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## Sounding the gavel on curative jurisdiction (27 April) (GS Paper II: Curative Jurisdiction of Supreme Court) (GS Paper II: Judiciary)

- The Supreme Court of India holds significant powers and roles, including being the highest court of appeal, a federal court, and a court of advisory jurisdiction.
- In 2002, the Court acquired a new power known as "Curative Jurisdiction," allowing it to correct its judgments even after they have become final.
- This jurisdiction is distinct from the power of review, which enables courts to rectify errors apparent from their records.
- The Court plays a constitutional role in declaring the law, and its judgments often reflect and trigger changes in the law to accommodate societal changes and advancements in human knowledge.
- Examples of such changes include recognizing the right to privacy and decriminalizing homosexuality.
- Curative Jurisdiction goes beyond mere changes in legal interpretation; it involves a reversal of the Court's own view in a specific case, exceeding even the power of review.

### The Delhi Metro Rail judgment

- The article argues that the Supreme Court's exercise of curative jurisdiction does more harm than good.
- It analyzes a judgment from April 10, 2024, involving a dispute between Delhi Metro Rail Corporation Ltd. (DMRC) and Delhi Airport Metro Express Pvt Ltd (DAMEPL).

- DAMEPL won a high-value claim before an **Arbitral Tribunal** based on the **termination of a long-term contract relating to a stretch of the Delhi metro rail**.
- The termination was allowed under a clause permitting **termination if DMRC failed to cure defects, which DAMEPL claimed were present in the metro's construction**.
- Prior to termination, DAMEPL halted rail operations, citing safety concerns.
- After termination, both parties requested the **Commissioner of Metro Rail Safety (CMRS)** to reopen operations, which was sanctioned with conditions.
- DMRC relied on **the Commissioner of Metro Rail Safety (CMRS)** sanction, but the Arbitral Tribunal deemed it irrelevant.
- The arbitration award was challenged in the Supreme Court, which upheld it, emphasizing the limited scope for challenging awards under Indian law.
- A review petition was also dismissed, but for the first time, the Court set aside an arbitral award in a curative petition.

### Exercise of curative jurisdiction

- The Supreme Court interfered in the arbitration award on two grounds.
- First, **it found the interpretation of the termination clause by the Arbitral Tribunal to be perverse because it failed to recognize that effective steps to cure the breach were sufficient, rather than curing the breach entirely**.
- Second, **the Court believed that the CMRS sanction, which was considered vital evidence, had been ignored**.
- This is significant because it diverges from the Court's previous stance of minimal interference in arbitral awards.
- **It also contradicts the Court's own verdict in 2019, which supported minimal interference**.
- According to settled law, a court setting aside an award cannot act as a court of appeal and must accept even a potentially incorrect interpretation of a contract.
- While the Court can interfere with a perverse interpretation, distinguishing between perverse and plausible but incorrect interpretations can be challenging.
- If the Arbitral Tribunal had ignored vital evidence, interference would be justified, but not when the Tribunal had considered it, albeit deeming it insignificant.
- Therefore, by exercising its Curative Jurisdiction, the Court reversed its previous judgment upholding the arbitral award.

### The problems

- The analogy of a dentist removing a wisdom tooth, then later attempting to put it back, illustrates the concept of **Curative Jurisdiction**.
- Curative Jurisdiction is the Supreme Court's attempt to correct its mistakes.
- While it's important to rectify errors, the Supreme Court's role goes beyond individual cases; it shapes the law for the nation and posterity.
- The case of **DMRC vs DAMEPL** involved the **Court reversing its interpretation**, which may have been correct but exceeded permissible interference with an arbitral award.
- Courts generally adopt a hands-off approach, especially after the 2015 amendments to arbitration legislation.

- The Supreme Court is expected to provide guidance and stability, acting as a beacon of law and a pole star.
- Revisiting its own decisions may undermine the Court's constancy and gravitas, as it may appear swayed by changing trends.
- The Court is not infallible because it is final, but it is final because it is infallible, as per Justice Jackson's perspective.

