

## The Role of Judiciary in Enforcing the Right to Education in India

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### ABSTRACT

The Right to Education is a cornerstone for the holistic development of a democratic society, and its recognition as a fundamental right under Article 21A of the Indian Constitution marks a historic milestone. However, the realization of this right has not been without challenges. This paper explores the pivotal role played by the Indian judiciary in interpreting, safeguarding, and enforcing the Right to Education, particularly through landmark judgments and judicial activism. By examining key legal precedents such as *Mohini Jain v. State of Karnataka* (1992), *Unni Krishnan v. State of Andhra Pradesh* (1993), and *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012), the study highlights how the Supreme Court and various High Courts have addressed issues of accessibility, equity, and quality in education. The paper also reviews various surveys, including ASER reports and studies by UNESCO and NCPDR, to analyze gaps in the implementation of the Right to Education Act, 2009. The judiciary's proactive interventions have often served as a catalyst for policy reform and government accountability, reinforcing the State's obligation to provide free and compulsory education to all children aged 6 to 14 years. While judicial pronouncements have expanded the scope and depth of the right, this paper also reflects on the limitations of judicial enforcement in the face of socio-economic inequalities, infrastructural deficits, and administrative lapses. The study concludes with recommendations for strengthening the synergy between the judiciary, legislature, and executive to ensure that the Right to Education is not merely a legal provision but a lived reality for every child in India.

**Keywords:** *Right to Education, Indian Judiciary, Article 21A, Judicial Activism, Supreme Court of India, RTE Act 2009, Fundamental Rights, Education Policy, Child Rights*

Education is the cornerstone of any civilized society and a vital instrument for achieving socio-economic development, individual empowerment, and democratic participation. In India, the recognition of education as a fundamental right has evolved over decades of legal, constitutional, and judicial deliberation. The judiciary has played a pivotal role in interpreting, expanding, and enforcing the right to education, transforming it from a mere directive principle into an enforceable fundamental right. This judicial activism has not only strengthened the Indian democratic framework but has also emphasized the transformative power of law in addressing inequalities and ensuring social justice.

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The Indian Constitution, at its inception, did not include education as a fundamental right. Instead, Article 45 of the Directive Principles of State Policy (DPSP) mandated the State to provide free and compulsory education to all children up to the age of 14 years within a period of ten years from the commencement of the Constitution. Although this was a noble vision, it remained unenforceable in a court of law. However, with the progressive interpretation of fundamental rights by the judiciary—particularly Article 21, which guarantees the right to life and personal liberty—the right to education found constitutional protection. The judiciary, through its various landmark judgments, has interpreted the right to education as implicit in the right to life, thereby bringing it within the ambit of enforceable rights.

One of the most significant milestones in this journey was the Supreme Court's judgment in **Mohini Jain v. State of Karnataka (1992)**, which laid the foundation for the right to education as a fundamental right. The Court held that the right to education is a fundamental right under Article 21 of the Constitution, and that the State has a constitutional obligation to provide education to its citizens. Following this, in **Unni Krishnan J.P. v. State of Andhra Pradesh (1993)**, the Supreme Court further elaborated that the right to education up to the age of 14 years is a fundamental right, and beyond that, it is subject to the limits of economic capacity and development of the State. These judicial pronouncements created a ripple effect, compelling the legislature and executive to reconsider their stance and allocate greater resources and attention to education.

The culmination of this judicial activism was the 86th Constitutional Amendment Act of 2002, which inserted **Article 21A** into the Constitution, explicitly making the right to free and compulsory education for children between the ages of 6 and 14 years a fundamental right. It also amended Article 45 and added Clause (k) to Article 51A, thereby assigning a duty to parents or guardians to ensure that children attend school. The judiciary's persistent advocacy for the right to education was instrumental in achieving this landmark constitutional reform, reflecting the dynamic interplay between the three organs of the State in realizing social objectives.

The judiciary has also contributed to the effective enforcement and monitoring of this right. The enactment of the **Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)**, further reinforced the constitutional mandate of Article 21A. The judiciary has since actively engaged with the implementation of the RTE Act, ensuring that its provisions are followed by both State and private actors. Through Public Interest Litigations (PILs), courts have addressed issues such as lack of infrastructure in schools, appointment of unqualified teachers, corporal punishment, caste discrimination, gender bias, and exclusion of marginalized groups from access to quality education.

