficulties in meeting their financial obligations (Ojha, 2021). This has been exacerbated by the fact that many states rely heavily on central government grants, which have often not kept pace with their rising expenditure needs. In some north-eastern and hill states, 40% of the revenue receipts comprise central grants-in-aid (Surya & Chakrabarty, 2022). Other sources of revenue such as the Goods and Services Tax (GST) have also not been adequate to meet their expenditures. Additionally, India's economic slowdown has led to decreased tax revenues for state governments, while unemployment levels remain high and public services continue to be underfunded.

The COVID-19 pandemic further compounded these fiscal pressures; states faced increased demands for healthcare spending while simultaneously experiencing reduced incomes due to lockdowns and other restrictions imposed by the governments in order to contain the virus' spread. As a result of these various pressures, compounded in many cases by high legacy debt, more Indian states are struggling with mounting debt burdens and deficits that threaten their long-term economic stability. The FFC (2020) estimated that general government debt has increased from 70% of the GDP in 2018–19 to 90% of the GDP in 2020–21. During this period, states' fiscal deficit shot up by 38.4%, from Rs 5.85 lakh crore to Rs 8.1 lakh crore (Tiwari & Surya, 2021). The share of states in total central taxes has been around 29%, compared with the commission's recommendation proportion of 41% of the divisible pool (Tiwari & Surya, 2021). The issue of "freebies" issued by state governments has become especially prominent, with the Election Commission of India as well as the Supreme Court weighing in on the matter.

With an intent to address the state off-budget borrowings, the Union directed the States, in March 2022, to furnish their off-budget numbers. The borrowings made by the state PSUs and SPVs—for which the State is to service the principal and interest amounts, either out of the state budget or by special assistance to these institutions—would now be accounted as states' liabilities. A detailed discussion on this will follow in section VI.

[10] One such case is explained in Box 1.

4. Analysing the data gaps in the reporting of off-budget borrowings

The paucity of data on off-budget borrowings in India has constrained attempts to study the subject, at least empirically. To get a fair estimate of the total liabilities, Singh and Srinivasan (2004) added the debt of public sector enterprises and guarantees issued to loss-making public enterprises in the general government debt. The total liabilities, at 107% of the GDP, are significantly higher than the on-budget numbers widely used in policy formulation, and can lead to an underestimated probability of fiscal strains. Blagrave and Gonguet (2020) too base their extra budgetary estimates on the borrowing requirements of public sector enterprises. Using the fiscal deficits of the central and the state governments which reflect their borrowing needs, and adding to it the borrowings by the central PSUs, they create a "metric that broadly captures the government and quasi-government borrowing need." The state PSU data was not used owing to its lack of availability. In a similar attempt, Misra et al (2021) estimate the subnational extra budgetary borrowings using the guarantees given by state governments as a proxy for the former. While it is true that guarantees are (contingent) liabilities that are not reflected through major financial indicators, not all guarantees materialise into actual liabilities. Besides, PSUs also operate on a public–private partnership (PPP) model wherein the government often has only a percentage of the total stake in the firm, thus limiting its liabilities.

Attributing the entire liability to the government without considering enterprise revenues, reserves and assets, the odds of debt materialisation, and ownership share, is bound to reflect an overestimated figure. Kaur et al (2018) emphasise the importance of a fair assessment of the fiscal risk posed by guarantees. The Reserve Bank of India (RBI 2002) report of the Group to Assess the Fiscal Risk of State Government Guarantees proposed the assignment of weights to guarantees, in order to calculate the true fiscal obligation. The problem seems to persist geographically when a similar trend is observed in studies conducting off-budget debt assessments of other nations. Zhang and Bernett (2014) create a new measure of fiscal activity in China, which adds off-budget transactions to the general government statistics. For example, they add the debts of local government financing vehicles (LGFVs) created solely for infrastructure spending to arrive at augmented fiscal data.

The Fiscal Responsibility and Budget Management (FRBM) Review Committee (2017) discussed the issues pertaining to off-budget borrowing at the state level. Some states hold the view that their spending powers are limited by fiscal responsibility laws, and that extra budgetary resources are inevitable to maintain capital and infrastructure expenditure. The committee recommended that the collation, analysis, and annual reporting of the extended public debt should be undertaken by both the union and state governments in a supplementary budget document. The exercise will be useful, accounting for the challenges posed by guarantees, off-budget borrowings, and loss of parastatals. The committee noted, "The Finance secretaries candidly admitted that there is significant political pressure [to resort to off-budget borrowings]. However, in principle, most of the states recognized that such practices lack a sound accounting foundation and should be discouraged." On a similar note, the Fourteenth Finance Commission (2014) endorsed the full disclosure of extra budgetary borrowings in the interest of transparency and to eliminate the same in a time-bound manner. Furthermore, FFC (2020) highlighted similar issues and noted, "In the case of the many State Governments, despite efforts, we have not been able to arrive at tenable numbers of such liabilities."

To assess the extra budgetary load on public resources, a meaningful analysis using actual data must be done. Reinforcing the need to release true numbers is a more prudent solution than developing methodologies for their estimation, especially for data that is not hard to gauge, but is simply not made accessible to the public, or collected at all. This paper, therefore, is an attempt to untangle the issue of extra budgetary borrowing and make sense of the numbers that are available in the public domain. To know these numbers is to be aware of the gaps in the budget processes that lead to such borrowings in the first place. It is also crucial that the system abides by the fiscal reporting standards to ensure reliability in public resource spending. Schick (1981) argued for financial controls in OECD economies with off-budget borrowings. India is in a comparable situation, with its growth being trammelled by an inefficient PFM system, of which extra budgetary spending is a critical issue. The remainder of this section looks at the extent of the back-door spending incurred by the Union and the States.

4.1 Union's numbers

In a much-lauded move, the union government released "Statement 27– Statement of Extra Budgetary Resources (EBRs)"[11] employed by ministries as part of the 2019 budget. The statement showcased the resources availed through government fully serviced bonds, NSSF borrowings, and SBAs from 2016 onwards. Since then, updated versions have been released with each budget.

Since the extra budgetary details in Statement 27 are from 2016 onwards, the scenario prior to that remains unclear. It is difficult to draw conclusions from the available data because of the extent of absences and understatement of several significant entries. The CAG audits from 2020-2022 of the union government point out the inadequacies of Statement 27, which include deficiency in the format, and incomplete and non-disclosure of certain entities' debt. For this reason, we have compiled a new Statement 27 based on CAG audits, to provide a more complete picture of the extra budgetary liabilities.[12] Even after this, many issues remain unresolved. The period of the borrowings, interest rates, repayable principal and interest amounts, and carried forward debt remain unknown.

Some information on the repayment of off-budget loans is available in the expenditure budget of the Union. Every year, the union government releases expenditure profiles in the ministry-wise statement of budget estimates[13] (SBE), which shows the expenses made on account of the Internal and External Budgetary Resources (IEBR)[14]. The IEBR fund is provided in addition to the regular budgetary support, and is specifically used to repay the off-budget debt owed by each ministry. The IEBR expenditure is also incurred by the Ministry of Finance to make direct repayments on behalf of some PSEs. The IEBR on various items can range from 17% to 21% of the annual budgetary expenditure. Apart from this, repayments are also done through provision of grants to PSEs or government departments, or by redemption of bonds directly.

While the off-budget debt is not reported in the budget at the time of repayment through the SBE, a more detailed Statement 27 will help establish the debt figures, and terms and conditions at the time of taking the debt itself. The CAG had questioned the union Ministry of Finance on the incomplete nature of Statement 27:

> "The Ministry in its reply (October 2021) stated that Statement 27 was just a statement regarding investment through EBR. The repayable amount of EBR (Principal and interest) to be financed from Budget was reflected in the Statement of Estimate (SBE) against the concerned scheme of the demand." (CAG's Audit Report No. 18 of 2022, Union Government)

As discussed above, Statement 27 is the extra budgetary debt profile of the union government, while SBE indicates the repayment of that debt. The need for a comprehensive Statement 27 is not diminished by the presence of the SBE.

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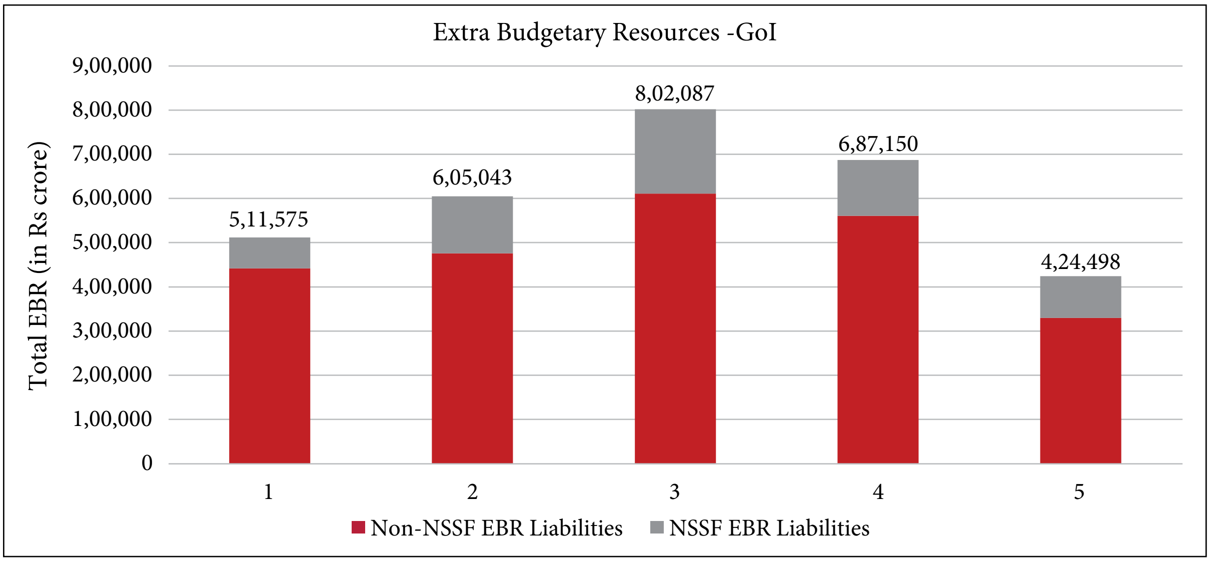
[11] See Table A2 in the Appendix.

[12] See Table A3 in the Appendix.

[13] Based on the SBEs of all the ministries, we have compiled the total extra budgetary spending of the central government from 2016 to 2021. Table A4 in the Appendix shows the details of IEBR allocation from 2016 to 2021, and Table A8 provides further details on the expenditure of select high-spending ministries.

[14] See Table A5 in the Appendix for a snippet from the original statement.