## Trust in machines (27 April) (GS Paper II: Electoral Reform)

### It is reassuring that the Supreme Court found nothing to impair faith in EVMs

- The Supreme Court of India in **Association for Democratic Reforms v Election Commission of India case 2024** rejected the demand for 100% verification of the paper trail left by votes cast through electronic voting machines (EVMs).
- The rejection was not surprising, as there is no hard evidence indicating significant flaws in the current verification system.
- The judgments of the Bench reaffirmed the judiciary's trust in the integrity of the electoral process, particularly after the introduction of **Voter Verifiable Paper Audit Trail (VVPAT)**.
- The Bench also dismissed the idea of reverting to paper ballots, considering it regressive and counterproductive to the gains made by eliminating vulnerabilities associated with paper ballots.
- This is not the first time the Court has declined to interfere with the existing system, having previously rejected demands for both 50% and 100% verification of the paper trail in separate cases.
- The Court used this petition to review administrative and technical safeguards in the system and found no reason to doubt its integrity.
- Two directions were given by the Court to address serious concerns: securing symbol loading units for 45 days after result declaration and allowing the top two losing candidates to seek verification of micro-controllers in 5% of EVMs in specified polling booths to detect any tampering.
- In a 2013 ruling, the Supreme Court emphasized the importance of a paper trail for ensuring free and fair elections.
- The Court previously advocated for increasing the number of polling stations with VVPAT verification from one per Assembly constituency to five.
- The introduction of the paper audit trail was aimed at addressing concerns about voters' inability to verify if their votes were recorded accurately.
- However, the verification system itself has become a subject of debate regarding the extent to which the paper trail should be verified.
- Justice Sanjiv Khanna suggested technological advancements like counting VVPAT slips through machines and barcoding symbols in VVPAT units for easier counting in the future.
- There is a growing level of mistrust in the Election Commission of India, as apprehensions and suspicions of manipulation indicate a lack of confidence in the electoral process.

- While voter confidence in the **voting and counting system** is important, it is equally essential for the Election Commission to be perceived as impartial and trustworthy.

- The Supreme Court has requested a response from the Election Commission (EC) regarding a plea for **fresh elections in constituencies where "None of the Above" (NOTA) receives the majority of votes.**
- The petition advocates for the EC to establish rules stating that candidates who receive fewer votes than NOTA should be barred from contesting elections for five years.
- NOTA was introduced by the EC and various State Election Commissions in November 2013.
- Starting from 2018, states like Maharashtra, Haryana, Delhi, and Puducherry began treating NOTA as a "fictional electoral candidate."
- These State Election Commissions declared that if NOTA wins in any election, there would be a mandatory re-poll, rejecting the idea of declaring the second-highest candidate as the winner.
- The petition argues that the rules applied by these states should be implemented uniformly across the country.

## The right and the future of India's masjids (27 April) (GS Paper I: Society)

- Prime Minister Narendra Modi is highlighting the Ram Mandir as a major achievement in his election campaign.
- This indicates the BJP's attempt to gain electoral benefits from the issue.
- The ongoing survey of the **Gyanvapi Mosque in Varanasi** and claims over the **Shahi Idgah Masjid in Mathura** suggest that the mandir-masjid conflict may escalate after the 2024 elections.
- In June 2022, RSS chief Mohan Bhagwat appealed that present generations of Muslims shouldn't be blamed for historical wrongs by Muslim rulers.
- However, Uttar Pradesh Chief Minister Yogi Adityanath has been vocal about Kashi and Mathura, urging Indian Muslims to relinquish claims in these places.
- **Adityanath paralleled the situation with the Mahabharat, stating that just as Krishna asked for five villages, Hindu society now asks for three centers: Ayodhya, Kashi, and Mathura.**
- This reactivates the politically charged slogan from the Ayodhya movement, '**Ayodhya to Jhanki Hei, Kashi Mathura Baaki Hei**', emphasizing the significance of Kashi and Mathura in the current political discourse.

