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Justice Delayed, Ecology Denied: Judicial Delay as Environmental Harm in Aravalli Litigation

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Litigation over the protection of the Aravalli hills vividly demonstrates how judicial delay can itself constitute a form of environmental harm. For nearly three decades, the Supreme Court of India has exercised continuing jurisdiction over mining and land-use conflicts in the Aravalli range, primarily through *M.C. Mehta v. Union of India* (1987) 1 SCC 395 and *T.N. Godavarman Thirumulpad v. Union of India* (1997) 2 SCC 267. While these proceedings were initially framed as mechanisms for ecological protection, their prolonged pendency has enabled irreversible environmental degradation during adjudication. As recent reporting notes, illegal mining, deforestation, groundwater depletion, and fragmentation of wildlife corridors continue even while cases remain sub judice.

Ecological systems deteriorate and often irreversibly, making delayed judicial intervention qualitatively different from delay in conventional civil disputes. In the Aravalli context, interim orders have frequently been diluted, suspended, or rendered ambiguous pending further “scientific” clarification. The result is what environmental scholars describe as regulatory limbo, a state in which projects continue operating under interim or provisional permissions because regulatory or judicial decisions remain unresolved. In this suspended zone of partial oversight, extractive activities persist while courts await expert assessments. By the time final

adjudication occurs, the ecological baseline has often shifted so drastically that meaningful restoration becomes practically impossible.

Judicial delay in Aravalli cases is closely entangled with the Court's increasing reliance on expert committees. These are not separate problems but mutually reinforcing dynamics. Delays create space for technocratic bodies to take over core questions of constitutional interpretation, and this expanding technocratic involvement, in turn, generates further delay as courts await successive rounds of expert reports. While scientific input is indispensable in environmental matters, the Aravalli litigation illustrates how excessive technocratic deference can dilute constitutional adjudication. The Supreme Court has repeatedly referred critical questions, such as defining the Aravalli hills, demarcating permissible mining zones, and assessing cumulative ecological impacts to government-appointed or court-monitored expert bodies. This approach risks transforming constitutional issues into technical-management problems, sidelining normative questions of ecological limits, intergenerational equity, and irreversible harm.

The controversy surrounding the Court's acceptance of a height-based definition of the Aravalli was followed by widespread legal and ecological criticism. Critics argue that the definition, drawn from technocratic recommendations, excludes large ecologically functional landscapes, legitimising further degradation.

Judicial endorsement of such expert frameworks, without rigorous ecological scrutiny, weakens the Court's role as guardian of the public trust. Ultimately, the Aravalli cases show that justice delayed is ecology denied. When courts defer responsibility to technocratic processes without robust timelines or accountability, they risk overseeing environmental loss rather than preventing it. Effective environmental adjudication demands not only expertise, but timely, principled judicial engagement that acknowledges how delay can inflict slow, cumulative ecological harm, a dynamic often theorised in environmental justice literature as a form of "ecological violence."

The problem of judicial delay in environmental litigation must be assessed against constitutional standards that impose obligations on state institutions and inform judicial duties. The Supreme Court has consistently held that the right to life under Article 21 encompasses a right to a healthy environment, which places a corresponding duty on the State to prevent environmental harm. Article 48A (a Directive Principle) directs the State to protect and improve the environment and safeguard forests and wildlife. At the same time, Article 51A(g) (a Fundamental Duty) enjoins citizens to protect and improve the natural environment. When executive agencies permit exploitation of ecosystems during pending litigation, responsibility does not rest solely on administrative inaction; in matters under continuing jurisdiction (as in the Aravalli cases), prolonged adjudication without timely, effective interim control reflects an abdication of judicial responsibility within an ongoing exercise of jurisdiction. In such settings, delay is not a neutral procedural condition; it becomes a constitutional failure that facilitates continuing degradation, undermining the Court's protective mandate under Article 21 and the State's obligations under Article 48A.

This shared responsibility is reinforced by the public trust doctrine and the precautionary principle in Indian environmental law. In *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388, the Court held that natural resources are held in trust for present and future generations. Deferral inverts that trust: by allowing activities to continue pending expert clarification, it moves the burden of proof from the polluter to the public, normalising harm until it becomes incontrovertible, and thereby enabling baseline shift and fait accompli dynamics that run counter to precaution.

The Constitution does not permit economic development and environmental protection to be treated as interchangeable interests subject to ad hoc balancing. The Supreme Court has consistently held that development is constitutionally legitimate only when constrained by ecological limits. Through *Vellore Citizens' Welfare Forum v. Union of India* (1996) 5 SCC 647, sustainable development was introduced into Indian law as a substantive standard, requiring the assessment of cumulative and irreversible harm. Where environmental loss is irreversible, as in the ongoing degradation of the Aravalli landscape, continued extractive activity during litigation ceases to resemble development and instead assumes the character of unconstitutional exploitation. Judicial delay in enforcing these standards does not preserve neutrality; it distorts the constitutional calculus in favour of economic activity, undermining ecological integrity and intergenerational equity. A concrete reform that could mitigate this dynamic is the establishment of a dedicated environmental bench with continuous mandamus powers and clear timelines for expert submissions, enabling the Court to intervene promptly while maintaining judicial oversight. Such an institutional commitment would ensure that constitutional guarantees under Article 21 are not defeated by procedural stagnation.