Figure 1: Extra budgetary resource utilisation by the union government



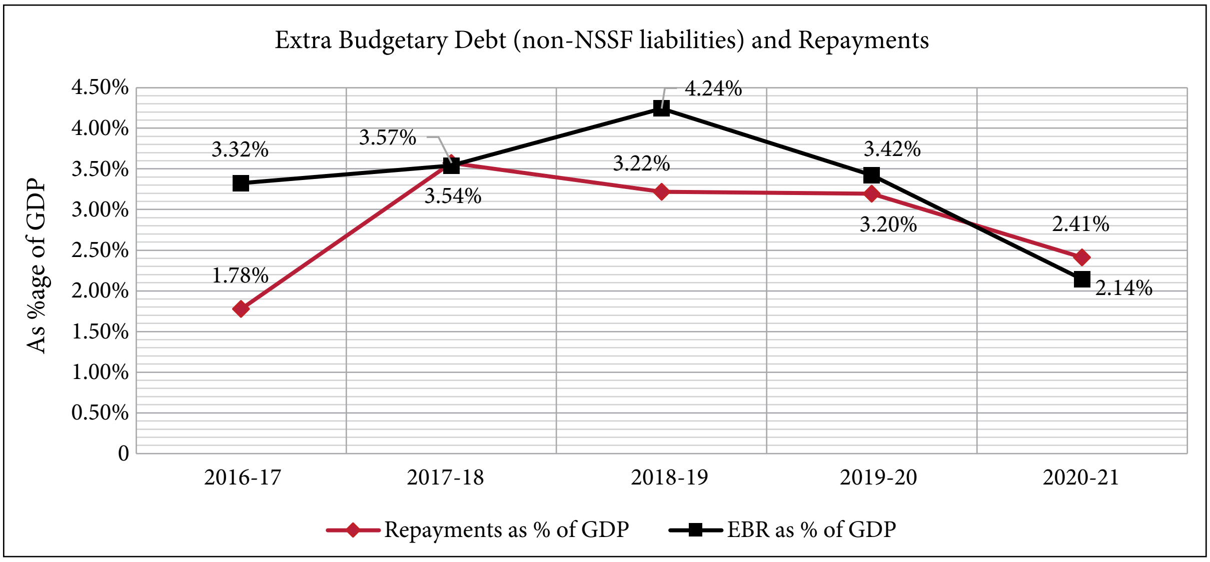
Source: CAG Union Audit Report (2016 to 2021), Ministry of Finance (2021)

Note: Non-NSSF liabilities comprise government fully serviced bonds (CAG audited Statement 27 numbers) and SBAs (which are only available in CAG reports)

Figure 1 shows an inverted-V trend in the total EBR utilisation by the Union. At the end of 2019, the total EBR had shot up to Rs 8,02,087 crore, and stood at 4.24% of the GDP, as seen in Figure 2. The graph reveals that the extent to which the union government resorted to EBR had reduced in 2020 and 2021, to 3.42% and 2.41% of GDP respectively. It is important to note here that these numbers are available in the public domain following the CAG audits of the Union Government Finance Accounts (UGFA), and are not necessarily complete. Therefore, it is difficult to conclude that extra-budgetary debt has been decreasing since 2019, or that the intensity of the problem has reduced.

This trend is likely due to the unavailability of CAG-audited extra budgetary debt figures of borrowers, including the FCI, National Highway Authority of India (NHAI), Indian Railway Finance Corporation (IRFC), and Power Finance Corporation (PFC).

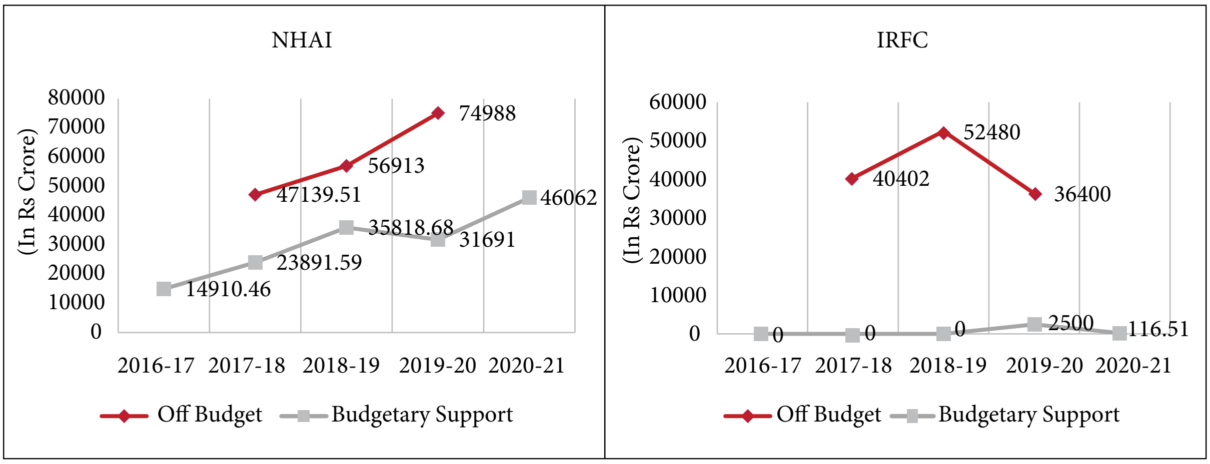
Figure 2: Extra budgetary debt (non-NSSF liabilities) and repayments as percentage of GDP for GoI



Source: Ministry of Finance (2016 to 2021)

In the latest 2023–24 budget, the IEBR allotments have remained high. The total budget estimates for 2023–24 amount to Rs 4.87 lakh crore with the highest borrowers, like previous years, being the FCI, oil and gas public enterprises, and power sector enterprises. The FCI had been allocated Rs 61,000 crore in 2021–22, which has increased to Rs 1.45 lakh crore in FY24 budget estimates. The allocation to the Indian Railways, which was Rs 73,000 crore in 2021–22, was reduced to Rs 52,000 crore in the latest estimates. While the public enterprises in the power sector are estimated to withdraw Rs 60,000 crore as IEBR in FY24, the renewable energy is expected to have Rs 37,000 crore at its disposal. While the union government has come across as determined to stop the use of extra budgetary resources, consistently high IEBR allotments point in a different direction.

Figure 3: Budgetary and extra budgetary support to the NHAI and IRFC



Source: CAG Union Audit Reports (2016 to 2021)

Beyond the numbers, it is worthwhile to study how some off-budget transactions actually take place. Let us consider one such example. The National Highway Authority of India (NHAI) was created for infrastructure development on the government's behalf. It secures funding from the Union, and earns primarily through toll revenues, which are not enough to meet its financial needs. It operates on funds received from both on and off-budget sources. Besides extending budgetary support to the NHAI, the Union incurs major expenditure in servicing its extra budgetary debt obligations every year. At the end of FY 2020, when the NHAI had raised Rs 31,691 crore from the market using the Government of India's (GoI's) fully serviced bonds, the Union had paid back Rs 74,988 crore worth of its outstanding borrowings (Figure 3). These payments were reflected in the 2019-20 expenditure of the central government. Since the actual loan was not reflected in government books, it can then be said that the government paid back a loan that was never really taken in the first place. On the contrary, the toll receipts from the NHAI were instead being credited to the CFI as non-tax revenue. This "government revenue" was then reinvested in the NHAI. The Union reflected the NHAI revenue as its own which led to an increase in receipts and fall in fiscal deficit. However, it did not show the NHAI's borrowings as its own, claiming that the liabilities were created against the latter's own assets. The contrasting principles highlight the ability of the government to report a lower fiscal deficit. A similar case in the context of the Indian Railway Finance Corporation is detailed in Box 1.

Box 1: IRFC

The Indian Railway Finance Corporation (IRFC) is a PSU that acts as the extra budgetary financing arm of the Ministry of Railways (MoR) for acquisition or creation of the fleet of assets. The IRFC raises funds from the markets to create rolling stock (rail vehicles) of railways, which is leased to the MoR. In FY20, this comprised nearly 70% of the total rolling stock of the Indian Railways. Lease rentals received from the MoR are used by the IRFC to service its own debt.

Extra budgetary borrowing via PSUs is a tool used by governments to finance capital expenditure. Such expenditure is not reflected in the government's accounts. In the case of the IRFC too, the debt is separate from that of the union government, on account of the former being a legally distinct identity from the latter. As per the GoI, funding from the IRFC works on "leasing model," according to which the ownership of assets rests with the latter, and the government only exercises a "right to use"; this is a universally acceptable funding method. While it is true that the government pays for the revenue of the IRFC from its own budget, the financial commitment between the two does not end here. Foreign lenders receive a Letter of Undertaking (LoU) from the ministry as a guarantee for repayment of the IRFC's debt in case of financial distress. For this reason, international credit rating agencies (CRAs) do not make a distinction between the IRFC's and the government's credit profiles.

The GoI offers IEBR support for repayment of the capital component of the IRFC's borrowings (Figure 3). For the revenue component, it pays lease rentals. Since the debt is serviced from the budget, the IRFC's debt is in fact, government debt. A more direct example for why this should be the case follows.

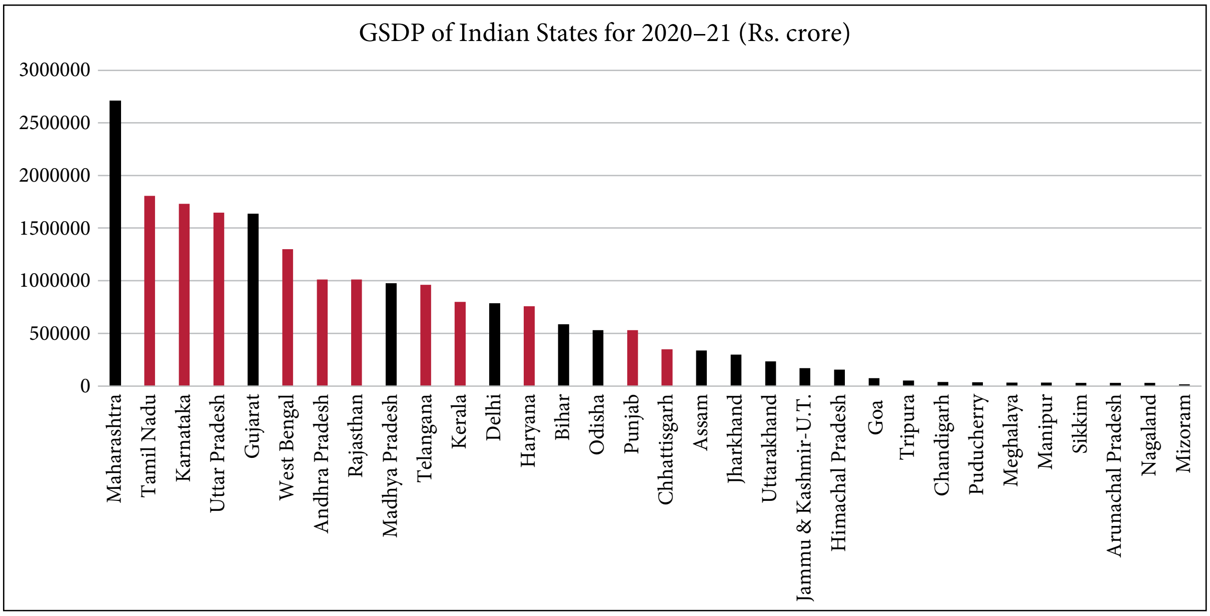
Rail Vikas Nigam Limited (RVNL) is another central PSU, which is 100% owned by the MoR. In FY20, the MoR received Rs 1,407 crore from the IRFC in one instance. The fund was passed on to RVNL, which used it to service its previous debt obligations to the IRFC. In a way, the old debt obligations to the IRFC were serviced using a new one, and is still not reflected in the UGFA. Since the ministry is responsible for the IRFC's debt repayment from the future CFI, the two are not as distinct, as it is claimed. Furthermore, the borrowings were also not disclosed in the Statement 27 of extra budgetary borrowings. Table A3 shows the extent of such borrowings by the government.

The median off-budget borrower utilised funds to the extent of Rs 25,000 crore. The borrowed amount has been spent on various schemes like the Pradhan Mantri Awas Yojana (Rural), Deen Dayal Upadhayay Gram Jyoti Yojana, and irrigation projects like the Pradhan Mantri Krishi Sinchai Yojana. Besides this, borrowings to the extent of Rs 20,000 crore were also made for the Pradhan Mantri Awas Yojana–Urban (PMAY-U scheme under the Ministry of Housing and Urban Affairs in 2018–19 via government fully serviced bonds, and another Rs 10,000 crore, through the NSSF.

