

● POLITY

● ECONOMICS

● TECHNOLOGY

● ECOLOGY

**POLITY AND GOVERNANCE**

## LS PASSES BILLS TO REPLACE BRITISH-ERA CRIMINAL LAWS

### New avatar

The Bills seek to replace the criminal laws that have been in force for more than a century in the country

NEW BILL	OLD LAW
■ Bharatiya Nyaya (Second) Sanhita Bill (BNSS)	■ Indian Penal Code, 1860
■ Bharatiya Sakshya (Second) Bill (BSS)	■ Indian Evidence Act, 1872
■ Bharatiya Nagarik Suraksha (Second) Sanhita Bill (BNSSS)	■ Code of Criminal Procedure, 1898



**This is a pure Indian law after removing all the British imprints**

**AMIT SHAH, Union Home Minister**

**CONTEXT:** The Lok Sabha passed Bharatiya Nyaya (Second) Sanhita Bill (BNSS) replacing the Indian Penal Code, 1860; the Bharatiya Sakshya (Second) Bill (BSS) replacing the Indian Evidence Act, 1872; and the Bharatiya Nagarik Suraksha (Second) Sanhita Bill (BNSSS) replacing the Code of Criminal Procedure, 1898 were discussed and passed with a voice-vote.

**Bharatiya Nyaya (Second) Sanhita Bill (BNSS), 2023:**

The Bharatiya Nyaya (Second) Sanhita Bill (BNSS), 2023 is a proposed law that seeks to replace the Indian Penal Code (IPC) of 1860. The bill was introduced in the Lok Sabha on 12 December 2023 and is currently under consideration by the Parliament. The BNSS introduces a number of changes to the IPC, including:

**Repeal sedition law:** The BNSS repeals the sedition law, which was introduced by the British colonial government in 1870 with a new offence of "endangering the sovereignty, unity and integrity of India". This offence is defined as an act that intends to:

1. Excite or attempt to excite secession, armed rebellion, or subversive activities;
2. Encourage feelings of separatist activities; or
3. Endanger the sovereignty or unity and integrity of India.

This new offence is intended to be more narrowly defined than sedition and to be less susceptible to misuse. The law has been criticized for being used to stifle dissent and has been challenged in court on a number of occasions. The BNSS replaces the sedition law.

**Introduction of new offences:** The bill introduces a number of new offences, including terrorism, organized crime, and sexual intercourse with a woman by deceitful means or making false promises.

1. **Terrorism:** Terrorism is defined as an act that intends to threaten the unity, integrity, and security of the country, intimidate the general public or disturb public order.

2. **Organized crime:** Organized crime is defined as a crime committed on behalf of a crime syndicate. This includes crimes such as kidnapping, extortion, and cyber-crime.

3. **Sexual intercourse with a woman by deceitful means or making false promises:** This offence is defined as an act of sexual intercourse with a woman without her consent by means of deception or by making false promises.

These new offences are intended to address emerging threats to society and to protect the rights of victims.

**Changes to punishment:** The BNSS makes a number of changes to the punishment for offences, including the introduction of community service as a form of punishment. The bill also introduces a number of new sentencing guidelines, including the following:

1. The court should consider the impact of the offence on the victim when sentencing the offender.
2. The court should consider the offender's circumstances when sentencing the offender.
3. The court should consider the need to rehabilitate the offender when sentencing the offender.
4. These changes are intended to make the sentencing process fairer and just.

The bill makes a number of changes to the punishment for offences, including the introduction of community service as a form of punishment.

**Strengthening of the rights of victims:** The bill strengthens the rights of victims of crime, including by providing for compensation and restitution. The bill also introduces a number of new provisions to protect the privacy of victims, including the following:

1. The identity of the victim should not be disclosed without the victim's consent.

2.The court should take steps to protect the privacy of the victim during the trial.

3.These changes are intended to ensure that victims of crime are treated fairly and with respect.

### **Bharatiya Sakshya (Second) Bill (BSS)**

The Bharatiya Sakshya (Second) Bill (BSS) is a proposed legislation in India that is currently under consideration by the Parliament that aims to revamp the Indian Evidence Act of 1872, which forms the backbone of the country's evidence jurisprudence.

**Admissibility of electronic evidence:** The BSS address the growing importance of electronic evidence in the digital age involving:

1.Clarifying the rules for admitting electronic records and digital documents as evidence. This would involve addressing issues like authentication, integrity, and preservation of electronic data.