### History and the Jama Masjid

- The Jama Masjid in Delhi holds significant historical importance for Indian Muslims, especially during the 1857 Rebellion.
- **During the rebellion, the masjid was defiled and desecrated by the British colonial army, who transformed it into a military barracks.**

- Muslims suffered greatly during this period, facing humiliation and loss of life and property for their participation in what historians call India's First War of Independence.
- Despite Muslim sacrifices during this period, the Hindutva right often overlooks or minimizes their contributions.
- **There were discussions during the rebellion to demolish the Jama Masjid, as revealed by William Howard Russell, an Indian correspondent for The Times during that time.**
- The Jama Masjid still stands in Delhi and has been a symbol of resilience for Indian Muslims.
- In 1992, following the demolition of the Babri Masjid, hundreds of Muslims gathered at the Jama Masjid in Delhi.
- Despite efforts for its renovation, requests for financial assistance from the government have been declined, citing security concerns.
- The issue of the Jama Masjid's renovation contrasts with the global mobilization of resources by the Hindutva right for its activities.
- Despite efforts to conduct themselves with dignity, Muslims continue to face challenges, as evidenced by the ongoing mandir-masjid conflict raised by the Bharatiya Janata Party's campaign.

### The danger of further polarisation

- **Masjids hold significant religious importance for Muslims, with the first masjid built in Madina during the time of the Prophet.**
- The Hindutva right has a political template involving mobilization and judicial intervention to deal with future mandir-masjid disputes.
- **The Places of Worship (Special Provisions) Act, 1991 aims to maintain the religious character of places as they existed on August 15, 1947.**
- Changing this act is perceived to be easier than diluting Article 370.
- The mandir-masjid controversy may intensify and extend beyond Kashi and Mathura, potentially deepening religious polarization and undermining India's secularism.

### Aid for war (27 April) (GS Paper II: IR)

- The United States Senate passed a **\$95 billion aid package** with bipartisan support.
- The aid is designated for **Ukraine, Israel, Taiwan, and the Indo-Pacific region.**
- The vote tally was 79-18, with **three Democrats and 15 Republicans voting against the bill.**
- The aid package combines four separate bills passed by the House of Representatives.
- The bills allocate almost **\$61 billion for Ukraine, over \$26 billion for Israel, over \$8 billion for Taiwan and the Indo-Pacific region, and address issues related to TikTok.**
- The legislation closely resembles a previous aid package that failed in the House due to the Speaker's refusal to bring it to a vote.
- President Joe Biden intends to sign the legislation into law.
- The aid aims to support Ukraine against Russian aggression, provide assistance to Israel and Gaza, and address territorial threats in the Indo-Pacific region linked to China.

- The passage of the aid package is considered a significant win for President Biden, Democratic lawmakers, and Senate Republican leader Mitch McConnell, who faced opposition from the far-right wing of his party.
- The opposition to the aid package from the Republican Party's "mainstream" is led by the **House Freedom Caucus**.
- The **House Freedom Caucus** consists of ultra-conservative members of Congress who support former President Donald Trump's agenda.
- They oppose aid packages, viewing them as a **threat to their isolationist vision for the U.S.**
- House Speaker Mike Johnson had to include a promise to ban TikTok if it didn't divest from Chinese ownership within a year to win their support.
- Despite having a slim majority in the House, the far-right segment was able to influence Congress's agenda significantly.
- This aid package is likely to be the last one approved for Ukraine and other U.S. allies until after November, when elections will be held for the White House, the House of Representatives, and one-third of the Senate.
- If Donald Trump wins, the Congress may shift further to the right, empowering the **MAGA (Make America Great Again)** movement to advance its agenda of institutional nihilism.