4.2 States' numbers

From an economic perspective, Indian states are extremely heterogenous. The difference, owing to population, geography, and socioeconomic compositions is evident from varying gross state domestic products (GSDP). For example, Maharashtra's GSDP, the highest among all states in 2020-21, was 150 times that of the lowest-ranking Mizoram. In our analysis of off-budget borrowings, we focus on some states with high GDSP, and these have been highlighted in Figure 4.

Figure 4: GSDP of Indian States in 2020–21 (in Rs. Crore)



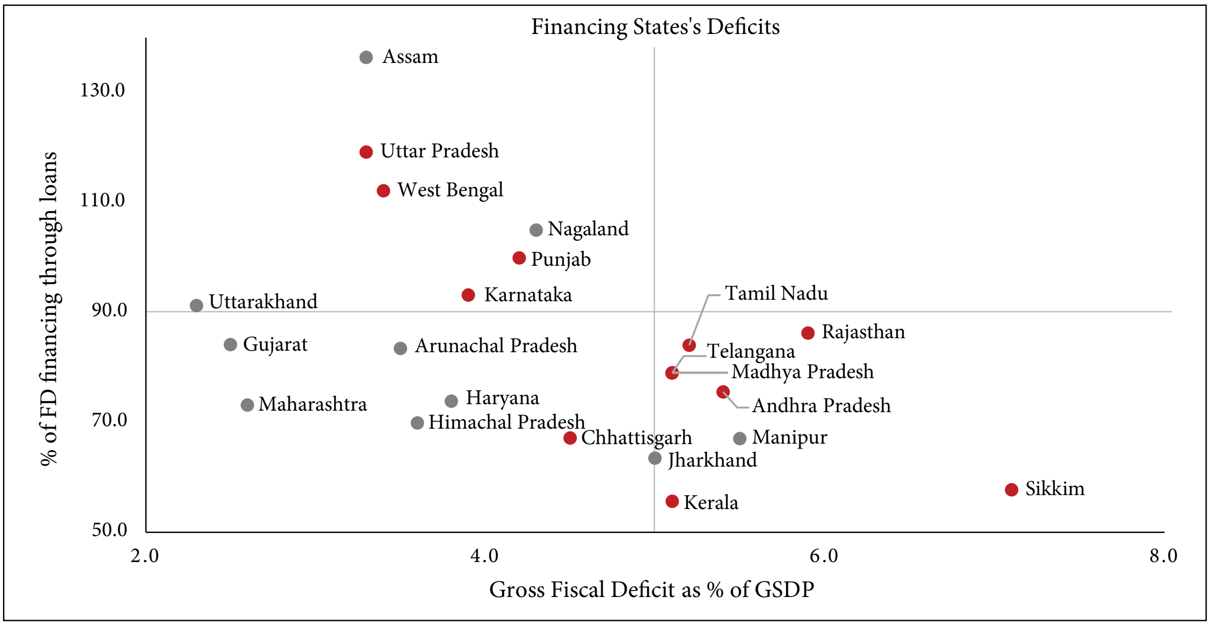
Source: RBI (2021a)

Note: States in red are the focus of further analysis.

While the GSDP is important to understand economic growth, true fiscal health can only be determined by parameters like the fiscal deficit and the debt burden of a state. To an extent, they indicate how well a state is able to manage its finances, maintain the difference between its receipts and expenditures, and incur future expenses while servicing its old obligations. For the latter, we look at how states financed their fiscal deficits in 2021. Numerous Finance Commissions have raised concern on the budgetary imbalances of states, where they resort to new borrowings to service the old ones. This leads to what the Eleventh Finance Commission (2000, p. 18) called a "self-perpetuating spiral of debt and deficit". States use several methods to finance fiscal deficits. These include loans from the Centre and institutions like the Life Insurance Corporation of India (LIC), State Bank of India (SBI), and National Bank for Agriculture and Rural Development (NABARD), as well as market borrowings, provident funds, reserve funds, issuing securities to the NSSF, and deposits and advances, among others. We concern ourselves with market borrowings and loans from institutions to understand which states borrow the most to close their deficits. Figure 5 shows states' fiscal deficits on the x-axis, and the percentage of fiscal deficit financed using loans and market borrowings on y-axis. In some cases, excessive borrowings were made to pay back previous borrowings to institutions (like LIC), other banks, NSSF, etc. Some have remaining surpluses that were not utilised while financing. In such cases, the percentage exceeds 100%.

It can be noticed that the States with high GSDP, like Tamil Nadu, Karnataka, Uttar Pradesh, West Bengal, Andhra Pradesh, Rajasthan, etc. (as can be seen in Figure 4), fall mostly in the second and fourth quadrant of Figure 5. This indicates that these are either states with a high share of market and institutional borrowings to finance deficits, or with high fiscal deficits. The discussion on off-budget borrowings will be limited to these fiscally stressed states.

Figure 5: Financing fiscal deficit of states (2021)



Source: RBI (2021b)

Note: The States in focus have been highlighted in red.

Before delving into the states' off-budget borrowings, it is important to be cognisant of the scarcity of this data. The off-budget borrowing numbers that follow are highly understated. One reason is the non-standard accounting of off-budget debt receipts in the financial accounts. For example, some governments may account for off-budgetary debt receipts under the Major Head 6003- Internal debt of the state government, while others place it under MH 0075- Miscellaneous General Services, as receipts. There is also incompleteness of data in the CAG audit reports at two levels. First, for some states like Madhya Pradesh, Uttarakhand, and Gujarat, no data is available at all on this aspect. Second, for states like Andhra Pradesh and Chhattisgarh, the data are not consistently available for the last few years. Karnataka is one state that reports off-budgetary debt and IEBR numbers in its Overview of Budget. However, the information does not provide a complete picture of the terms of the debt, including the lender, repayment period, interest rate, etc.

Based on the available data, 2021 recorded the highest total borrowings for all the States. The reason for this can be two-fold. First, the CAG has most information around extra budgetary debt post state finance accounts audits for FY21. It could also be that states tend to resort to off-budget borrowings because of their increasing needs for capital. Outstanding off-budget liabilities of all the States combined, as on March 31, 2021, were Rs 2,52,308 crore[15]. Telangana, being the highest borrower, had an outstanding off-budget liability of Rs 97,940.45 crore at the end of 2021, equal to 9.99% of its GSDP (Figure 6). The next highest off-budget borrowers are Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu respectively. In 2021, of the 10 States that are analysed, the five southern States accounted for Rs. 2.34 lakh crore worth of debt, which was approximately 93% of the combined States' liabilities (off-budget).

As per their FRLs, states are required to maintain their debt below a certain level, which they often exceed. For example, Andhra Pradesh's target was for total liabilities to not exceed 35% of its GSDP throughout 2015–16 to 2020-21 (Andhra Pradesh FRBM Act, 2005, S. 9(2)(ccc)).

[15] See Table A6 in the Appendix for year-on-year extra budgetary debt of some states.

Figure 6: State-wise off-budget borrowings as on March 31, 20XX (Rs crore)

State/Year	2016	2017	2018	2019	2020	2021	2022
Andhra Pradesh	7162	11867		10000	77,586.00	1,12,115.00	1,18,393.81
Chhattisgarh						2071.01	
Goa						788.55	
Haryana					419.5	405.75	802.00
Karnataka						18421.37	
Kerala					18699.08	16469.05	
Maharashtra	550	51					
Punjab		1425				10550.62	
Rajasthan	2787.25	2605.52	2372.91	2137.42	2,901.54	1804.41	
Sikkim			380.56	878.5			
Tamil Nadu	684.63	929	3754	774.52	703.78	15368.91	
Telangana		18,017			71,131.63	97940.45	
Tripura	0	0					
West Bengal						3016.64	

Source: CAG State Finances Audit Reports (2021, 2022)

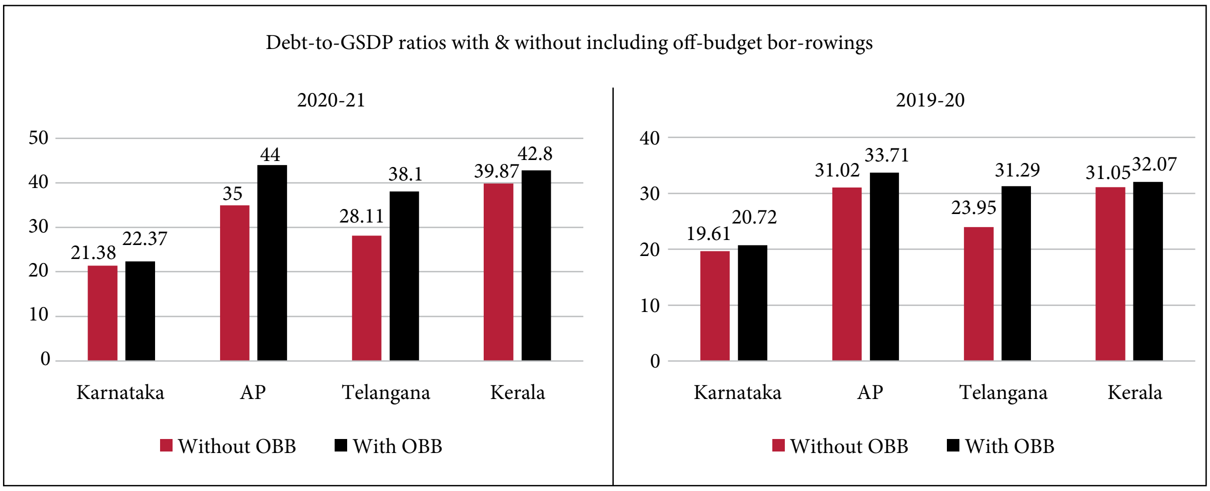
Note: The blanks indicate unavailability of data

While the State has been able to maintain this ratio of 35%, this only holds true if the off-budget liabilities are not considered. However, by the State's own definition, total liabilities mean "the liabilities under the Consolidated Fund of the State and the Public Account of the State and shall also include borrowings by the public sector undertakings and the special purpose vehicles and other equivalent instruments including guarantees where the principal and/or interest are to be serviced out of the State budgets" (Andhra Pradesh FRBM Act, 2005, S. 2(l)). The state's off-budget liabilities comprise PSU liabilities, which when added to the total debt cause the debt-to-GSDP ratio to increase to 44% for the year 2020–21, much higher than the state's target.

Figure 7 looks at the debt-to-GSDP ratios of the four highest off-budget borrowers of 2021, to understand the unaccounted debt burden on the states. Kerala, unlike Andhra Pradesh, defines total liabilities as those upon the Consolidated Fund and Public Account of the State (Kerala Fiscal Responsibility Act, 2003, S. 2(l)). The debt-to-GSDP target for 2019–20[16] was set at 29.67%. However, the actual ratio exceeded the target and stood at 31.02%, without including off-budget debt (Kerala Fiscal Responsibility Act, 2003, S. 4(2)(c)).

[16] Kerala has not updated the total liabilities target in its FRL for years after 2019-20. Telangana and Karnataka have not updated their respective targets post-2014-15.