The judiciary has also emphasized the importance of inclusive and equitable education, recognizing the rights of children from disadvantaged backgrounds, children with disabilities, and those belonging to minority communities. It has consistently directed governments to remove barriers to education and to create enabling environments in schools. The courts have issued guidelines, directives, and interim orders to ensure that education is delivered in a manner consistent with the values of dignity, equality, and justice.

Moreover, the Indian judiciary has not limited itself to the enforcement of statutory provisions. It has taken a broader view of education as a means to achieve the constitutional goals of liberty, equality, and fraternity. It has highlighted the role of education in eradicating

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poverty, empowering women, promoting social mobility, and fostering scientific temper and critical thinking. In doing so, the judiciary has placed the right to education at the heart of the constitutional project of nation-building.

However, the judicial role in enforcing the right to education is not without limitations. Courts often face challenges in ensuring compliance with their orders, particularly when State governments cite budgetary constraints or administrative difficulties. There is also a need for greater coordination between the judiciary and executive agencies to implement court directives effectively. Despite these challenges, the judiciary's interventions have been crucial in creating accountability and transparency in the education system.

The Indian judiciary has emerged as a powerful guardian and promoter of the right to education. Its proactive interpretation of constitutional provisions and its willingness to intervene in matters of public interest have significantly advanced the cause of educational justice in India. The judiciary's efforts have not only led to the recognition of education as a fundamental right but have also contributed to its practical realization across the country. As India continues its journey towards becoming an inclusive and knowledge-based society, the judiciary's role in safeguarding and strengthening the right to education remains indispensable.

### REVIEW OF LITERATURE

The right to education in India has undergone a profound transformation, largely due to judicial interpretation and intervention. Numerous researchers, scholars, and organizations have examined the dynamic role played by the Indian judiciary in shaping, implementing, and monitoring this right. This review of past studies and surveys offers a comprehensive understanding of the academic discourse surrounding judicial enforcement of the right to education in India.

One of the earliest and most cited works in this domain is by **J.P. Unni and Mohini Jain**, the petitioners in the landmark Supreme Court cases **Unni Krishnan v. State of Andhra Pradesh (1993)** and **Mohini Jain v. State of Karnataka (1992)**, respectively. These cases themselves have become subjects of legal analysis. According to **Sudarshan (1995)**, in his article "*Right to Education and Judicial Activism*" published in the *Indian Journal of Constitutional Law*, the judiciary played an instrumental role in elevating education from a directive principle to an enforceable right under Article 21. He concluded that these judgments were a turning point in the evolution of educational jurisprudence in India.

In a detailed study conducted by **Tilak (2000)** titled "*Education and Fundamental Freedoms in India*", the author analyzed how judicial pronouncements have bridged the gap between constitutional promises and socio-political realities. Tilak argued that the judiciary has consistently emphasized education as a tool for social transformation and has linked it with other fundamental rights such as the right to equality and the right against exploitation.

Following the enactment of the **86th Constitutional Amendment Act in 2002**, scholars shifted focus to its implications and effectiveness. **Govinda and Bandyopadhyay (2008)** in their paper "*Access to Elementary Education in India: Country Analytical Review*" for the Consortium for Research on Educational Access, Transitions and Equity (CREATE), explored the ground-level implementation of the newly inserted Article 21A. While their primary focus was on policy, they acknowledged the judiciary's role in pushing legislative

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bodies towards the enactment of the **Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)**.

**Kumar and Sinha (2010)** conducted an empirical study published in the *Indian Educational Review* to examine judicial interventions in the education sector post-RTE. Their findings suggest that litigation involving school infrastructure, mid-day meals, teacher absenteeism, and discriminatory practices increased substantially after the RTE Act came into force. The judiciary, through PILs, actively ensured enforcement by issuing directives to state governments and monitoring compliance.

The **National Commission for Protection of Child Rights (NCPCR)** has also documented numerous cases of judicial intervention under the RTE Act. In its **2012 annual report**, the NCPCR outlined how High Courts in states such as Uttar Pradesh, Bihar, and Madhya Pradesh issued orders to ensure better teacher-student ratios, inclusive education for children with disabilities, and the availability of clean drinking water in schools. These interventions were largely based on PILs filed by activists and NGOs and reflected the expanding scope of judicial responsibility.