2.Introducing provisions for handling emerging forms of electronic evidence, such as social media posts, mobile phone records, and CCTV footage.

**Witness protection and anonymity:** The bill suggest measures to strengthen witness protection, especially for vulnerable individuals or those facing threats including

1.Providing anonymity or pseudonymity to witnesses in certain cases.

2.Enhancing witness relocation programs and witness support services.

3.Introducing stricter penalties for witness intimidation or tampering.

**Expert witness testimony:** The BSS aims to improve the quality and reliability of expert witness testimony involving:

1.Establishing stricter standards for qualifying expert witnesses.

2.Introducing mechanisms for appointing independent experts by the court.

3.Requiring experts to disclose potential conflicts of interest and biases.

**Burden of proof and presumptions:** The bill propose changes to the current rules regarding the burden of proof and presumptions in certain cases involving:

1.Shifting the burden of proof in specific situations, such as cases involving sexual assault or economic offenses.

2.Creating rebuttable presumptions based on certain types of evidence.

3.Clarifying the application of existing presumptions and legal fictions.

**Procedural efficiency and technology integration:** The BSS might seek to streamline evidence-related procedures and leverage technology for improved efficiency. This could

involve:

1.Introducing provisions for remote depositions and witness testimony via video conferencing.

2.Encouraging the use of electronic record-keeping and evidence management systems.

3.Streamlining procedures for admissibility challenges and objections to evidence.

### **Bharatiya Nagarik Suraksha (Second) Sanhita**

The Bharatiya Nagarik Suraksha (Second) Sanhita, which replaces the CrPC, prescribes a time-limit for the initiation of criminal proceedings, arrest, investigation, filing of chargesheet, and proceedings before the magistrate, which is aimed at speedy delivery of justice and a high conviction rate.

**Salient features:**

Time-bound procedure has been added in 35 clauses of the law:

1.The First Information Report (FIR) has to be registered within three days after receiving a complaint and in cases with seven to 14 years of imprisonment, preliminary inquiry will have to be done within 14 days. The search and seizure report will have to be sent to court within 24 hours.

2.Chargesheets would have to be filed within 90 days and magistrates would have to take cognisance within 14 days and the framing of charges should be done within 60 days from the date of first hearing.

3.Promulgation of judgment should not exceed 45 days after the conclusion of trial in any criminal court.

4.Trial in absentia has been introduced for the first time  
The Bharatiya Nagarik Suraksha (Second) Sanhita offers a transformative

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## ECONOMICS AND DEVELOPMENT

## GOVT. ISSUES COVID ALERT, SAYS NO CLUSTERING OF JN.1 CASES

**CONTEXT:** The Union Health Ministry issued an alert with daily COVID-19 positivity rate rising in some States such as Kerala, Maharashtra, Jharkhand and Karnataka.

The variant is currently under intense scientific scrutiny, but not a cause of immediate concern. All JN.1 cases were found to be mild and all of them [patients] have recovered without any complications.

Steep rise in a fortnight

India had detected 21 cases of the JN.1 sub-variant till now, and about 92% of those infected were opting for home-based treatment. Nineteen cases of COVID-19 sub-variant JN.1 have been traced in Goa, and one each in Kerala and Maharashtra. Over the past two weeks, 16 deaths related to COVID-19 were recorded, with many of the deceased having serious co-morbidities.

In the past two weeks, active COVID-19 cases in India, though fewer than the global counts, have seen a steep rise from 115 on December 6 to 614 on Wednesday. Ministry data notes that 92.8% of the cases were home isolated, indicating mild illness. No increase in hospitalisation rates has been witnessed due to COVID-19. The cases that are hospitalised are due to other medical conditions — COVID-19 is an incidental finding.

The Union Health Ministry's alert comes after the World Health Organization (WHO) classified JN.1 as a separate variant of interest (VoI) from the parent lineage BA.2.86 in view of its rapidly increasing spread. It was previously classified as a VoI that was part of the BA.2.86 sub-lineage.

Based on the available evidence, the additional global public health risk posed by JN.1 is currently evaluated as low. Despite this, with the onset of winter in the Northern Hemisphere, JN.1 could increase the burden of respiratory infections in many countries. The agency said current vaccines continued to protect against severe disease and death from JN.1 and other circulating variants of SARS-CoV-2, the virus that causes COVID-19.

