



Flaws in the system

The story so far:

The transfer of Chief Justice Sanjib Banerjee from the Madras High Court to the Meghalaya High Court has given rise to a controversy over the question of whether judicial transfers are made only for administrative reasons or have any element of 'punishment' behind them.

- In 1977, the Supreme Court ruled that the transfer of high court judges could be resorted to only as an exceptional measure and only in public interest and not by way of punishment.
- Again in 1994, the Supreme Court held that judicial review is necessary to check arbitrariness in transfer of judges.
- But, only the judge who is transferred can challenge it.

What does the Constitution say on the transfer of judges?

1. Article 222 of the Constitution provides for the transfer of High Court judges, including the Chief Justice. It says the President, after consultation with the Chief Justice of India, may transfer a Judge from one High Court to any other High Court.
2. From time to time, there have been proposals that one-third of the composition of every High Court should have judges from other States.

A JURY OF JUDGES		
WHAT IS THE COLLEGIUM SYSTEM?		CRITICISMS
<ul style="list-style-type: none"> • A forum which decides on appointments, transfers (A/Ts) of judges. • Comprised of Chief Justice of India, 4 Supreme Court Judges • President merely approves CJI's choice 	<ul style="list-style-type: none"> • Born from 'Three Judges Cases' which gave primacy to CJI's call on A/Ts • Judiciary gets greater say than Executive on A/Ts 	<ul style="list-style-type: none"> • Administrative burden of checking professional background data • Closed-door affair, lacks transparency • Exclusivity sidelines talented junior judges, advocates
SOME OF THE CHANGES SOUGHT:		
<ul style="list-style-type: none"> • CJI cannot make unilateral choice • Consulted judges' views need to be in writing • Non-compliance must make CJI choice non-binding • Transfer of judges reviewable only in case of non-compliance 		

What is the current procedure for transfers?

1. As one of the points made by the 'Second Judges Case' was that the opinion of the Chief Justice of India ought to mean the views of a plurality of judges, the concept of a 'Collegium of Judges' came into being.

22.11.2021

Monday



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2. In the collegium era, the proposal for transferring a High Court judge, including a Chief Justice, should be initiated by the Chief Justice of India, "whose opinion in this regard is determinative". The consent of the judge is not required.
3. "All transfers are to be made in the public interest, i.e., for promoting better administration of justice throughout the country." For transferring a judge other than the Chief Justice, the Chief Justice of India should take the views of the Chief Justice of the court concerned, as well as the Chief Justice of the court to which the transfer is taking place.
4. The views should all be expressed in writing, and they should be considered by the Chief Justice of India and four senior-most judges of the Supreme Court, which means, the full Collegium of five.
5. The recommendation is sent to the Union Law Minister who should submit the relevant papers to the Prime Minister. The Prime Minister then advises the President on approving the transfer.

So far

- First Judge Case: Executive has primacy
- Second Judges' case: Primacy to Judiciary
"consultation" means "concurrence". Evolution of collegium system.
- Third Judges Case: Consultation of plurality judges(4 senior most). Consolidation of guidelines for collegium system.

What makes transfers controversial?

1. Transfer orders become controversial when the Bar or sections of the public feel that there is a punitive element behind the decision to move a judge from one High Court to another.