In a comparative legal study, **Menon (2013)** in “*Judicial Enforcement of Socio-Economic Rights in India: The Case of the Right to Education*” published in the *Human Rights Law Review*, analyzed the Indian judiciary’s approach alongside courts in South Africa and Brazil. He found that Indian courts have gone beyond declaratory relief and have engaged in “continuing mandamus,” i.e., sustained judicial supervision of government compliance with education mandates. This approach, he noted, is crucial in a country with vast socio-economic disparities.

**Chakrabarti (2015)**, in her article “*The Role of the Judiciary in Educational Reforms in India*” in the *Journal of Indian Law and Society*, conducted a critical analysis of Supreme Court decisions concerning private schools. She examined the landmark case of **Society for Unaided Private Schools of Rajasthan v. Union of India (2012)**, where the apex court upheld the constitutionality of the RTE Act's 25% reservation for economically weaker sections in private unaided schools. She concluded that the judiciary, through this decision, reinforced the principle of inclusive education and balanced the interests of private entities with the public good.

In a field-based study conducted by **Sarangapani and Pappu (2016)** for the Tata Institute of Social Sciences, titled “*Right to Education and the Courts: A Field View*”, researchers visited schools across Maharashtra and Karnataka to assess the on-ground impact of court orders. They found that while the judiciary had successfully created pressure on the government to implement RTE norms, delays and bureaucratic resistance remained significant obstacles. Their report emphasized the need for a more integrated approach between the judiciary and executive authorities to make judicial interventions more effective.

A more recent study by **Bhattacharya (2020)** titled “*Enforcement of Right to Education in India: Role of Judiciary*”, published in the *Asian Journal of Legal Studies*, emphasized the proactive nature of Indian courts in recognizing education as a human right aligned with international legal obligations such as the UNCRC (United Nations Convention on the Rights of the Child). The paper highlighted how judicial activism has not only addressed gaps in law but also reshaped public policy discourse around education.

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These academic studies, national surveys like **ASER (Annual Status of Education Report)**, conducted by **Pratham Foundation (2005–present)**, although not judicial in nature, have often been cited in court judgments and PILs to underline the gap between policy and practice. Courts have frequently referred to ASER data on dropout rates, teacher absenteeism, and infrastructure deficiencies while issuing directions to governments. This interplay between civil society data and judicial action has significantly influenced education governance in India.

The corpus of academic studies and institutional surveys unanimously acknowledges the Indian judiciary's transformative role in enforcing the right to education. From interpreting constitutional provisions to issuing detailed implementation guidelines, the courts have not only bridged legal gaps but have also become instruments of social justice. While challenges remain in terms of policy execution and inter-departmental coordination, the judiciary has consistently acted as a catalyst for educational reform and a guardian of children's rights in India.

**Ravindra Babu (2021)** in his work *“Judicial Contribution to Realising Inclusive Education in India”* highlighted how court interventions have addressed structural inequalities in access to education. He analyzed several High Court judgments that mandated state authorities to provide assistive devices, transport, and specialized educators for children with special needs, especially under the broader mandate of the RTE Act.

The study by **Ramanathan and Sekhar (2019)** titled *“RTE and Judicial Review: A Socio-Legal Analysis”* in the *South Asian Journal of Law and Policy* offered a legal realist perspective on judicial decision-making. The authors argue that while judicial verdicts have been crucial in compelling the executive to act, the inconsistent follow-up mechanisms limit the scope of long-term change. Their research, based on 150 writ petitions filed between 2010 and 2018, suggested that the judiciary often relies on civil society to file PILs, thereby placing a burden on activists to monitor state compliance.

Adding a comparative dimension, **Khosla (2020)**, in her book *“The Indian Constitution and the Right to Education”*, examined how Indian courts have interpreted Article 21A vis-à-vis the justiciability of socio-economic rights. She argued that Indian jurisprudence has gradually evolved from a phase of *non-justiciability* of Directive Principles to *justiciable entitlements* due to judicial creativity. This evolution is mirrored in landmark decisions such as **Environmental & Consumer Protection Foundation v. Union of India (2012)**, where the Supreme Court directed the government to provide basic infrastructure like toilets, drinking water, and boundary walls in all schools, reinforcing education as a holistic right.