The Health Ministry on Wednesday directed strengthening of the surveillance system for whole genome sequencing of positive case samples to track the variants through the Indian SARS-CoV-2 Genomics Consortium (INSACOG) network, and ensure timely detection of newer variants circulating in the country.

'Ramp up testing'

The States have been requested to ramp up testing and refer large numbers of samples of COVID-19 positive cases and pneumonia-like illnesses to the INSACOG genome sequencing laboratories daily for sequencing and to track new variants, if any. India has recorded 614 new coronavirus infections, the highest since May 21.

## INTERNATIONAL RELATIONS

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**CONTEXT:** On December 18, 2023, Abdel Fattah El-Sisi secured a third term as President of Egypt, winning 89.6 % of the vote in an election with a 66.8 % turnout.

El-Sisi, a former field marshal in the Egyptian Armed Forces, first came to power in 2014 after leading the military overthrow of President Mohamed Morsi. He was re-elected in 2018 with 97% of the vote. The 2023 election was the first Egyptian presidential election held under a constitutional amendment passed in 2019, which extended the presidential term from four to six years and allowed El-Sisi to run for two additional terms. El-Sisi's presidency has been marked by a crackdown on dissent, with thousands of political activists and journalists being arrested and jailed. His government has also overseen a major infrastructure development program, including the construction of a new administrative capital east of Cairo.

## ECONOMICS AND DEVELOPMENT

## DISINFLATION MAY PAVE WAY FOR INTEREST RATE CUT: RBI OFFICIALS

### Rate cycle turning

RBI officials believe a slowdown in global growth and easing inflation will cause central banks to cut interest rates

- Officials say that despite global headwinds, India remained the fastest growing major economy in 2023
- India's domestic financial markets had been boosted by the abiding strength of the real economy, they add
- RBI's economic activity index (EAI) now forecasts GDP growth for the third quarter of 2023-24 at 6.7%



**CONTEXT:** RBI officials led by Deputy Governor Michael D. Patra observed in their article on the 'State of the Economy' in the RBI's December Bulletin about global interest rates to moderate with a slowdown in the rate of inflation.

The pace of global growth may slow further in 2024 while disinflation at varying pace in different geographies may pave the way for interest rate reductions. In India, the broad-based strengthening of economic activity that was underway would likely be sustained by easing input costs and corporate profitability.

The CPI inflation would ease to an average of 4.6 % in the first three quarters of 2024-25 from CPI inflation rate of 5.6 % in November as the recurrence of food price spikes punctured a brief respite in September and October. The domestic financial markets had been lifted by the abiding strength of the real economy.

'Global headwinds'

Despite significant global headwinds, the Indian economy remained the fastest growing major economy in 2023. The outlook is one of cautious optimism as consumer confidence remains positive and perceptions about current income turned up in the RBI's latest survey of households in November 2023.

Emphasising that supply chain pressures in India remained below historical average levels, they said the Reserve Bank of India's economic activity index (EAI) forecasts GDP growth for Q3:2023-24 at 6.7 %. The growth is likely to be sustained in H2:2023-24 and 2024-25 despite some moderation.

**ECONOMICS AND DEVELOPMENT**

## DOLLAR BOND ISSUES AT 14-YEAR LOW

**CONTEXT:** Corporates have raised \$4.1 billion via six dollar bond issues so far in 2023, marking the lowest since 2009, when annual fundraising totalled \$1.6 billion. The total borrowings reached \$22.13 billion, the highest since 2014.

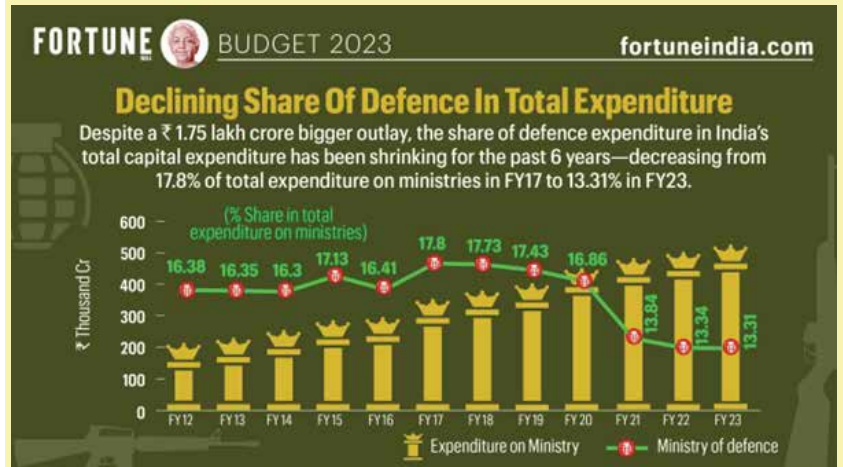
Throughout 2023, Indian issuers chose to borrow locally, as global interest-rate environment was not favourable and the cost of raising dollars hedged into rupees was comparatively higher than (accessing) domestic liquidity.