Figure 7: Debt-to-GSDP ratios of the four southern States that are major off-budget borrowers

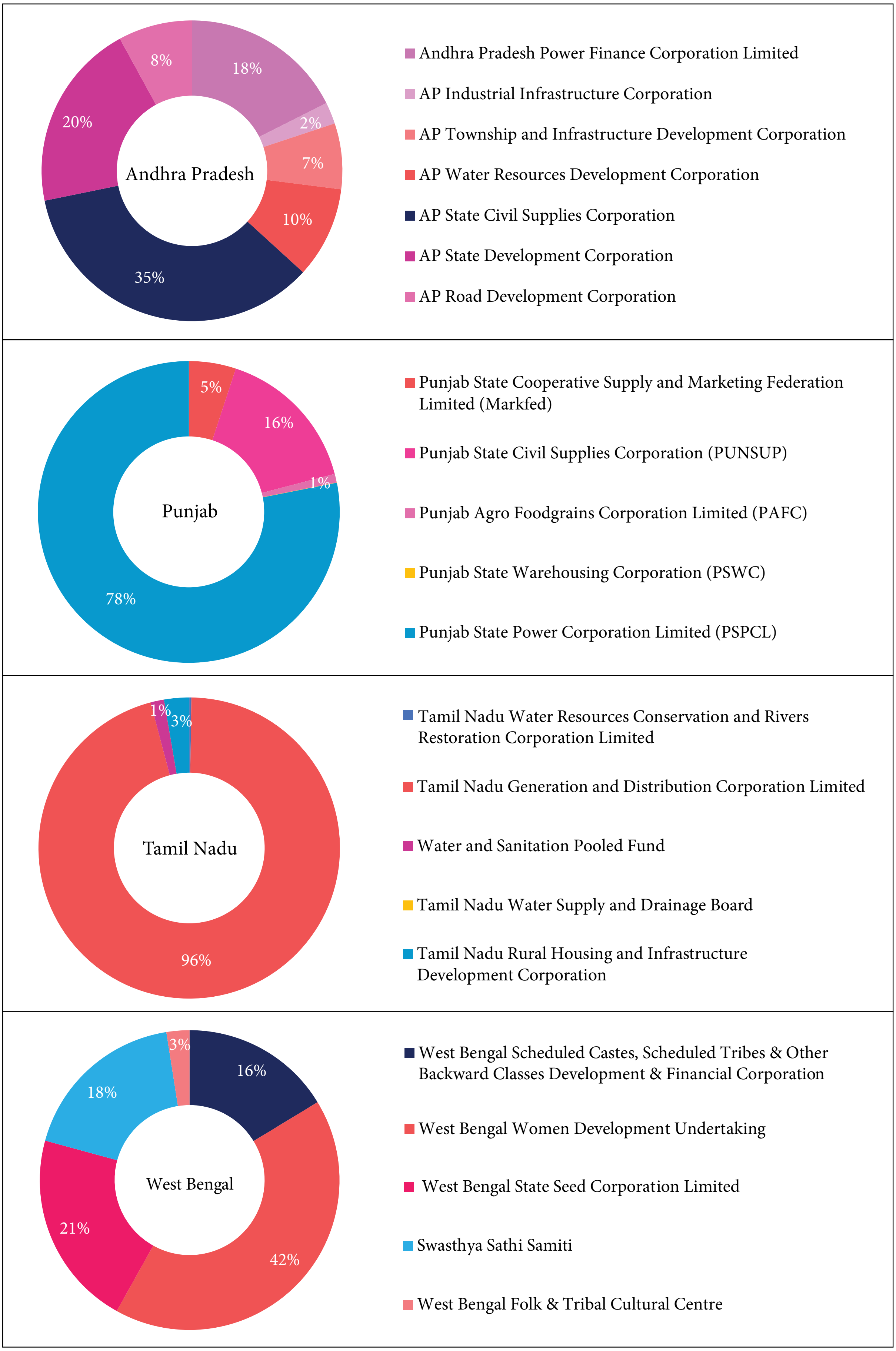


Source: CAG State Finances Audit Reports (2021, 2022)

It is important to note that a comparison among the States covered in this section is difficult as there are wide variations in each states' reporting of off-budget borrowings. For example, even though Andhra Pradesh's off-budget numbers are the highest among the States studied, we cannot say whether this is because it is the highest borrower or is simply revealing the most information. Without more comprehensive information, we also cannot ascertain why some states have higher off-budget borrowings than others. It is also clear that states have a long way to go if they have to match the Union's standards of transparency in the fiscal reporting of off-budget borrowings.

Who is borrowing on the States' behalf: In the case of Andhra Pradesh, the extra budgetary needs of the State seem to replicate those of the Union's, to an extent. While the FCI was one of the largest borrowers at the union level, Andhra Pradesh's largest extra budgetary borrower is the Andhra Pradesh State Civil Supplies Corporation (APSCSC). It manages the entire value chain of foodstuff and other essential commodities, and raised Rs 30,181 crore through EBR. The breakup of resource utilisation is presented in Figure 8.

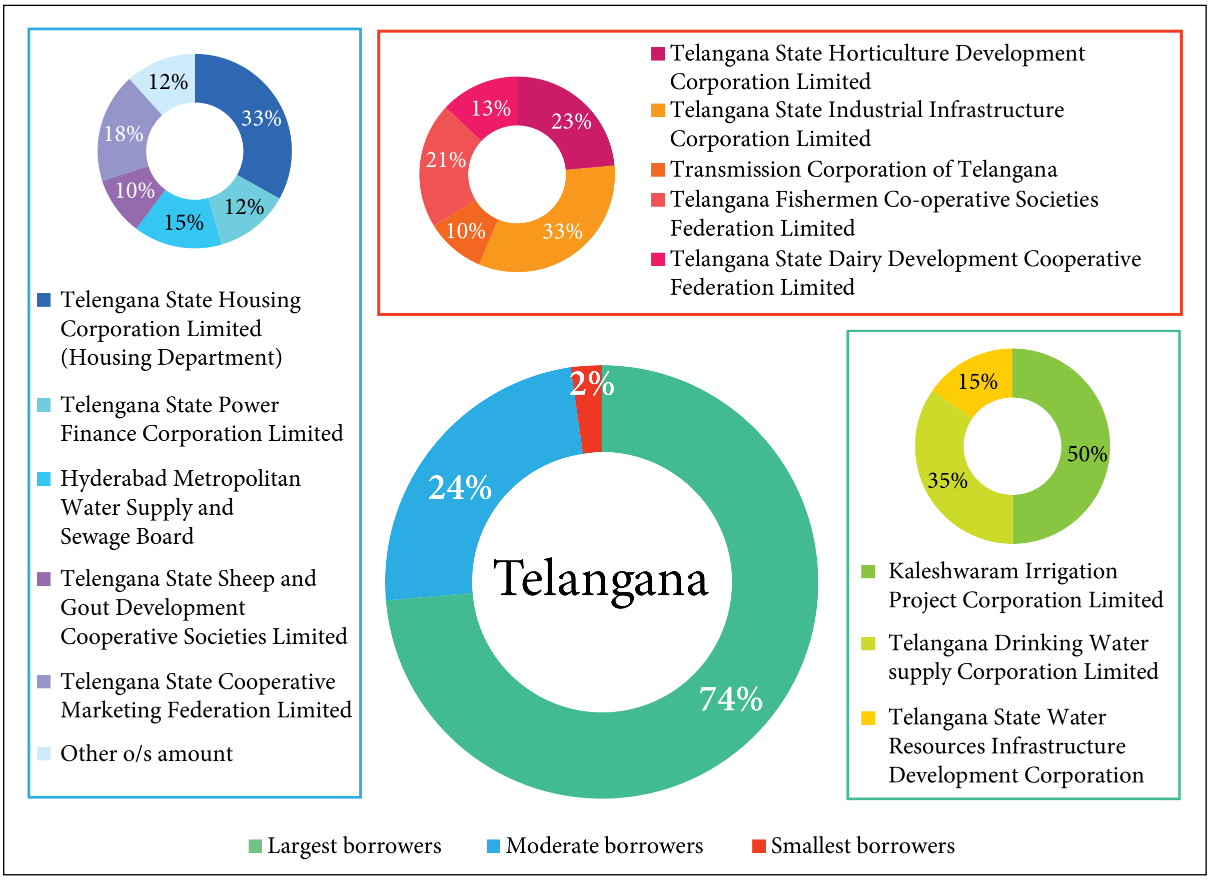
Figure 8: Utilisation of extra budgetary resources by PSUs as on March 31, 2021 (Rs crore)



Source: CAG State Finances Audit Reports (2022)

In Telangana, the three top borrowers comprise up to 74% of the State's extra budgetary needs (Figure 9). The next 24% is utilised by five public enterprises. In most cases, a single largest borrower for each state takes up the maximum share.

Figure 9: Utilisation of extra budgetary resources by Telangana PSUs as on 31.03.2021 (Rs crore)



Source: CAG State Finances Audit Reports (2022)

In many states, power sector enterprises used the most extra budgetary finances. Box 2 outlines the financial strains that this sector faces.

Box 2: The financial strains on the power sector

State governments, who are the primary owners of the bulk of distribution companies or discoms, spend heavily to pay for electricity subsidies, which has considerably strained the state's finances. Funds are used to cover subsidy costs, infuse capital, cover losses and service debt obligations. In 2020–21, the aggregate loss of 68 discoms increased by 66%, to Rs. 50,281 crore (PTI, 2022). The corporations have become incapable of running everyday operations without a capital dump by the states; servicing their own debt seems a far-fetched idea. The Ujwal DISCOM Assurance Yojana (UDAY) was launched by the Union in 2015 for the revival of power distribution companies. 16 states took over the debt obligations of power corporations, while 11 joined to improve their operational efficiencies. States have drawn criticism from the CAG for not being able to reap the benefits of the scheme. The Kerala State Electricity Board (KSEB) faces a 318% rise in debt obligations between 2015-16 and 2020-21 (The Hindu Bureau, 2022).

An overwhelming majority of extra budgetary funds go to the state PFCs, that are to be serviced out of state budgets. The opacity surrounding the data obscures states' growth and restricts policymakers from conducting an accurate analysis. The Andhra Pradesh PFC borrowed Rs. 15,161 crore in FY21. In the same financial year, the Tamil Nadu Generation and Distribution Corporation (Tangedco) alone raised Rs. 14,700 crore out of the state's total off-budget borrowings of Rs. 15,396 crore. Tangedco is a subsidiary of the Tamil Nadu Electricity Board (TNEB) and is responsible for installing thermal/gas/hydro power plants along with generating renewable energy. While Telangana spent Rs. 2,922 crore, Punjab too spent majority of its EBR on the power sector. Of the entire Rs. 15,550 crore pool of extra budgetary funds, Rs. 8,238 crores went to the Punjab State Power Corporation Limited (PSPCL). The financial distress caused by discoms is consistent across states. Guarantees, too, if and when materialised, will add to the debt burden. The power sector accounts for more than 60% of the total outstanding guarantees by the state governments (Tiwari & Surya, 2020). The FFC was concerned about the financial sustainability of the power sector on account of highly subsidised prices to several consumer groups, including agriculture, as well as the sector's inefficient regulations, and its unattractiveness to the private sector. Recommendations were made to the Ministry of Power to develop a monitoring index for states and create an incentive system based on the performance of the power sector.

Trends in Irrigation: By the end of 2021, out of the Rs 97,940 crore borrowed outside the budget by Telangana, more than Rs 36,000 crore was for a single corporation: Kaleshwaram Irrigation Project Corporation Limited. Karnataka too had spent most of its off-budget amount on irrigation projects, through allocation of funds to the Karnataka Bhagya Jala Nigam, followed by Karnataka Neeravari Nigam Limited. Approximately Rs 11,000 crore was borrowed by these two corporations, out of the total Rs 18,102 crore of borrowings at the end of the FY 2021. Given that the revenue streams, if any, of these projects are unclear, it is not surprising that they rely so heavily on borrowings. At the central level too, the Department of Water Resources, River Development, and Ganga Rejuvenation has been a consistent borrower over the years.