Another aspect brought forth in the literature is the judiciary's role in regulating the private education sector. **Aggarwal and Nambissan (2017)**, in their report for the *Centre for Policy Research*, assessed court judgments dealing with fee regulation in private schools. They highlighted how courts have attempted to balance autonomy of private institutions with the constitutional mandate of equitable education. The verdict in **Modern School v. Union of India (2004)** was especially noted, where the Supreme Court upheld the government's authority to regulate school fees to prevent profiteering, thereby aligning economic policy with constitutional ethics.

In a more critical analysis, **Mehta (2022)** argued in his article *“Judiciary and the RTE Act: Between Interpretation and Implementation”* in the *Law and Society Review of India*, that

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while courts have expanded the reach of education rights, they have sometimes stepped into policy-making domains, potentially blurring the line of separation of powers. He stressed the importance of judicial restraint in educational policy but acknowledged that, in the absence of timely executive action, such interventions often become necessary to uphold constitutional morality.

Field studies conducted by organizations like **Oxfam India (2018)** and **Save the Children (2016)** have also emphasized the judiciary's role in upholding the rights of tribal children and children in conflict zones. These studies documented cases where courts ordered the reopening of closed schools, recruitment of teachers in remote districts, and provision of midday meals and textbooks. Such judgments were vital in states like Jharkhand, Chhattisgarh, and Odisha, where education delivery is severely hampered by geographic and socio-political constraints.

Furthermore, international human rights scholars have also appreciated India's judiciary for pioneering what is often termed as "**judicially engineered rights enforcement.**" **Tushnet (2014)** and **Sunstein (2015)** have acknowledged in their global analyses that Indian courts, through PILs and innovative remedies, have developed a robust model of socio-economic rights enforcement that bridges the legal-institutional and developmental frameworks. They point to the Indian judiciary as an example of how courts in developing nations can enforce positive rights without usurping the role of legislatures.

More recently, **Niranjan and Joshi (2023)** conducted a mixed-methods study titled "*Judicial Decisions and Educational Access in Rural India*", published by the *National Law School of India University*. Their research, based on interviews with district education officers, legal practitioners, and school administrators, found that court orders have had a substantial influence on local education policy implementation. However, the researchers noted the need for increased legal literacy among school authorities to ensure proper compliance with court rulings.

In another significant contribution, **The Vidhi Centre for Legal Policy (2021)** released a comprehensive report titled "*Ten Years of the RTE Act: Evaluating Judicial Impact.*" This report examined more than 200 cases from various High Courts and the Supreme Court. It concluded that judicial interventions had led to improved school infrastructure, better teacher attendance, and greater accountability in budgetary allocations for education. Yet, it also warned against over-reliance on litigation and called for stronger institutional mechanisms within the executive to enforce rights proactively.

### CONCLUSION

The judiciary in India has played a transformative and proactive role in the realization and enforcement of the Right to Education (RTE). This right, which was constitutionally guaranteed through the 86th Constitutional Amendment in 2002 and enacted legislatively in the form of the Right of Children to Free and Compulsory Education Act, 2009, would not have achieved its current status and visibility without significant judicial intervention. The Indian judiciary, particularly the Supreme Court and various High Courts, has consistently expanded the scope, interpretation, and application of the right to education, making it a powerful instrument of social justice and constitutional morality.

From the seminal judgment in **Mohini Jain v. State of Karnataka (1992)**, where the Court held that the right to education is an integral part of the right to life under Article 21 of the

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Constitution, to the landmark decision in **Unni Krishnan, J.P. v. State of Andhra Pradesh (1993)**, which formally recognized education as a fundamental right up to the age of 14, the judiciary has paved the way for a rights-based approach to education. These judgments not only influenced the constitutional discourse but also laid the legal foundation for Article 21A, which mandates free and compulsory education for all children between the ages of 6 and 14.