## Death and distress in the Dooars (27 April) (GS Paper I: Geography, GS Paper III: Agriculture)

### Dooars

#### Dooars landscape

- **Location:** The Dooars (or Duars) is a fascinating region located at the foothills of the Eastern Himalayas in Northeast India. It forms a gateway between India and Bhutan. The region lies largely in the Jalpaiguri and Alipurduar districts of West Bengal, with some parts extending into Assam.
- **Etymology:** The word "Dooars" means "doors" in several regional languages (Assamese, Bengali, Nepali, etc.), highlighting its position as a transition zone.



- **Geography and Climate:**

- The Dooars are characterized by **fertile alluvial floodplains formed by rivers** like the Teesta, Torsa, Jaldhaka, Sankosh, and their tributaries.
- It encompasses **lush forests, rolling tea gardens, and a rich variety of wildlife sanctuaries**.
- Climate ranges from subtropical to humid, with high rainfall and temperatures averaging from cool winters to warm summers.

#### Biodiversity Hotspot:

- The Dooars is renowned for its incredible biodiversity. Major wildlife sanctuaries include:
  - Gorumara National Park
  - Jaldapara National Park
  - Buxa Tiger Reserve
  - Chapramari Wildlife Sanctuary

- These protected areas are home to iconic animals like the one-horned rhinoceros, Asian elephant, gaur (Indian bison), tigers, various deer species, and a remarkable array of birds.

#### Tea Cultivation:

Tea garden in Dooars

- The Dooars are a major tea-growing region in India, famous for its extensive tea plantations and picturesque scenery.



#### Tourism & Popular Destinations:

The Dooars attracts nature lovers, wildlife enthusiasts, and those seeking serene getaways. Popular spots include:

- Jaldapara National Park: Home to a significant one-horned rhino population
- Gorumara National Park: Known for elephants, leopards, and excellent birdwatching
- Suntalekhola: A beautiful hamlet surrounded by lush greenery
- Murti: A picturesque river valley offering stunning views and river activities
- Samsing: Offers beautiful views, orange orchards, and tea gardens

- Asharani Oraon, whose husband allegedly died of starvation, weighs only 29.9 kg, up from 26 kg when she was rescued.
- Dhani Oraon, her husband, worked at Madhu Tea Garden in West Bengal's Alipurduar district, which reopened in December 2021 after a seven-year closure.
- Rajesh Lakra, a local tribal leader, built a new shed for Asharani and launched a social media campaign supporting tea garden workers.
- The Dooars region, where Madhu Tea Garden is located, is known for its tea production, contributing significantly to West Bengal's tea output.
- Dhani's death has raised concerns about low wages, food insecurity, and the exploitation of tea garden workers for political gains.
- Some tea gardens in Alipurduar and Jalpaiguri districts remain closed, affecting workers' livelihoods.
- Many workers, despite being permanent employees, struggle with irregular wages and lack of access to government benefits.
- A survey conducted after Dhani's death found that many tea garden workers have **low body mass index (BMI) due to inadequate nutrition**.
- Tea garden workers face challenges such as low wages, lack of housing repairs, and insufficient compensation for accidents or attacks by wild animals.
- The **Minimum Wages Advisory Committee on Tea in West Bengal** has been unable to agree on minimum wages for workers.
- Small tea growers now contribute significantly to tea production in the Dooars, while big gardens face financial challenges and workforce issues.
- The government is urged to address the plight of tea garden workers and implement fair wages and labor rights.
- **Unlike Darjeeling tea, Dooars tea faces price stagnation and struggles to establish its brand identity.**

- Low rainfall in the Dooars region forces tea planters to use pesticides, raising concerns about food safety.
- Tea growers raised issues of compliance with food safety standards to Chief Minister Mamata Banerjee during her election campaign.
- The region, which previously supported the BJP, has faced criticism from opposition parties regarding the neglect of tea gardens.
- Tea garden workers live on leased land and lack land rights, making them vulnerable to eviction and harassment.
- The government introduced **the Cha Sundari Scheme to provide housing units to tea garden workers, but the implementation faces challenges.**
- Many workers resist accepting land pattas offered by the government, fearing eviction and loss of land rights.
- Tea garden workers demand land rights and oppose the government's efforts to sell tea garden land to corporations.
- Independent candidate Arjun Indevar campaigns for land rights for tea workers, highlighting their historical ties to the land.
- Tea garden workers face challenges such as **inadequate housing, lack of electricity, and difficulties in accepting government schemes.**
- April marks the tea plucking season in the region, where women discuss leopard attacks and incentives for tea plucking.