Other Insights: Interestingly, there are certain States with very high on-budget debts, which are already in breach of their FRL debt targets, and still resort to low degrees of off-budget borrowing. This is curious, given that one of the reasons for states resorting to off-budget borrowing in the first place is to bypass their FRL targets.

The three examples in this context are Punjab, Rajasthan, and West Bengal. The RBI's risk analysis of state finances places them among the States with the highest debt-to-GSDP ratios, at 49.1%, 40.5%, and 37.1%, respectively (RBI, 2022). While Punjab's debt to GSDP FRL targets have not been revised for quite a few years now[17], Rajasthan missed the target to bring its ratio down to 34% of the GSDP by the end of 2020. Punjab's off-budget borrowings stood at 1.95% of the GSDP and Rajasthan's was even lower at just 0.5% since 2016. At the end of 2021, West Bengal's off-budget liabilities were Rs. 3016.64 crore, that is, a mere 0.23% of the GSDP (RBI, 2021a). The motivation behind these states opting for off-budget resources with very little pressure on the existing debt, when already in violation of their FRL targets, is unclear. One plausible explanation is that their off-budget numbers are much higher than those currently being projected.

Rajasthan's off-budget borrowings have primarily been spent on various Zila Parishads and the Rajasthan Agriculture Marketing Board. Apart from these, money has been borrowed for Rural Housing and Infrastructure Development, Civil Supplies Corporation, and Water & Sanitation Pooled Fund. In Punjab, where off-budget debt was Rs 10,550.62 crore at the end of 2021, the state power corporation and civil supplies corporation were the largest borrowers. West Bengal borrowed off-budget sums for its Women Development Undertaking and State Seed Corporation Limited, besides other small enterprises.

5. Analysing the legal gaps in the regulation of off-budget borrowings

As with many other data gaps, the problem of off-budget borrowing also has a legal dimension. As discussed previously, India lacks a comprehensive PFM law that could standardise and integrate its fiscal reporting. This enables governments to resort to off-budget borrowing, and thereby circumvent the debt limits contained in the FRLs that they are bound to follow. To address this, in 2018, the Union FRBM Act was amended to widen its definition of debt and include financial liabilities of government-owned or -controlled entities that the union government was responsible to repay (FRBM Act, 2003, S. 2(aa)). This amendment resulted in better reporting of the Union's off-budget numbers, as discussed above. However, this still leaves scope for the Union to take new off-budget borrowings to pay back the existing debt. The Union can thus stay within its debt target, and since the repayment in such cases is not being done through the CFI (for the time being), it does not reflect in the fiscal deficit indicator either. In this section, we take a closer look at how state FRLs regulate off-budget borrowing, if at all.

5.1 How are off-budget borrowings regulated?

Remarkably, we find that state fiscal rules are, in fact, quite detailed and extensive in their measures to address off-budget borrowing. Table 1 shows that state FRLs and rules contain a variety of measures, such as including off-budget borrowings in the definition of government debt or liabilities, taking them into account when calculating fiscal and revenue deficits, and requiring them to be reported as part of the Fiscal Policy Strategy Statement or Medium Term Fiscal Policy Statement, which are tabled in the legislature along with the budget.[18] Seven states expressly define off-budget borrowings, and only one—Madhya Pradesh—has no direct or indirect reference to this practice. Therefore, it is not as though state fiscal rules do not envisage, acknowledge, or seek to address off-budget borrowings. On the contrary, the rules are extensively detailed and varied in their attempts to regulate this practice.

[17] Punjab's last FRL target was to bring down its debt-to-GSDP ratio to 40% by 2006–07.
[18] For a list of FRLs, see Table A7 in the Appendix.

Table 1: How different FRLs regulate off-budget borrowing

<table>
<tr><th>Sr. No.</th><th colspan="2">How off-budget borrowing is regulated</th><th>Followed by</th></tr>
<tr><td>1.</td><td colspan="2">Included in definition of debt / total liabilities</td><td>Union, Haryana,[19] Chhattisgarh, Meghalaya, Nagaland, Tripura, West Bengal, Bihar, Maharashtra, Andhra Pradesh, Telangana</td></tr>
<tr><td>2.</td><td colspan="2">Separately requires off-budget borrowings to be reflected as government borrowing[20]</td><td>Manipur, Nagaland, Tripura, Bihar, Andhra Pradesh, Haryana, Telangana</td></tr>
<tr><td>3.</td><td colspan="2">Interest on off-budget borrowings to be considered as revenue expenditure for calculating revenue deficit</td><td>Arunachal Pradesh, Assam, Bihar, Maharashtra, Karnataka</td></tr>
<tr><td>4.</td><td colspan="2">Considered as government borrowings for calculating fiscal deficit</td><td>Punjab, Arunachal Pradesh, Assam, Himachal Pradesh, Maharashtra, Karnataka</td></tr>
<tr><td>5.</td><td colspan="2">Expressly defined</td><td>Punjab,[21] Odisha, Jharkhand, Maharashtra,[22] Karnataka,[23] West Bengal, Arunachal Pradesh</td></tr>
<tr><td>6.</td><td colspan="2">Included in the Fiscal Policy Strategy Statement</td><td>Andhra Pradesh, Telangana, Gujarat, Meghalaya, Nagaland, Tripura, Bihar, Sikkim, Mizoram, Chhattisgarh, Haryana, West Bengal</td></tr>
<tr><td>7.</td><td colspan="2">Included in the Medium-term Fiscal Policy Statement</td><td>Karnataka, Punjab, Arunachal Pradesh, Odisha, Goa</td></tr>
<tr><td>8.</td><td colspan="2">Included in the Fiscal Transparency Statement</td><td>Gujarat, Kerala, Arunachal Pradesh, Himachal Pradesh, Uttarakhand, Uttar Pradesh, West Bengal, Karnataka</td></tr>
<tr><td>9.</td><td rowspan="2">No express regulation</td><td>Indirect reference[24]</td><td>Rajasthan,[25] Tamil Nadu, Jharkhand</td></tr>
<tr><td>10.</td><td>No direct or indirect reference</td><td>Madhya Pradesh</td></tr>
</table>

Source: Authors' analysis based on FRLs (see Table A7)

[19] Includes a separate definition of "special purpose vehicles," as "an organisation or institution set up by State Government to discharge specific assignments/duties within a specified period in respect of financial transactions or raising of loans from financial institutions or the market for specific purposes against State guarantees". (Haryana FRBM Act, 2005, S. 2(l)). Rajasthan defines them as well: "instruments set up for financing of investments through borrowings not routed through the annual budget of the Government of Rajasthan". (Rajasthan FRBM Act, 2005, S. 2(n)).

[20] Typically framed as, "Whenever the State Government undertakes to unconditionally and substantially repay the principal amount and/or interest of any separate legal entity, it has to reflect such liability as the borrowings of the State." (Manipur FRBM Act, 2005, S. 9(3)).

[21] "Off-budget borrowings" mean borrowings by the State Government or its Agencies which are not reflected in the Budget (Punjab FRBM Act, 2003, S. 2(d)).

[22] "Off-budget borrowings" mean non-budgetary receipts that need to be serviced by way of interest and principal repayment directly from the budget and in which the liability is not contingent in nature. (Maharashtra FRBM Rules, 2006, rule 2(h)).

[23] "Off-budget borrowings" mean borrowings by PSUs and SPVs and other equivalent instruments where the liability for repayment is on the State Government (Karnataka Fiscal Responsibility Rules, 2003, rule (2)(e)).

[24] Typically, either the Medium Term Fiscal Plan or the Fiscal Policy Strategy Statement is required to include a "… description of other activities, such as, … activities of Public Sector Undertakings which have potential budgetary implications…" (Tamil Nadu Fiscal Responsibility Act, 2003, S. 3(4)(c)). Since off-budget borrowing that is routed through PSUs has clear budgetary implications, this wording should be seen as inclusive of off-budget borrowing.

[25] Under its FRBM rules, Rajasthan requires its Fiscal Policy Strategy Statement to include a sub-paragraph on "Contingent and other liabilities," under which it is stated "Any change in the policy related to special purpose vehicle (SPV) and other equivalent instruments where liability for repayment is on the State Government shall be indicated" (Rajasthan FRBM rules, 2006, rule 4 read with Form F-2). While this is a direct reference to off-budget borrowings that are routed through Special Purpose Vehicles, the rules only require changes in off-budget borrowing policies to be disclosed, which falls short of a requirement to disclose all details pertaining to off-budget borrowing.

Thus, the legal gap in the subnational regulation of off-budget borrowing is not in terms of an absence of necessary legal provisions. Rather, this gap is in terms of a vertical inconsistency between the Union and subnational regulation of off-budget borrowing, a horizontal inconsistency in how different states regulate it, and an inconsistency between what the laws say, and what governments are actually (not) doing. In other words, state FRLs are not being circumvented by an unforeseen issue that the law is not aware of, as was the case with the constitutional provisions on the Public Account. Rather, they are being subverted through violations of several provisions that seek to regulate off-budget borrowing.

5.2 How should off-budget borrowing be regulated?

There are thus several different ways in which off-budget borrowing is regulated across India's federal structure. However, inadequate compliance across the board means that it is difficult to assess which types of regulation have been more effective than others. Still, analysing the available range of regulatory options is useful for thinking about what an ideal regulatory framework should look like.

The FRLs that include off-budget borrowing in their definitions of debt or liabilities, fiscal deficit, and revenue deficit, essentially require governments to disclose aggregated numbers that consolidate on-budget and off-budget borrowings. In other words, these types of provisions do not require a specific, separate disclosure of off-budget borrowing figures, so long as these numbers are added to the fiscal indicators disclosed. While this is certainly better than reporting numbers that do not include off-budget figures (which is what all governments are doing presently), it still does not reveal the full fiscal picture.

Another category of FRLs requires off-budget borrowings to be separately included in their fiscal statements such as the fiscal policy strategy, medium-term fiscal policy, and fiscal transparency statements. In these cases, governments are required to specifically disclose off-budget borrowings, but are not required to add these figures to their main fiscal indicators, such as their debt numbers. This means that while the government's off-budget numbers are revealed in certain documents, their main fiscal indicators remain under-inclusive. This, again, ultimately paints an incomplete picture of their fiscal affairs.

The ideal regulatory framework for off-budget borrowing should incorporate both the above elements: It should require off-budget numbers to be added to the major fiscal indicators, while also requiring them to be disclosed separately. This combination of requirements can fully address the data gap of off-budget borrowing, as it would require the disclosure of not only the true extent of government liabilities, but also its sources. Presently, the FRLs in only nine states include off-budget borrowings in both, their debt/liabilities definition and one of their fiscal statements.[26]

To further increase transparency, the requirement to separately disclose off-budget borrowing numbers can also be expanded to include details such as:

- Who is borrowing (PSUs, SPVs, government, etc.), from whom, and against which scheme or project, if applicable, or for any other purpose. One such example can be found in Statement27[27] which includes the names of the scheme/project under the ministry or department that administers it.

[26] These states are Haryana, Chhattisgarh, Meghalaya, Nagaland, Tripura, West Bengal, Bihar, Andhra Pradesh, and Telangana.

[27] See Table A2 in the Appendix for Statement 27.

- The modality of the borrowing, whether through the Public Account, selling government bonds, market borrowings, SBAs, etc. For example, Statement 27 is divided into two parts. The first part includes EBR mobilised through issue of government fully serviced bonds, whereas the second part includes financial support extended through loans from the NSSF.
- The terms of the loan, including details such as the time period over which the debt would have to be repaid, the interest rate, etc.
- Details of repayments (with interest and principal amounts reported separately) of specific departments under which PSEs operate.
- Estimates of future borrowings. For multi-year capital intensive projects, wherever possible, a medium-term framework of the borrowing requirements and repayment plans of the project.