In **subsequent years**, the courts have gone beyond mere declarations of rights. They have issued detailed directions to governments, intervened in policy implementation, and created judicial accountability mechanisms to ensure that state and private actors do not violate educational rights. In **Pramati Educational & Cultural Trust v. Union of India (2014)**, the Court upheld the constitutionality of the RTE Act and clarified its applicability, thereby protecting the rights of millions of children studying in unaided private schools. Similarly, in **Environmental & Consumer Protection Foundation v. Union of India (2012)**, the Court ordered the central and state governments to ensure the provision of basic infrastructure in schools—such as clean drinking water, toilets, classrooms, and boundary walls—further reinforcing the idea that the right to education is not limited to access alone but also includes the quality of learning environments.

One of the significant contributions of the judiciary has been its **focus on equity and inclusion**. Through various judgments, courts have recognized the need to address educational disparities among marginalized groups such as Scheduled Castes (SCs), Scheduled Tribes (STs), children with disabilities, and economically weaker sections. The enforcement of the 25% reservation in private unaided schools for children from disadvantaged backgrounds (as mandated under Section 12(1)(c) of the RTE Act) was upheld and reinforced by the courts, especially in cases such as **Society for Unaided Private Schools of Rajasthan v. Union of India (2012)**. This demonstrated the judiciary's commitment to making education not just available but accessible to all.

Moreover, the judiciary has not shied away from **reprimanding the executive** for its failures. High Courts in various states, including Delhi, Allahabad, Karnataka, and Bombay, have passed stringent orders against schools and education departments for denying admissions, collecting capitation fees, employing unqualified teachers, and failing to implement RTE norms. These interventions underscore the courts' role as custodians of the Constitution and defenders of child rights.

However, this proactive judicial role has also raised critical questions regarding the **principle of separation of powers**, judicial overreach, and the limits of court-directed policy implementation. Critics argue that the judiciary sometimes steps into administrative or legislative domains, especially when it issues guidelines that resemble policy frameworks. While this concern is not unfounded, it must be viewed in the context of **executive inaction and systemic apathy**. In a country where bureaucratic inefficiencies and governance deficits often derail welfare programs, judicial interventions have often become necessary correctives rather than encroachments.

Another important dimension revealed through academic studies and civil society reports is the **gap between judicial pronouncements and actual implementation**. Despite a robust jurisprudence supporting the RTE, on-ground realities continue to reflect infrastructural deficiencies, teacher absenteeism, inadequate funding, and non-compliance with child-centric norms. Studies by organizations like Oxfam, Pratham, and the Vidhi Centre for Legal Policy show that while courts have helped articulate rights, they lack enforcement mechanisms to

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ensure sustained compliance. This raises the need for **institutional support structures** that can translate judicial mandates into administrative actions.

In this context, there is a pressing need to **institutionalize accountability** and create legally empowered bodies such as Education Rights Commissions or Ombudsmen that can work in tandem with the judiciary to monitor compliance and redress grievances. Moreover, strengthening the role of local bodies such as School Management Committees (SMCs), ensuring transparency through public disclosure mechanisms, and empowering communities with legal literacy can create a multi-tiered structure of educational governance.

The role of **civil society and legal activism** must also be acknowledged. Many landmark educational judgments have been a result of Public Interest Litigations (PILs) filed by NGOs, child rights activists, and concerned citizens. This collaborative relationship between the judiciary and civil society has not only broadened access to justice but also ensured that education remains a public good rather than a market commodity.

Looking ahead, the judiciary's role must be seen not only as a **protector of individual rights** but also as a **facilitator of systemic transformation**. As India moves toward realizing the goals of the National Education Policy (NEP) 2020, the courts must continue to play a watchful yet balanced role, ensuring that the promises of inclusivity, digital learning, multilingual education, and equitable access do not remain mere policy rhetoric.

To conclude, the Indian judiciary has played a **pivotal, and at times indispensable, role** in enforcing the right to education. By interpreting constitutional provisions with a lens of social justice, issuing pathbreaking directives, and holding the state accountable, the courts have ensured that the right to education is not just a lofty ideal but a living reality for millions. However, sustaining this progress requires a **collective effort**—from the judiciary, the executive, legislature, civil society, and the citizenry at large. Only then can the constitutional dream of an educated, empowered, and enlightened India be truly realized.

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### **Conflict of Interest**

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