

# HARD BARGAINS AND THE ART OF POLICYMAKING

Relevant for: Developmental Issues | Topic: Public Policy Making

The ongoing [farmers' agitation](#) epitomises the need to have detailed discussions and consultations while making law and policy. The process of building consensus and addressing concerns may be time-consuming, but it leads to greater acceptance of policy objectives. While such work has to be done at multiple levels, Parliament is perhaps the most important forum for this. It has a well-established process to get inputs of experts and stakeholders, and to build cross-party consensus while enacting a law. This is usually done through its committees. The government can also use other consultative mechanisms, such as expert committees and consultative groups, to get feedback and tailor policy.

[Parliamentary committees](#) perform a very important role in the lawmaking process. They allow MPs to engage with experts and understand the nuances of a Bill, enable discussion across party lines without the pressure of posturing for the public, and on several occasions, these committees have helped negotiate a path through conflicting interests.

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An example will illustrate the working of this process. The Goods and Services Tax (GST) was proposed to be introduced about a decade ago. As GST subsumed several taxes in the Union List (such as excise duties) and the State List (such as sales tax), the Constitution had to be amended. This amendment required not just the support of two-thirds of members of each House of Parliament, but also ratification by half the State legislatures. For successful implementation, the new system needed support across party lines and State governments, as value chains for goods and services run across States. Lack of proper implementation by even one State in the value chain would jeopardise the working of the system, as it requires matching of invoices and crediting taxes across the chain.

An empowered group of State Finance Ministers was set up in 2007, and it was a key forum for discussing and negotiating the new tax. Importantly, this body was chaired by a State Finance Minister from a party in the Opposition at the Centre. Based on its inputs, a Bill was introduced in 2011 to amend the Constitution. This Bill suggested a GST Council (which would decide through consensus) as the apex body to take all decisions regarding the tax, and a GST Dispute Settlement Authority. The Standing Committee on Finance examined the Bill, received numerous suggestions from experts and States, and made several recommendations. Notably, these included proposing a voting procedure for the GST Council, dropping the dispute resolution authority, and including a compensation structure for States that may lose revenue due to their taxes being subsumed by the GST.

A new Bill was introduced in 2015 which incorporated these changes. This Bill also introduced a tax of 1% on inter-State sale, and a compensation for a period of up to five years. The Bill was passed by the Lok Sabha, but the Rajya Sabha referred it to a Select Committee. This Committee suggested that the tax on inter-State trade be dropped as it would negate the objective of making India a single market. It also recommended that compensation to States be guaranteed for a period of five years. The Constitution (Amendment) Bill was passed with these changes, and ratified by States. Subsequently, the GST Council, which had Finance Ministers from all States, unanimously approved the draft of the Bills to implement the GST. That set of Bills was also passed by Parliament and all State legislatures. Throughout this process, the empowered committee of State Finance Ministers was also having regular meetings and addressing the concerns of States.

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This process highlights the importance of building a broad consensus before making a major policy or legislative change. The Standing Committee and Select Committee provided fora for parliamentarians to engage with experts and stakeholders, which helped them recommend changes that would lead to a broadly acceptable Bill. Though the process was time-consuming, it led to a new tax structure, which had broad support across all States — a necessary condition for it to work. There were compromises made, such as multiplicity of rates and a very generous compensation for States, but these helped get the new tax off the ground.

Compare this with the process followed for the new farm laws. The Bills were initially enacted through ordinances. That is, the government enacted these laws through executive decision when Parliament was not in session.

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However, ordinances need to be ratified by Parliament when it meets next. The Bills to replace the ordinance were introduced in Lok Sabha and passed within three days without being referred to a Standing Committee. In Rajya Sabha, several members moved motions to refer them to a Select Committee. These motions led to commotion, amidst allegations that a demand for division (recorded vote) was ignored, and the Bills were passed amidst pandemonium. Thus, an opportunity to discuss and debate the Bills with stakeholders was missed.

While the jurisdiction of Parliament to enact these laws seems to be clear, they affect agricultural markets, which are governed by State laws. Much of the implementation would depend on State governments. States may also get lower taxes from these markets. It was important to address the concerns of various stakeholders, including farmers and State governments. The absence of proactive engagement with affected parties has led to the current crisis. Three States — all with Opposition governments — have passed their own laws to negate some of the provisions of the central laws. And a large number of farmers are protesting against the laws.

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We need to learn an important lesson from this episode. Stable policy-making needs a broad agreement on the benefits of the policy. Such consensus has to be built through conversations with stakeholders. Parliament should revitalise its committees to enable wider public participation. It should insist that every Bill is deliberated upon in a committee, much like what the British Parliament does. Parliament needs to perform its function as a deliberative body that enables compromises to assuage concerns. As the adage goes: politics is the art of the possible, the attainable, the art of the next best.

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