Annual disclosures along these lines, presented with the budget, would enable the legislature, markets, and citizens, to develop a thorough and comprehensive understanding of the government's fiscal health, and its prospects over the medium term. It would also ensure that if, for example, the government is repaying its existing debt by resorting to new off-budget borrowing, these details are fully evident. The government would have to specify that the purpose of the fresh borrowing is to finance previous debt. The existing provisions in FRLs that include off-budget borrowing in their debt definition are not able to capture such practices. Since these regimes only require a debt percentage to be reported, if there is no net change in debt, as a result of the fresh borrowings meeting existing liabilities, the reported debt amount will remain unchanged and consistent.

As with other aspects of PFM, it is essential to have uniform debt reporting across India's federal structure. If a state government hides the full extent of its debt by resorting to off-budget borrowing, it primarily puts that state at risk. However, given the highly inter-connected and integrated nature of India's federal system, with states receiving substantial resources through vertical and horizontal devolution from a common divisible pool[28] and the Union being constitutionally responsible for the overall macroeconomic stability,[29] an under-reporting state has risk implications for the whole Union of States. Moreover, under the union FRBM Act, the union government has to ensure that the general government debt, comprising both union and state government debts, does not exceed 60% cent of the GDP (FRBM Act, 2003, S. 4(1)(b)(i)). To aggregate state (and union) debt data, or even to simply compare them across states, it is essential that the debt is calculated and reported in the same manner in each case. This illustrates how heterogeneity in the regulation of off-budget borrowing in India constitutes a legal gap.

Hence, it is crucial that the ideal regulatory framework for off-budget borrowing, in addition to containing the features described in the preceding paragraphs, is also uniform. Given that the RBI already consolidates and publishes information on various aspects of the fiscal affairs of the Union as well as the States in a uniform manner, it can play a similar role in uniform reporting of off-budget borrowings as well, once governments begin reporting this information in their budgets. We need to develop instruments of short-run flexibility to incentivise states to move in this direction. Any additional flexibility should only be a transitional arrangement, which is phased out in a few years, once reporting off-budget numbers becomes the norm.

[28] As per Finance Commission recommendations (India Const. Arts. 270 & 280).

[29] This is implied by the power conferred by the Constitution upon the Union to regulate subnational borrowings under Article 293.

6. Issues with the Union's attempt to regulate subnational off-budget borrowing

While both the Union and the States are subject to the deficit and debt limits contained in their respective FRLs, the Constitution provides the Union with another handle, via Article 293, to limit state deficit and debt. Under Article 293(3), states are required to take the Union's consent for borrowing, if they are indebted to the latter. Since every state is indebted to the union government, all are required to get their borrowings approved. The Union gives its approval drawing from Finance Commission recommendations, and sets an annual borrowing limit in the form of a net borrowing ceiling (NBC), which is pegged to an annual fiscal deficit target. So, for instance, if a state has a fiscal deficit of 3% of its GSDP, its NBC is also set at 3% of the GSDP.

In March 2022, the Union decided to treat states' off-budget borrowings in 2020–21 and 2021–22 as states' own borrowings, to be adjusted against their NBCs in 2022–23. This would have led to a sudden, significant reduction in how much states could borrow. Following concerns expressed by states, the Union decided, in June 2022, to include off-budget borrowings in NBCs only from 2021–22, and adjust it across the 2022–23 to 2025–26 period. While this eased the retrospective burden, the fact remains that States will effectively have lesser borrowing space going forward, given that their off-budget borrowings will also form part of the NBC.

While the Union's move has been praised in some quarters, it has also generated severe backlash from several states. As we have argued, the best way to regulate off-budget borrowing is by requiring full transparency, which entails both separately disclosing off-budget figures as well as adding them to the major fiscal indicators. However, to operationalise its decision under Article 293(3), the Union has asked the States to furnish details regarding their off-budget borrowings to the Union itself, and not to release these numbers transparently in the public domain. The Union, now presumably is in possession of a vast dataset of off-budget borrowings of all states, has also chosen to keep these numbers to itself. This means that state legislatures, markets, citizens, and researchers remain in the dark with regard to the off-budget borrowings. Each of these entities have a legitimate and important role to play in analysing and regulating subnational public debt. By keeping the numbers to itself, the Union risks building a centralised, exclusively vertical, and non-transparent channel of fiscal accountability, instead of advancing the constitutional principle of legislative supremacy over fiscal affairs. In short, despite the Union's intervention, subnational off-budget borrowing remains a significant data gap.

Moreover, while both FRL limits as well as the NBC limit that is vertically imposed on states through Article 293(3) are numerically based, the latter is a hard limit, allowing for no exceptions or explanations. If a state breaches its NBC, then consent for fresh borrowing is withheld. Given the larger subnational fiscal landscape, characterised by pandemic-related fiscal stress and pending GST compensation dues among other constraints, this sudden hard limit might result in spending cuts in critical areas such as capital expenditure and social-sector spending. At least in the case of FRLs, the inherent rigidity in such numerically based limits is partially balanced by soft compliance measures that allow for some flexibility. For example, most FRLs permit exceeding the fiscal deficit target to an extent on certain grounds, provided that the government tables a statement in the legislature justifying the reasons for this deviation and the path back to compliance. However, when a numerical fiscal deficit target is imposed from above in an absolute manner, as by the Union to States via Article 293(3), there is no scope for flexibility. This approach can disincentivise States from investing in capital expenditure and human capital.

7. Addressing off-budget borrowings: Way forward

Data gaps are an entrenched issue in India, with far-reaching consequences for fiscal policy, economic growth, and human capital. The problem of off-budget borrowings at the union and state levels serves as an illuminating example of data gaps, and illustrates some of the motives, contexts, extents, and consequences that animate and emerge from data gaps. Data gaps also tend to have an underlying context of legal and institutional gaps. The FFC (2020) report included a detailed chapter on reforming India's fiscal architecture, comprising the three pillars of PFM processes, fiscal rules, and independent fiscal institutions. A long-term solution to the problem of off-budget borrowing, and more generally, data gaps, necessarily requires reforms across each of these pillars to improve the coverage, timeliness, quality, and integrity of fiscal reporting.

While there are detailed rules, guidelines, and manuals for various aspects of PFM, and an overarching PFM structure outlined in the Constitution, a comprehensive statute that can tie these two together remains conspicuously absent. Not only does this reflect a literal gap, it also leads to the violation of salient constitutional and democratic principles. A holistic, comprehensive way to bridge this gap is by passing a consolidated PFM law that applies to the Union and States (James, Patel, & Singh, 2022). Such a PFM law could cover several areas in need of reform, including fiscal responsibility, the annual budget, financial management, reporting and accounting, and legislative and executive oversight (Alamuru & Vidhi Centre for Legal Policy, 2020). Without "ensuring uniformity in the definition of fiscal indicators and the standard reporting framework of the Union and States," as recommended by the FFC (2020, p. 393), data gaps will only continue. This kind of uniformity can be ensured if it is mandated through an overarching law that fills the existing PFM gaps highlighted by the FFC (2020) report, and the data gap of off-budget borrowings as well.[30]

In the case of India's fiscal rules, the legal gaps are more in the nature of vertical (between the Union and States) and horizontal (among states) inconsistencies in how debt generally, and off-budget borrowing specifically, is regulated across the country's federal structure. Gaps in the legal framework are accompanied by vast gaps between the law and its compliance, altogether resulting in off-budget borrowing continuing unreported and unabated. To ensure that off-budget borrowings are transparently reported, the law should require separate disclosures of off-budget borrowings, and for those figures to be added to the major fiscal indicators. Institutionally, India also lacks a fiscal council that could have anchored, collated, and coordinated its fiscal reporting.

While a long-term solution requires comprehensive legislative and institutional reforms as detailed above, a lot can be done in the immediate, transitional phase as well. In theory, there is nothing stopping the Union from using its powers under Article 293 to require states to transparently report their off-budget operations. While the Union has attempted to regulate subnational off-budget borrowing through its circulars in March and June 2022, the fact that it has done so in a non-transparent manner implies that the crux of the problem remains unaddressed.

Another possible route through which some progress can be achieved is through the President's power under Article 150 to prescribe, on the advice of the CAG, the form in which the accounts of the Union and the States are to be kept. In exercise of this power, the Government Accounting Rules, 1990 (GAR) are currently in force. The CAG can advice the President to amend rule 23 in GAR to require union and state governments to include a new sub-section on off-budget borrowings in the "Public Debt, Loans, and Advances" section of the "Capital, Public Debt, Loans" division within the

[30] An overarching PFM law, passed by Parliament and applicable to the Union as well as the States, is constitutionally permissible, even though public debt of the State forms part of the State List of the Constitution. This is because a PFM law that mandates a uniform debt reporting structure across states would represent more of a procedural requirement, with states remaining free to make substantive decisions regarding their debt (like setting their own debt target under their respective FRLs). In other words, a centrally mandated uniform debt reporting requirement would be about *how* to report debt (a procedural aspect), rather than *what* debt limits, if any, there ought to be (a substantive aspect).

part on the Consolidated Fund in their accounts. The effect of this would be that all governments would have to include a head on off-budget borrowings in their accounts, and report data under it. While this would nudge governments to move in the direction of filling this data gap, a PFM law would still be required to mandate a uniform definition of off-budget borrowings, and to include this within a uniform definition of debt.[31] Only then can it be ensured that the off-budget numbers being reported are adequate and comparable.

Reportedly, the CAG is planning to publish fiscal sustainability report cards for each state, which would also capture their off-budget liabilities (Sahu, 2022). If this plan goes ahead, it may prove to be a very useful resource that can help fill this data gap. The union government should also be covered under this effort, which would make off-budget numbers truly comprehensive and comparable across Indian governments. The CAG should also aim to improve the timeliness of its auditing, with the FFC (2020) recommending that it publish audit reports within nine months of the end of the financial year.

Table 2 below provides a summary of our recommendations to address the problem of off-budget borrowings. It divides specific problems along four key elements of good fiscal reporting, viz. coverage, timeliness, quality, and integrity, and suggests recommendations for each. In recognition of the fact that states have a significantly worse record of transparently reporting off-budget numbers, we recommend below that the union government should play a role in enforcing such reporting among the States through its powers under Article 293.

[31] Such definitions cannot be introduced through GAR because the power under Article 150 is limited only to the *form* of accounts, and arguably cannot be used to introduce and mandate definitions of the terms used in the accounts. Thus, to address this data gap comprehensively and holistically, coordinated amendments are required in the GAR and union and state FRLs, alongside the enactment of a new, overarching PFM law.