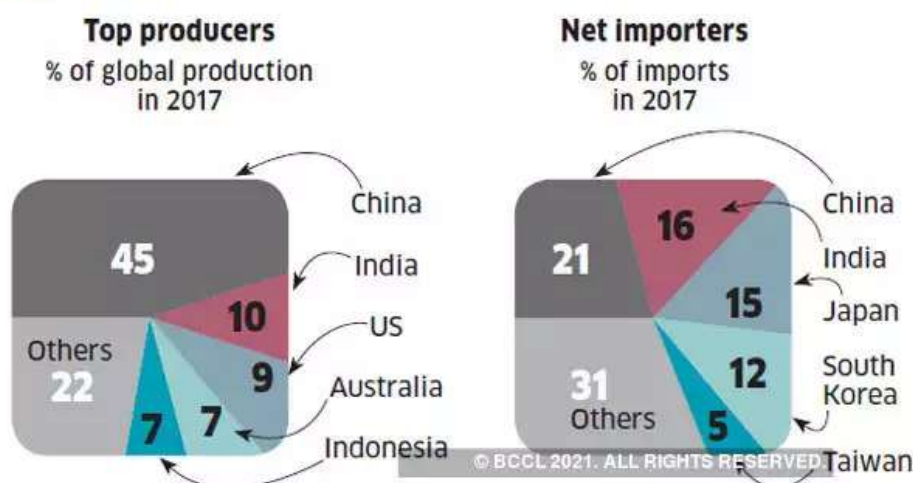
- As a matter of practice, the Supreme Court and the government do not disclose the reason for a transfer. For, if the reason is because of some adverse opinion on a judge's functioning, disclosure would impinge on the judge's performance and independence in the court to which he is transferred.
- On the other hand, the absence of a reason sometimes gives rise to speculation whether it was effected because of complaints against the judge, or if it was a sort of punishment for certain judgments that inconvenienced the executive.

Why is India's coal usage under scrutiny?

The story so far:

- On the final day of the UN Climate Change Conference held in Glasgow, India's Minister for Environment Bhupender Yadav read out a statement promising to "phase down" rather than "phase out" the use of coal. This caused many to raise questions about India's commitment to tackling climate change.
- Earlier, during the COP26 (Conference of Parties) summit, Prime Minister Narendra Modi had committed to turning India carbon neutral by 2070.

India is 2nd Largest Producer and Importer of Coal



Source: International Energy Agency



Why must dependence on coal be reduced?

1. Since carbon emissions are considered the main culprit in global warming, countries have been committing themselves to turn carbon neutral by various dates.
2. One key way to achieve carbon neutrality, wherein countries compensate for their carbon emissions by capturing an equal amount of carbon from the atmosphere, is to reduce dependence on coal.
3. Coal is the most polluting among fossil fuels, and hence, its use, in particular, has come under scrutiny.



Why is it difficult?

1. Coal is used to meet over 70% of India's electricity needs. Most of this coal comes from domestic mines. Since FY 2018-19 however, domestic production has stagnated and has been unable to meet the rising domestic demand, leading to a rise in imports.
2. The Prime Minister promised to increase non-fossil fuel energy capacity to 500 GW by 2030, meet 50% energy needs from renewable sources and reduce carbon emissions by 1 billion tonnes in a decade.