Multiple rate increases by the U.S. Federal Reserve and anticipation of prolonged higher rates drove a rise in bond yields worldwide. Instead, Indian companies leaned on foreign currency loans, which are benchmarked to floating interest rates. Bankers expect an increase in dollar bond issuance in 2024 as global bond yields ease.

**ECONOMICS AND DEVELOPMENT**

## INDIA'S DEFENCE BUDGETING AND THE POINT OF DETERRENCE

**CONTEXT:** The Medium Multi-Role Combat Aircraft (MMRCA) programme of the Indian Air Force (IAF) earned the sobriquet of being the 'mother of all procurements' due its cost, pegged at around \$10 billion in 2007.



**FIGURE:** Column chart representation of the defence expenditures and share of defence in total expenditures.

India's defence Budget, in real terms, has been more or less stagnant. Defence expenditure (revenue and capital), as a percentage of central government expenditure, has been declining — from around 16.4% in 2012-13 to 13.3% in 2022-23. The Ministry of Defence had asked for ₹1,76,346 crore in 2023-24 for capital acquisitions but only ₹1,62,600 crore was allotted, creating a deficit of ₹13,746 crore.

In the sphere of research and development, the picture is not rosy either. The Global Innovation Index 2022 pegs India's research and development expenditure at just 0.7% of its GDP which places it 53rd globally. China, incidentally, spent \$421 billion in 2022, which is 2.54% of its GDP. Though the research and development allocation needs a substantial jump, it is good that 25% of the allocation was for the private sector