Table 2: Summary of recommendations

Sr. No.	Elements of good fiscal reporting	Problems in the reporting of off-budget borrowings	Recommendations
1.	Coverage	Non-reporting and under-reporting.	i) Union and state governments need to make full and accurate disclosures of their off-budget operations, as required under their FRLs. To further increase transparency, FRLs should be amended to require separate disclosure of off-budget borrowing data with the following details: ● Who is borrowing (PSUs, SPVs, government, etc.), from whom, and against which scheme or project, if applicable, or for any other purpose. One such example can be found in Statement 27 which includes the names of the scheme/ project under the ministry or department that administers it. ● The modality of the borrowing, whether through the Public Account, selling government bonds, market borrowings, SBAs, etc. For example, Statement 27 is divided into two parts. The first part includes EBR mobilised through issue of government fully serviced bonds, whereas the second part includes financial support extended through loans from the NSSF. ● The terms of the loan, including details such as the time period over which the debt would have to be repaid, interest rate, etc. ● Details of repayments (with interest and principal amounts reported separately) of specific departments under which PSEs operate. ● Estimates of future borrowings. For multi-year capital intensive projects, wherever possible, a medium-term framework of the borrowing requirements and repayment plans of the project. ii) The CAG should advice the President, under Article 150, to amend rule 23 in GAR to require union and state governments to include a new sub-section on off-budget borrowings in the "Public Debt, Loans, and Advances" section of the "Capital, Public Debt, Loans" division within the part on the Consolidated Fund in their accounts.
2.	Timeliness	Audit reports typically take more than a year to be published.	Governments should prepare financial reports within six months and the CAG should publish audit reports within nine months of the end of the financial year, as recommended by the FFC (2020).

3.	Quality	The data is non-comparable between the Union and States, and across states, because of different definitions and disclosure formats.	i) The definitions of debt and formats of disclosure requirements should be made uniform across the Union and States. FRLs should be amended to require separate disclosures of off-budget borrowings, and for those figures to be added to the major fiscal indicators. ii) In the long term, a comprehensive PFM law, applicable to the Union and States, should be passed. iii) A fiscal council should be established to anchor, collate, and coordinate fiscal reporting across the Union and States. iv) Once governments start reporting off-budget borrowings in a uniform and comparable manner, the RBI should consolidate and publish this data for the Union and the States, as it presently does for other fiscal data.
4.	Integrity	Inadequate external scrutiny, accountability, and enforceability, resulting in unreliable data and non-compliance with FRLs.	i) The CAG's plans of preparing fiscal sustainability report cards for each state should be implemented, and extended to include the union government as well. ii) For greater accountability and to ensure compliance among state governments, the Union should use its power under Article 293 to require states to transparently report their off-budget operations.

Source: Authors' analysis and IMF (2019)

Ultimately, the true extent of this problem can only be comprehended with better fiscal reporting and more data. However, even the limited data studied in this paper paints a very concerning picture, and points to the need for urgent intervention at all levels of government, and across the fiscal architecture.

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Appendix

Table A1: Select gaps and inconsistencies in the existing PFM framework

PFM dimension	Present coverage	Existing gaps/ inconsistencies	Existing gaps in implementation
Fiscal discipline and risk-management	Existing FRLs, at the union and state levels, cover a lot of ground in terms of numerical fiscal targets, mandatory disclosures, escape clauses, etc.	**Union FRL:** Definitions of deficit and debt are inconsistent with each other. General government debt target is not consistent with wider definition of "Central Government Debt." **State FRLs:** Many states have not adopted a wider definition of debt and deficit that could cover extra budgetary operations. Many state FRLs do not have debt as an anchor. Even where debt is a target anchor, it is not defined in alignment with the general government debt target adopted by the union FRL.	Union government debt is not calculated in full cognisance of the revised definition of debt (post-2018) in the union FRL. Medium-Term Expenditure Framework and Fiscal Risk Statement are not published by the Union or States.
Budget formulation	Constitutional provisions under Articles 112–117 cover budgetary process in Parliament, and Articles 202–207 do the same for state legislatures. The General Financial Rules (GFR), Delegation of Financial Powers Rules, and union and state budget manuals cover rules governing appropriations, sanctions, and allocations.	The Constitution covers only a broad mandate and provides a basic framework. However, downstream operational budgetary processes have no specific legal framework governing them. Documentation requirements and timelines for budget-making are not legally defined.	Budgetary processes are not oriented towards performance budgeting or outcome budgeting. Outcome budget document is prepared in a manner that is de-linked from the main budget outlay and performance.
Public procurement	GFR, 2017, R&P rules, and various orders issued by the Department of Expenditure, MoF, GoI, and finance departments in state governments.	No overarching legal framework for public procurement. Fragmented rules, guidelines, and manuals make it difficult for public agencies to follow them comprehensively.	Rules hamper efficient procurement rather than aiding competitive, transparent and efficient public procurement.

Monitoring and reporting	Ex-post review and audit by CAG under Article151 and CAG (Duties, Powers, and Conditions of Service) Act, 1971.	**Both in the Union and States:** External assessment and evaluation mechanism for fiscal plans, performance and government's macro-economic and fiscal forecasts not in place. There is no provision or mechanism for mid-term review or correction of expenditure plan.	Ad hoc mechanism for year-end expenditure review (at the revised estimates stage), and only when driven by a pressing need. Year-end expenditure cuts are not effective, as payments get postponed to the next financial year.

Source: FFC (2020)

Table A2: Statement 27 – Statement of Extra Budgetary Resources (EBRs) – Govt. Fully Serviced Bonds

Name of the Ministry/Department and Name of the Scheme	2016-17 Actuals	2017-18 Actuals	2018-19 Actuals	2019-20 Actuals	2020-21 Actuals	2021-22 BE	2021-22 RE	2022-23 BE
Part A -EBRs mobilised through issue of Govt. fully serviced bonds								
Department of Civil Aviation Air India Asset Holding Limited (AIAHL)				7,000				
Department of Higher Education Revitalising Infrastructure and Systems in Education (RISE)	---	---	---	---	---			
Department of Health & Family Welfare Pradhan Mantri Swasthya Suraksha Yojana	---	---	---	---	---			
Ministry of Housing & Urban Affairs Pradhan Mantri Awas Yojana (PMAY) - Urban	---	---	20,000	---	---			
Department of Water Resources, River Development & Ganga Rejuvenation								
(i) Polavaram Irrigation Project	---	---	1,400	1,850	2,243		751.80	
(ii) Pradhan Mantri Krishi Sinchai Yojana (Accelerated Irrigation Benefits Programme & other Projects)	2,187	3,105	5,493	1,963	1,922			
Department of Drinking Water & Sanitation								
(i) Swachh Bharat Mission (Rural)	---	---	8,698	3,600	----	NIL		NIL
(ii) Jal Jeevan Mission/National Rural Drinking Water Programme	---	---	---	---	---			
Ministry of New & Renewable Energy								
(i) Grid Interactive Renewable Power, Off-Grid/ Distributed & Decentralised Renewable Power	1,640	---	---	---	---			
(ii) Pradhan Mantri-Kisan Urja Sanrakshan Evam Utthan Mahabhiyan (PM-KUSUM)	---	---	---	---	---			

Ministry of Ports, Shipping and Waterways Inland Waterways Authority of India (IWAI) Projects	340	660	---	----	---			
Ministry of Power								
(i) Deen Dayal Upadhyaya Gram Jyoti Yojana/SAUBHAGYA	5,000	4,000	13,827	3,782	2,500			
(ii) Power System Development Fund Projects	---		5,505	---	---			
Ministry of Railways			5,200	5,000				
Department of Rural Development Pradhan Mantri Awas Yojana (PMAY)- Rural	---	7,330	10,679	10,811	20,000			
Total (Part A)	**9,167**	**15,095**	**70,802**	**34,006**	**26,665**	**0**	**751.80**	**0.00**
Part B - Financial support extended through loans from NSSF								
Department of Food & Public Distribution Food Corporation of India	70,000	65,000	97,000	1,10,000	84,636			
Ministry of Housing & Urban Affairs Building Materials & Technology Promotion Council		8,000		15,000	10,000		NIL	NIL
Department of Fertilizers Metals & Minerals Trading Corporation				1,310				
Support to other public agencies (to meet requirement for additional resources, if any, under some specific scheme/project)						30,000		
Total (Part B)	**70,000**	**73,000**	**97,000**	**1,26,310**	**94,636**	**30,000**		
Grand Total (Part A + Part B)	**79,167**	**88,095**	**1,67,802**	**1,60,316**	**1,21,301**	**30,000**	**751.80**	**0.00**

Source: Ministry of Finance (2022)

Note: Entries highlighted in blue were not a present in the original Statement 27 table, but were added from the notes below it. Calculation may vary accordingly.

Table A3: Statement 27 after CAG audits (in Rs. crore)

EBR Resource Utilisation as on 31.03.20XX					
	31.03.2017	31.03.2018	31.03.2019	31.03.2020	31.03.2021
Part-A – EBRs mobilised through issue of Govt. fully serviced bonds	**31.03.2017**	**31.03.2018**	**31.03.2019**	**31.03.2020**	**31.03.2021**
Air India Asset Holding Limited (AIAHL)				21,985	
Pradhan Mantri Awas Yojana (PMAY) - Urban			20,000		
Department of Rural Development - PMAY (Rural)		7,329	10,679	10,811	20,000
Pradhan Mantri Ujjwal Yojana (PMUY)		673	2,688		
Department of Water Resources, River Development & Ganga Rejuvenation		14,466	15,202	3,813	4,165
Long Term Irrigation Fund	9,086	20,447	34,249		
Department of Drinking Water & Sanitation-Swachh Bharat Mission Rural			8,698	3,600	
Food Corporation of India (Non-NSSF)	81,303	1,24,879	90,180		
Fertiliser Subsidy	39,057	26,183	32,489	43,483	
Ministry of New & Renewable Energy - Grid Interactive Renewable Power, Off-Grid/ Distributed & Decentralised Renewable Power	1,640				
Ministry of Ports, Shipping and Waterways - Inland Waterways Authority of India (IWAI) Projects	340	660			
Ministry of Power - Deen Dayal Upadhyaya Gram Jyoti Yojana/ SAUBHAGYA & Power Systems Development Fund	5,000	9,000	28,332	32,114	34,614
Power Finance Corporation	2,02,588				
MoR - Indian Railway Finance Corporation (IRFC)	1,02,480	1,42,882	1,79,133	2,20,533	2,71,084
MoR - Rail Vikas Nigam Limited (RVNL)				1,408	
Ministry of Road Transport -National Highway Authority of India (NHAI)		1,22,524	1,79,438	2,23,093	
Total	**4,41,494**	**4,69,043**	**6,01,087**	**5,60,840**	**3,29,862**

Part-B – Financial support extended through loans from NSSF					
Food Corporation of India	70,000	1,21,000	1,91,000	1,10,000	84,636
PMAY (Urban)		8,000		16,310	10,000
Total	**70,000**	**1,29,000**	**1,91,000**	**1,26,310**	**94,636**
Part C - Special Banking Arrangements (SBA)					
DEA expenditure on fertiliser subsidy		7,000	10,000		
Int. on Fertiliser Subsidy Liability	81				
Total	**81**	**7,000**	**10,000**		
Total EBR	**5,11,575**	**6,05,043**	**8,02,087**	**6,87,150**	**4,24,498**

Source: Authors' analysis based on Ministry of Finance (2022) and CAG (2018, 2019, 2020, 2021, 2022)

Table A4: Internal and External Budgetary Resource (IEBR) allocation to ministries[32] (Rs crore)

Ministry wise IEBR expenditure	Budget	Actuals					
Ministry	2023-24	2022-23	2020-21	2019-20	2018-19	2017-18	2016-17
Ministry of Agriculture and Farmers Welfare	2.87	2.37	5.11	0	0	0	0
Department of Atomic Energy	13059.12	9110.3	6614.46	6980.1	7325.93	6588.49	6442.51
Ministry of Chemicals and Fertilisers	146.5	25.26	455.52	1525.15	1341.02	783.27	1764.58
Ministry of Civil Aviation	3448.21	0	0	0	4883.4	7134.46	2544.31
Ministry of Coal	21030.01	19656.42	17474.95	14871.07	15749.31	15917.37	14289.29
Ministry of Commerce and Industry	162	96.25	0	0	0	1385.81	2585.85
Ministry of Communications	6637.94	7245.56	8547.6	7678.99	8806.94	11849.19	2821.56
Ministry of Consumer Affairs, Food and Public Distribution	145380	61163.96	56912.35	177831.59	165029.79	211188.42	105.62
Ministry of Defence	3100	2857.25	2768.43	31991.02	605	20.99	0
Ministry of Development of North Eastern Region	1.5	1.28	0.08	0	0	1.09	0
Ministry of Education	0	37.48	30.5	0	0	0	0
Ministry of Electronics and Information Technology			0	0	0	0	0
Ministry of Health and Family Welfare	51.8	523.88	159.54	0	0	0	0
Ministry of Heavy Industries	281.79	274.38	223.11	401.03	341.24	296.52	332.25
Ministry of Housing and Urban Affairs	16962.88	9972.51	10292.77	38464.2	33395.33	18921.25	13860.22
Ministry of Human Resource Development			0	0	0	0	0
Ministry of Information and Broadcasting	356.24	215.53	123.59	191.85	193.74	123.25	111.13
Ministry of Jal Shakti	2	0	4171.82	3895.77	15667.14	3105	0

[32] Table A8 expands on the expenditures of the four highest spending ministries.