## Foot soldiers of Kerala's silent revolution against waste (27 April)

- In Thiruvananthapuram, Kerala, women belonging to the **Haritha Karma Sena (HKS) work in groups to collect and segregate non-biodegradable waste.**
- The HKS, with 35,500 members, mainly comprises women, who are involved in door-to-door waste collection and segregation.
- Each unit of the HKS is registered as a **micro enterprise with the support of the Kudumbashree Mission.**
- The HKS was formed in response to the need for better waste management after a massive fire at the Brahmapuram dumping yard in Kochi in March 2023.
- Kerala generates 3.7 million tonnes of waste annually, with 77% being biodegradable, 18% non-biodegradable, and 5% mixed.
- The HKS has faced challenges in convincing households and shops to cooperate with **waste segregation efforts.**
- Some households initially provided unwashed plastic waste, but efforts were made to educate them about the importance of cleanliness.
- The Chala unit of HKS has achieved 99% coverage of households and shops in the area and is considered one of the more successful units.
- Members of the HKS earn varying incomes, with some earning above ₹25,000 per month.
- Some coastal areas, like Thiruvananthapuram, still have low household coverage by the HKS.

- Backlash against the HKS arose last year, with some YouTube channels organizing campaigns against doorstep waste collectors.

### **From centralisation to local management**

- In Thiruvananthapuram, Kerala, the health officer, R.S. Gopakumar, acknowledges that some HKS members may behave improperly due to their lack of education and exposure.
- Success of the HKS often depends on the support received from local councillors and junior health inspectors.
- Political parties play a significant role in waste management efforts in Kerala, sometimes shielding major waste generators from consequences.
- Kerala has seen protests leading to the shutdown of two major centralized waste treatment plants due to pollution concerns and health risks.
- After the closure of centralized plants, Kerala shifted to a decentralized waste management plan and formed the HKS.
- Some HKS units, like the one in Anthur municipality, Kannur, have diversified their income streams by collecting plastic waste and processing food waste into organic manure.
- Kudumbashree, the Kerala government's poverty eradication and women empowerment program, forms the backbone of the HKS.
- Women who were part of Cleanwell, an earlier waste management initiative by Kudumbashree, transitioned to the HKS after centralized waste management facilities closed down.
- Local bodies in Kerala shifted to decentralized waste management, providing opportunities for HKS units to handle non-biodegradable waste.
- Training sessions provided by organizations like KILA, Suchitwa Mission, and the Kerala Solid Waste Management Project have been instrumental in empowering HKS members.

### **Awareness among migrant workers**

- Minister for the Local Self-Government department, M.B. Rajesh, acknowledges that public awareness about waste management has increased but is not satisfied with the pace of change.
- During recent election campaigning, Rajesh observed plastic bags and bottles being discarded openly in smaller towns, indicating a need for more awareness.
- Rajesh highlights the importance of increasing awareness among migrant worker populations, preferably in their native languages.
- The government plans to improve the segregation mechanism of the Haritha Karma Sena through additional training to reduce rejects and increase revenue.
- Encouragement will be given to the Sena members to diversify their activities by developing value-added products from segregated waste materials.
- The government aims to increase the number of mini collection facilities for storing segregated waste as part of future plans for waste management improvement.

**Acampamento Terra Livre:** An annual event since 2004 where thousands of Indigenous representatives from across Brazil gather in Brasília.

**Goals:**

- To defend and promote Indigenous rights guaranteed by the Brazilian Constitution.
- To demand the demarcation of Indigenous territories.
- To protest against threats to their lands, environment, and way of life.

**APIB (Articulation of Indigenous Peoples of Brazil):**

- An Indigenous-led organization that advocates for the rights of Indigenous people in Brazil.