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ECONOMICS AND DEVELOPMENT

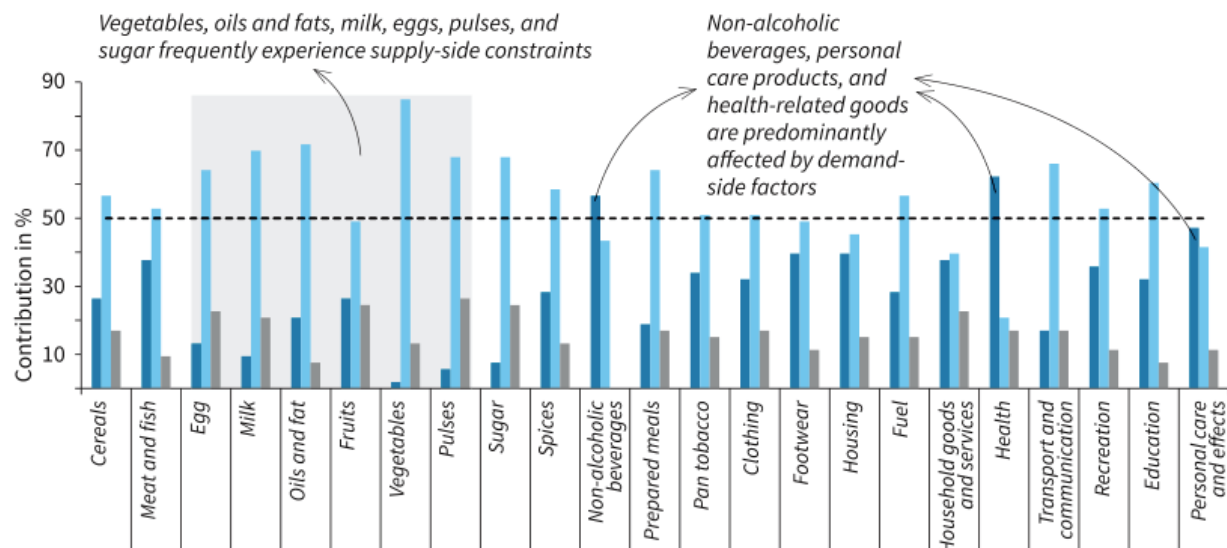
# INDIA'S DEFENCE BUDGETING AND THE POINT OF DETERRENCE

## Drivers of inflation

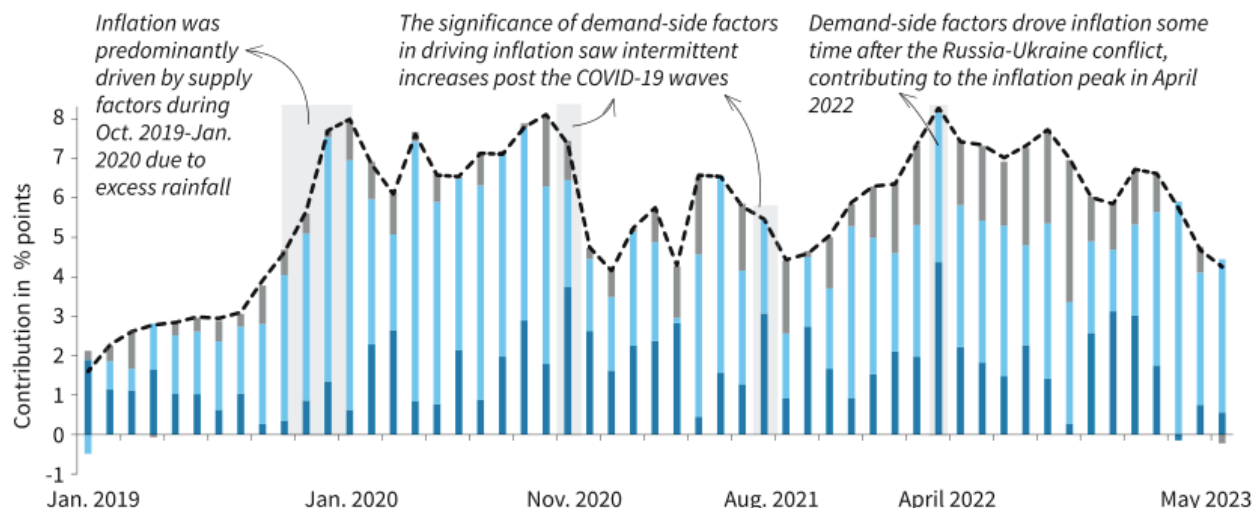
The charts and text are based on the RBI article titled, 'Recent Inflation Dynamics in India: Role of Supply vis-à-vis Demand' by Himani Shekhar, Vimal Kishore and Binod B. Bhoi



**Chart 1:** The chart shows the percentage contribution of demand and supply factors to CPI sub-groups level inflation between January 2019 and May 2023. ■ Supply factors ■ Demand factors ■ Ambiguous factors



**Chart 2:** The chart shows the contribution of demand and supply factors to CPI Inflation excluding housing, each month, between January 2019 and May 2023. ■ Supply factors ■ Demand factors ■ Ambiguous factors - - - - CPI Inflation



## ECOLOGY AND ENVIRONMENT

## OUTCOMES OF THE COP-28 CLIMATE SUMMIT



**CONTEXT:** The 28th session of the Conference of the Parties (COP) — an annual convening of countries signatory to the United Nations Framework Convention on Climate Change (UNFCCC) — happened in Dubai this year, with high expectations that countries would take concrete steps to address the climate crisis.

The negotiations encompassed mitigation efforts, adaptation strategies, financing mechanisms, and the role of developed countries versus developing nations in climate action. The summit ended with progress on certain fronts but lingering challenges on others.

### What happened with respect to the loss and damage fund?

In a historic decision, the 'Loss and Damage' (L&D) fund, constituted following the agreement reached at COP-27 to create a dedicated fund-management and financing fund was operationalised at COP-28.

However, only a meagre \$790 million has been pledged so far, by a few nations, despite the corpus requiring \$100 billion to more than \$400 billion a year. Notably, the U.S., the largest historical emitter, committed only \$17.5 million. Moreover, the World Bank was designated to oversee and administer the fund. But concerns originating from the experiences of developing countries with the World Bank related to questions about legal autonomy, flexibility, and decision-making authority, and general scepticism about the fund's agility in responding promptly to emergencies, have emerged. There is also a prevailing sentiment among countries that the communities affected by climate-related disasters should be able to directly access funding, preferably in the form of grants and not loans.

### What about the global stocktake?

According to the UNFCCC, the GST "enables countries and other stakeholders to see where they are collectively making progress towards meeting the goals of the Paris Agreement — and where they are not".