Ministry of Micro, Small and Medium Enterprises	260	0	110.28	97.57	0	74.87	69.51
Ministry of Mines	2183.92	1944.63	1403.55	1350.08	4753.27	1715.93	1307.09
Ministry of Minority Affairs	886	752.61	0	509.59	0	0	0
Ministry of New and Renewable Energy	37828.15	15880.59	9505.56	10450.85	10459.15	10491.27	8640.81
Ministry of Petroleum and Natural Gas	106400.7	106686.16	111194.38	105602.8	100308.7	132003.88	104426.04
Ministry of Ports, Shipping and Waterways	3633.21	3164.61	2652.48	2934.06	3950.54	4165.54	2721.95
Ministry of Power	60805.22	48135.05	47265.02	62635.92	74013.56	59447.01	0
Ministry of Railways	52783	73388.13	125255.33	80165.53	80538.99	58567.92	64703.24
Ministry of Road Transport & Highways	0	65150	65035	74988	61217	50532.41	33117.74
Ministry of Rural Development			0	10811.02	10678.8	7329.43	0
Ministry of Science and Technology	33	58.2	37.04	46.26	0	0	0
Ministry of Shipping			0	0	105.8	96.77	90.46
Ministry of Social Justice and Empowerment	194.58	159.11	144.35	0	0	0	0
Ministry of Steel	10300.85	10147.33	7266.7	8131.76	8591.28	8946.6	11881.56
Ministry of Tourism			0	0	0	0	0
Ministry of Water Resources, River Development and Ganga Rejuvenation			0	0	0	0	2187
Total	485931.49	436648.85	477649.52	641554.21	607955.93	610686.74	274002.72

Source: Authors' analysis based on Ministry of Finance (2017, 2018, 2019, 2020, 2021, 2022, 2023)

Table A5: IEBR spending by the union government (example data)

Notes on Demands for Grants, 2022-2023 58

	Budget Support	IEBR	Total	Budget Support	IEBR	Total	Budget Support	IEBR	Total	Budget Support	IEBR	Total
C. Investment in Public Enterprises												
Loans to Credit Cooperatives												
2. Central Warehousing Corporation	...	255.29	255.29	...	205.33	205.33	...	205.68	205.68	...	225.16	225.16
3. Central Railside Warehouse Company Ltd	...	20.78	20.78	...	40.00	40.00	...	12.00	12.00	...	22.20	22.20
Total-Loans to Credit Cooperatives	**...**	**276.07**	**276.07**	**...**	**245.33**	**245.33**	**...**	**217.68**	**217.68**	**...**	**247.36**	**247.36**
Food Corporation of India												
1. Food Corporation of India	1040.00	56636.28	57676.28	2555.21	102495.00	105050.21	2510.00	88995.00	91505.00	1930.00	87495.00	89425.00
Total-Food Corporation of India	**1040.00**	**56636.28**	**57676.28**	**2555.21**	**102495.00**	**105050.20**	**2510.00**	**88995.00**	**91505.00**	**1930.00**	**87495.00**	**89425.00**
Total	**1040.00**	**56912.35**	**57952.35**	**2555.21**	**102740.33**	**105295.54**	**2510.00**	**89212.68**	**91722.68**	**1930.00**	**87742.36**	**89672.36**

Source: Ministry of Finance (2023)

Table A6: Extra budgetary utilisation by states

State wise off-budget borrowings utilisation in FY 20XX (Rs crore)							
State/Year	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Chhattisgarh	1955	631.17	801.35	694.26	325		
Goa				919.21			
Gujarat			0	0	0	0	0
Himachal Pradesh					0	0	0
Jharkhand					0	0	
Nagaland			0	0	0	0	0
Rajasthan	160.52	61.34	6.34	1.15	764.12	50.41	
Sikkim	0	0		504.4	245.6	278.64	
Telangana	3719				16077.04		
Uttar Pradesh						1637	
West Bengal						4311.79	

Source: Authors' analysis based on CAG (2017, 2018, 2019, 2020, 2021, 2022)

Note: The blanks indicate unavailability of the data

Table A7: List of FRLs

State	Fiscal responsibility law
Union	Fiscal Responsibility and Budget Management Act, 2003
Andhra Pradesh	Andhra Pradesh Fiscal Responsibility and Budget Management Act, 2005
Arunachal Pradesh	Arunachal Pradesh Fiscal Responsibility and Budget Management Act, 2006
Assam	Assam Fiscal Responsibility and Budget Management Act, 2005
Bihar	Bihar Fiscal Responsibility and Budget Management Act, 2006
Chhattisgarh	Chhattisgarh Fiscal Responsibility and Budget Management Act, 2005
Goa	Goa Fiscal Responsibility and Budget Management Act, 2006
Gujarat	Gujarat Fiscal Responsibility Act, 2005
Haryana	Haryana Fiscal Responsibility and Budget Management Act. 2005
Himachal Pradesh	Himachal Pradesh Fiscal Responsibility and Budget Management Act, 2005
Jharkhand	Jharkhand Fiscal Responsibility and Budget Management Act, 2007
Karnataka	Karnataka Fiscal Responsibility Act, 2002
Kerala	Kerala Fiscal Responsibility Act, 2003
Madhya Pradesh	Madhya Pradesh Fiscal Responsibility and Budget Management Act, 2005
Maharashtra	Maharashtra Fiscal Responsibility and Budgetary Management Act, 2005
Manipur	Manipur Fiscal Responsibility and Budget Management Act, 2005
Meghalaya	Meghalaya Fiscal Responsibility and Budget Management Act, 2006
Mizoram	Mizoram Fiscal Responsibility and Budget Management Act, 2006
Nagaland	Nagaland Fiscal Responsibility and Budget Management Act, 2005
Odisha	Orissa Fiscal Responsibility and Budget Management Act, 2005
Punjab	Punjab Fiscal Responsibility and Budget Management Act, 2003
Rajasthan	Rajasthan Fiscal Responsibility and Budget Management Act, 2005
Sikkim	Sikkim Fiscal Responsibility and Budget Management Act, 2010
Tamil Nadu	Tamil Nadu Fiscal Responsibility Act, 2003
Telangana	Telangana Fiscal Responsibility and Budget Management Act, 2005
Tripura	Tripura Fiscal Responsibility and Budget Management Act, 2005
Uttar Pradesh	Uttar Pradesh Fiscal Responsibility and Budget Management Act, 2004
Uttarakhand	Uttaranchal Fiscal Responsibility and Budget Management Act, 2005
West Bengal	West Bengal Fiscal Responsibility and Budget Management Act, 2010

Table A8: Internal and External Budgetary Allocation (IEBR) to select ministries (Rs crore)

Ministry	Expense	2020-21	2019-20	2018-19	2017-18	2016-17
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION	**Loans to Credit Cooperatives**					
	Central Warehousing Corporation	255	204	168	163	103
	Central Railside Warehouse Company Ltd	21	21	16	7	3
	Food Corporation of India	56,636	1,77,607	1,64,846	2,11,018	0
		56,912	1,77,832	1,65,030	2,11,188	106
MINISTRY OF PETROLEUM AND NATURAL GAS	**Exploration and Production**					
	Oil and Natural Gas Corporation Limited	26,859	29,538	29,450	72,902	28,006
	Gas Authority of India Limited	5,868	4,313	6,866	3,566	1,609
	Gas Authority of India Limited II	385	249	277	115	205
	Bharat Petroleum Corporation Limited	1,150	0	1,151	1,788	7,061
	Bharat Petroleum Corporation Limited II	987	1,575	1,684	755	9,464
	Bharat Petroleum Corporation Limited III	8,927	9,489	8,157	6,454	424
	Indian Oil Corporation Limited	51	1,235	3,138	2,239	6,991
	Oil India Limited	13,332	4,247	3,181	8,154	11,083
	Oil Natural Gas Corporation Videsh Limited	5,734	5,435	5,827	6,798	17,617
	Refinery and Marketing Sector					
	Indian Oil Corporation Limited II	3,389	2,125	1,526	2,796	12,948
	Indian Oil Corporation Limited III	25,244	28,061	23,544	16,422	798
	Hindustan Petroleum Corporation Limited (Exploration)	14,700	16,311	12,438	7,201	15
	Hindustan Petroleum Corporation Limited (Refining)	0	0	0	9	5,742
	Chennai Petroleum Corporation Limited	583	961	1,314	1,020	1,269
	Numaligarh Refinery Limited	1,029	529	465	420	503
	Mangalore Refineries and Petrochemicals Limited	2,179	1,318	1,072	1,276	598
	Mangalore Refineries and Petrochemicals Limited II				5	19
	Engineering Sector					
	Balmer Lawrie and Company Limited	43	46	132	83	74
	Engineers India Limited	733	171	87	...	...
		1,11,194	1,05,603	1,00,309	1,32,004	1,04,426

MINISTRY OF POWER	Power System Operation Corporation Limited	19	0	0	0	0
	National Hydro Electric Power Corporation Limited	5,231	2,535	3,748	2,372	0
	Damodar Valley Corporation Limited	2,342	684	765	785	0
	North Eastern Electric Power Corporation Limited	965	980	692	1,356	0
	Satluj Jal Vidyut Nigam Limited	2,880	1,250	854	334	0
	Tehri Hydro Development Corporation Limited	1,828	1,473	957	675	0
	Power Grid Corporation of India Limited	10,500	15,313	25,807	25,791	0
	Rural Electrification Corporation	2,500	3,782	13,827	0	0
	National Thermal Power Corporation Limited	21,000	36,618	27,363	24,134	0
	EBR raised by Rural electrification Corporation	0	0	0	4,000	0
		47,265	62,636	74,014	59,447	0
MINISTRY OF RAILWAYS	Indian Railway Finance Corporation	1,07,261	66,293	2,854	33,382	25,745
	Dedicated Freight Corridor Corporation of India Ltd	77	3,056	6,277	0	0
	Kolkata Metro Rail Corporation Limited	-	0	950	0	0
	National High Speed Rail Corporation Limited	-	1,000	2,400	0	0
	Equity in State Joint Ventures and Others	6,636	450	147	0	0
	Indian Railways	2,059	1,264	43,579	3,070	38,959
	Public Private Partnership	9,222	8,103	24,281	22,116	0
	Braithwaite Company Limited	0	0	50	0	0
		1,25,255	80,166	80,539	58,568	64,703

Source: Authors' analysis based on Ministry of Finance (2017, 2018, 2019, 2020, 2021, 2022, 2023)

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