22.11.2021

Monday

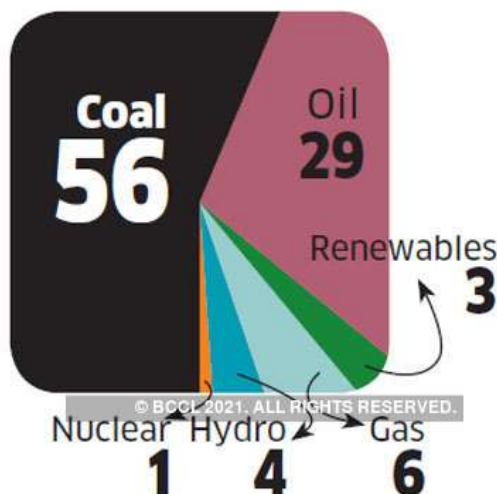


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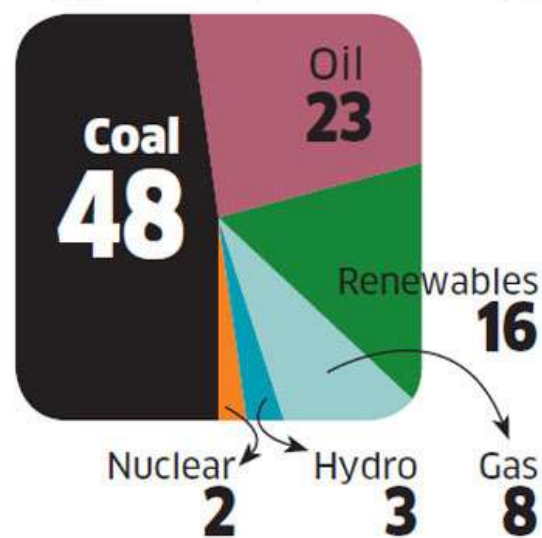
3. According to an estimate by the Centre for Science and Environment, the promise to reduce emissions by 1 billion tonnes means that India would need to reduce its carbon output by 22% by 2030.
4. India now meets about 12% of its electricity needs from renewable sources, and increasing it to 50% by 2030 will be difficult. While some renewable energy sources like solar are cheap, they are unreliable because of the intermittency problem.
5. They thus require the use of storage batteries, which adds to the cost. It should be noted that many low-income countries with low savings may not even possess the capital required to invest in renewable energy.
6. Further, the damage that coal causes to commonly owned resources like the environment is not factored into its cost.

Coal will Account for Nearly Half of India's Energy Mix by 2040

Share in primary energy consumption in 2017* (%)



Projected share in primary energy consumption in 2040 (%)



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 Figures have been rounded off and may not add up to 100
 Source: BP Energy Outlook 2019

22.11.2021

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Coal Consumption will Double by 2040, but Growth is Slower

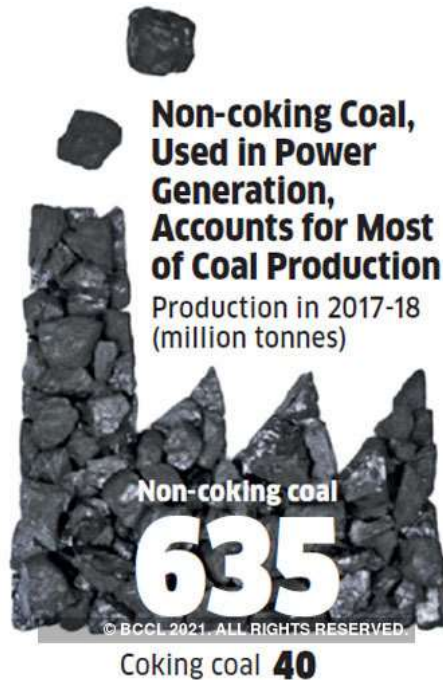
Total growth in consumption (%)



Annual growth in consumption (%)



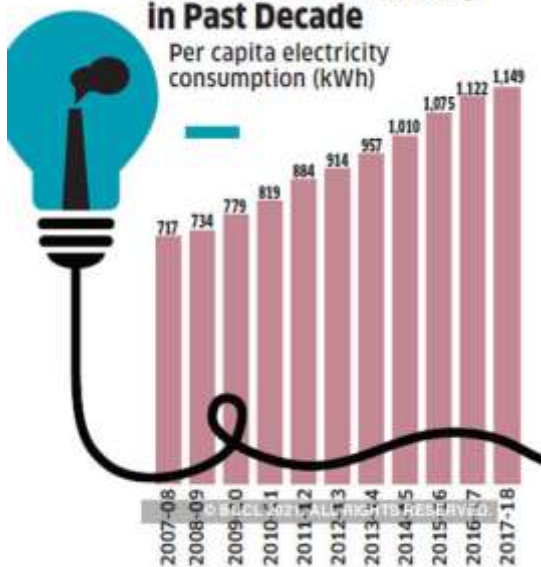
Includes projections
Source: BP Energy Outlook 2019



Source: Ministry of Coal, Central Statistics Office

Power Consumption Grew at 4.8% Annually in Past Decade

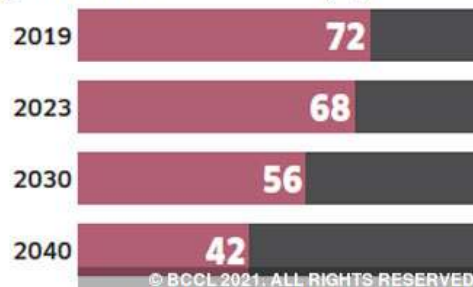
Per capita electricity consumption (kWh)