**Brazilian Constitution of 1988** recognize Indigenous peoples' original rights over their traditional lands.



Question 1: The Dooars region is primarily known for which of the following?

- a) Extensive tea plantations
- b) Large-scale rice cultivation
- c) Ancient Buddhist monasteries
- d) Offshore oil and gas reserves

Answer: a) Extensive tea plantations

**Explanation:** The Dooars are famous for their lush tea gardens, contributing significantly to India's tea production.

Question 2: Geographically, the Dooars can be described as:

- a) A high-altitude plateau in the Himalayas
- b) Alluvial floodplains at the foothills of the Himalayas
- c) Coastal plains along the Bay of Bengal
- d) A dry and arid region in the Thar Desert

Answer: b) Alluvial floodplains at the foothills of the Himalayas

**Explanation:** The fertile and river-fed Dooars plains are located at the base of the Himalayan mountains.

Question 3: The Dooars region is located in which part of India?

- a) Northeastern states
- b) Southern peninsular states
- c) Central India
- d) Eastern coastal states

Answer: a) Northeastern states

**Explanation:** The Dooars span parts of northern West Bengal and western Assam in the northeastern region of India.

Question 4: Consider the following statements:

1. The Dooars region is home to a rich biodiversity, including several national parks and wildlife sanctuaries.
  2. The Teesta River is a major source of irrigation and transportation in the Dooars.
- Which of the above statements is/are correct?
- a) 1 only

Answer: c) Both 1 and 2

**Explanation:** The Dooars' unique location supports various wildlife and the Teesta River plays a crucial role in the region's ecology and economy.

<p>b) 2 only c) Both 1 and 2 d) Neither 1 nor 2</p>	
<p>Question 5: The Acampamento Terra Livre is primarily concerned with which of the following issues?</p> <p>a) Promotion of Indigenous languages and cultural practices b) Urban development and housing for Indigenous populations c) Protection of Indigenous lands and traditional livelihoods d) Access to higher education for Indigenous youth</p>	<p>Answer: c) Protection of Indigenous lands and traditional livelihoods <b>Explanation:</b> While the ATL encompasses a range of concerns, securing Indigenous territories and safeguarding their ways of life in the face of external threats is the central focus of the mobilization.</p>
<p>Question 6: Which of the following organizations is the main driving force behind the Acampamento Terra Livre?</p> <p>a) FUNAI (National Indian Foundation) b) IBGE (Brazilian Institute of Geography and Statistics) c) APIB (Articulation of Indigenous Peoples of Brazil) d) ISA (Socio-Environmental Institute)</p>	<p>Answer: c) APIB (Articulation of Indigenous Peoples of Brazil) <b>Explanation:</b> APIB is Brazil's primary Indigenous advocacy organization and acts as the coordinator and driving force behind the annual ATL event.</p>
<p>Question 7: Consider the following statements about Indigenous rights in Brazil:</p> <p>1. The Brazilian Constitution of 1988 recognizes Indigenous peoples' original rights over their traditional lands. 2. The process of demarcation and official recognition of Indigenous territories has been fully completed.</p> <p>Which of the above statements is/are correct?</p> <p>a) 1 only b) 2 only c) Both 1 and 2 d) Neither 1 nor 2</p>	<p>Answer: a) 1 only <b>Explanation:</b> The Brazilian constitution provides a strong legal foundation for Indigenous rights. However, the process of actually demarcating and protecting these lands is far from complete and faces numerous challenges.</p>
<p>Question 8: The Acampamento Terra Livre can be seen as an example of:</p> <p>a) Grassroots activism and political mobilization b) A cultural festival promoting Indigenous arts c) A government-led initiative for reconciliation d) An international conference on biodiversity</p>	<p>Answer: a) Grassroots activism and political mobilization <b>Explanation:</b> The ATL is fundamentally a bottom-up, Indigenous-led movement that uses public demonstrations, advocacy, and political pressure to advance their cause.</p>