The decision of countries' at COP-28 to transition away from fossil fuels was coupled with the ambition to triple renewable energy capacity by 2030. More than 20 countries also pledged to triple their nuclear energy capacity. However, the transition from fossil fuels is restricted to energy systems

alone; they can continue to be used in the plastics, transport, and agriculture sectors. The declaration also refers to 'transitional fuels', such as natural gas, for ensuring energy security. But this falls short of true climate justice as it allows industries to continue operating in the business-as-usual mode.

Further, while the declaration called for accelerated climate mitigation, it alluded to unproven and risky technologies such as carbon capture and storage (CCS) and carbon removal. The former enables users of fossil fuels to prevent their emissions from entering the atmosphere by capturing the emissions at the source and storing them permanently underground.

### What about green finance?

The financial segment of the GST implementation framework explicitly recognises the responsibility of developed nations to take the lead in climate finance. There is also a reference to the private sector's role in addressing financial shortfalls and an imperative to supplement grant-oriented, concessional finance to enable equitable transition in developing countries. Nevertheless, specific information regarding the entities obligated to furnish this grant-based finance is lacking.

The COP-28 also witnessed the establishment of innovative global green-finance mechanisms to support developing nations in their transition to sustainable practices. The Green Climate Fund received fresh support of \$3.5 billion, allowing it to finance adaptation and mitigation projects in vulnerable regions. An additional \$188 million was pledged to the Adaptation Fund. New partnerships between public and private sectors were forged to mobilise investments in renewable energy, sustainable agriculture, and infrastructure. The COP-28 Presidency also introduced ALTERRA, an investment initiative with an ambitious goal to globally mobilise an unprecedented sum of \$250 billion by 2030.

Despite these efforts, the available funds fall well short of the \$194-366 billion annual funding requirement for adaptation, as estimated by the United Nations.

### How did India fare at COP-28?

The UAE declaration on climate and health came into being at COP-28 through a partnership of the COP-28 Presidency with the World Health Organization. It recognises the growing health impacts of climate change and acknowledges the benefits of climate action, including a reduction in air pollution and lowering the cost of healthcare. The declaration, signed by 123 countries, has collectively committed \$1 billion to address the growing climate-health crisis. However, India didn't sign this declaration because reducing greenhouse gas (GHG) emissions in the health sector would mean reduction in emissions from gases used for cooling. As India's healthcare infrastructure is still growing, such a commitment could compromise the healthcare requirements of a growing population, particularly rural.

The Global Methane Pledge launched at COP-26 received renewed attention at COP-28, with the Climate and Clean Air Coalition becoming the new secretariat and partners of the pledge announcing more than \$1 billion in new grants for funding projects to reduce methane emissions from the agriculture, waste, and gas sectors. More than 150 countries

signed the pledge to reduce methane pollution. India isn't a signatory to this pledge because it shifts focus from carbon dioxide to methane, a GHG with a lower lifetime.

Also, methane emissions in India are primarily from rice cultivation and enteric fermentation (livestock rearing), which support the livelihoods of small and marginal farmers.

#### What are the takeaways?

The COP-28 outcomes had a lot of firsts, such as the declaration on climate and health, acknowledgement of the role of nature-based solutions for biodiversity conservation and climate, and the need to transition away from fossil fuels. Some 134 countries also agreed to a landmark declaration to transition to sustainable and resilient food systems.

However, some challenges and differences between developed and developing countries remain to be addressed. One key issue of contention was fossil-fuel subsidies. While developed countries advocated for phasing them out, developing countries, including India, refused a phase-out over implications on economic growth and development.

Such a phase-out also has social implications: several communities rely on fossil fuels (coal, in India's case) for gainful employment. Moreover, emphasising the principle of common and differentiated responsibilities and the historical responsibility of developed countries for GHG emissions, developing countries argued for increasing the flow of climate finance and technologies to facilitate just job transitions and inclusive development.

Some other contentious issues spanned market mechanisms, financial resource allocation, the role of the World Bank as the agency for managing the L&D fund, and private sector engagement in climate action.

In sum, COP-28 is a mixed bag of outcomes. The commitment to ramp up renewable energy targets is a significant step forward — whereas issues on L&D metrics, fund management and disbursement, market mechanisms, risky technologies, the room left for continued use of fossil fuels in many sectors, and natural gas as a transitional fuel leave much to be desired.





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