Source: Central Electricity Authority

Share of Coal-fired Power Generation Will Fall, but Still Remain Large

Projected contribution of coal-fired plants in electricity generation (%)



Source: Central Electricity Authority, CRISIL, NITI Aayog, The Energy and Resources Institute

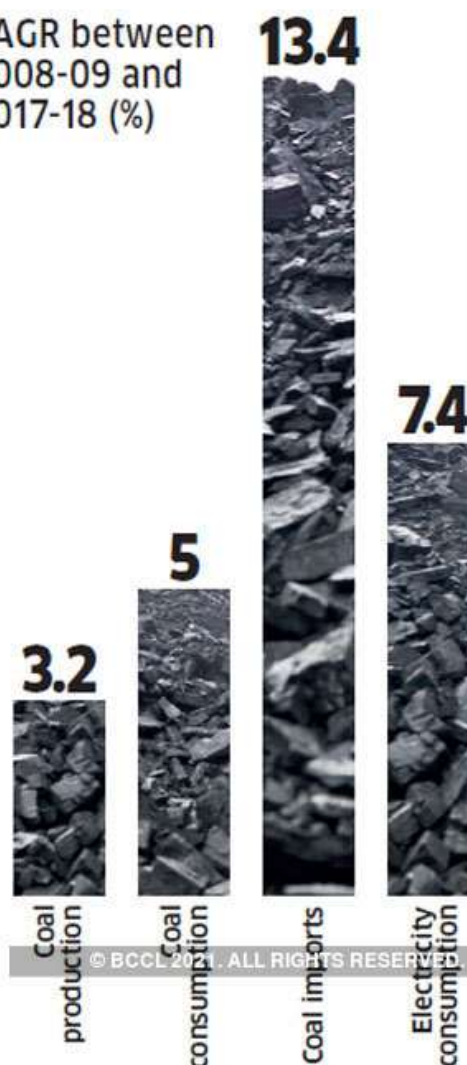


Is it fair to ask India to phase out coal?

1. India has fought attempts by developed countries to impose a cap on its emissions. It has been argued that adopting stringent steps to reduce carbon emissions can drag down growth and affect efforts to reduce poverty.
2. It should also be noted that the per capita carbon emissions of countries such as India and China are still lower than those of many developed countries.
3. According to World Bank data of 2018, India produces 1.8 metric tonnes of carbon emissions per capita against 15.2 metric tonnes produced by the U.S.
4. Experts believe India's commitment to phase down coal and become carbon neutral may actually be a rather generous commitment than what developed countries have committed themselves to.
5. Critics have also pointed out that the focus on ending the use of coal deflects attention from other fossil fuels such as oil and natural gas that are heavily used by developed countries.

Coal Production has not Kept Pace with Consumption

CAGR between 2008-09 and 2017-18 (%)



Source: Ministry of Coal, Central Statistics Office

6. They also say developed countries have not made good on their promise made at COP15 in Copenhagen to offer \$100 billion every year to developing countries to achieve net-zero emissions.

22.11.2021

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What lies ahead?

1. It is highly unlikely that developing countries like India and China will reduce their coal consumption or even stop it from rising further. Coal, after all, is the cheapest and most reliable way to meet their rising energy needs.
2. Some leaders have proposed a carbon tax as an alternative to ensure that the price of coal reflects the cost of the damage it causes to the environment. This may turn out to be a more effective approach towards reining in carbon emissions.
3. Coal on average is priced at \$2, while experts believe that it should be priced in the range of \$30 to \$70 to reflect its true cost. But such high carbon taxes can cause a drastic fall in coal output and severely affect living standards unless alternative sources of energy step in to fill the gap.
4. India also faces its own set of structural problems in the power sector that will make the transition towards clean energy harder.