



Right To Education And Socio Economic Duty: A Critical Study Of Mohini Jain Vs. State Of Karnataka In Light Of Leon Duguit's Theory Of Social Solidarity

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ABSTRACT

Education, as an essential public service, forms the cornerstone of a just and cohesive society. This project critically examines the Supreme Court's decision in *Mohini Jain v. State of Karnataka* (1992) through lens of Léon Duguit's theory of Social Solidarity. Duguit rejected the notion of subjective individual rights, asserting that the legitimacy of law and the State derives from the fulfillment of objective social duties, particularly the provision of basic services such as education. The Court's judgment in *Mohini Jain* embraced this duty-centric view, recognizing the Right to Education as part of Article 21 of the Constitution. However, later rulings in *Unni Krishnan and, T.M.A. Pai Foundation* gradually diluted this principle, encouraging privatization and reducing State accountability. Simultaneously, under the UGC Act, 1956, while granting autonomy to institutions, state governments often withdrew funding, making higher education prohibitively expensive for poorer students. This paper identifies the core problem: the transformation of education from a public duty into a market commodity. It argues that Duguit's emphasis on social solidarity offers a critical jurisprudential foundation for redefining the State's role.

Key Words: Right to Education, Social Solidarity, Socio-economic Duties, Privatization of Education, Judicial Dilution.

INTRODUCTION

Education is the foundation of an enlightened, equitable, and progressive society. It is not merely a personal asset but a crucial public good, essential for the realization of democratic ideals, social justice, and individual dignity. In India, the battle to make education a fundamental right had a landmark judgment with the Supreme Court's ruling in *Mohini Jain v. State of Karnataka* (1992), which elevated the Right to Education to the level of a constitutionally guaranteed right under Article 21 the Right to Life. This ruling was a turning point in

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judicial thought, transcending formal legalism and approaching a more humanistic and obligation-based understanding of constitutional rights.²

This paper will critically examine the Mohini Jain case against the background of Léon Duguit's theory of social solidarity, a central strand of sociological jurisprudence. Duguit, a French legal thinker, opposed the traditional conception of individualistic, subjective rights and instead stressed that individuals as well as the State have social duties. Duguit made a significant contribution to legal thought by criticising the omnipotence of the state, which had led to despotism and totalitarianism.³ According to Duguit, the legitimacy of law arises not from abstract authority, but from its ability to fulfill social functions and promote cohesion through public services like education, healthcare, and security.⁴ Using Leon Duguit's approach, the Mohini Jain judgment may be interpreted as a jurisprudential validation of the social responsibility of the State to provide equal access to education. The ruling decried the practice of paying capitation fees, claiming that education should not be a luxury for the affluent. This maxim was, however, later watered down in subsequent judgments like Unni Krishnan and, T.M.A. Pai Foundation who legalized privatization patterns and systematically removed the State's responsibility of providing access to education.⁵

The enactment of the University Grants Commission Act, 1956 (UGC Act) and the rising withdrawal of financial assistance by state governments have also commodified education, particularly in higher education, thus marginalizing economically weaker students.⁶ In this regard, the project contends that Duguit's focus on social solidarity and functionalism offers a corrective framework that is much needed. It redirects the debate from one that is focused on abstract rights to one that is based on socio-economic obligations and collective well-being. Through this interdisciplinary inquiry, the seeks to bridge constitutional law with sociological jurisprudence, advocating for a model of education that prioritizes equity, accessibility, and public responsibility.

SOCIOLOGICAL JURISPRUDENCE AND LEON DUGUIT'S THEORY OF SOCIAL SOLIDARITY

Sociological jurisprudence, a school which placed great stress upon the social context of law and its interdependence with society, has profoundly influenced contemporary legal theory. Sociological jurisprudence emerged in response to the rigid formalism of classical legal theory, emphasizing the law's role as a dynamic social institution shaped by societal needs and realities.⁷ In contrast to legal positivism or natural law, which had essentially concentrated on formal sources of the law, sociological jurisprudence aimed at comprehending the law as a social institution informed by society's needs and facts. Chief among these thinkers

² *Mohini Jain v. State of Karnataka*, (1992) 3 S.C.C. 666 (India).

³ Arpit Paul, *An Analysis of Léon Duguit's Theory of "Social Solidarity"*, 3 Indian J.L. & Legal Rsch. (Issue I) (Delhi Metropolitan Educ., IPU) (ISSN: 2582-8878).

⁴ Léon Duguit, *Law in the Modern State* 12 (1919).

⁵ *Unni Krishnan v. State of A.P.*, (1993) 1 SCC 645 (India); *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481 (India); *P.A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537 (India).

⁶ University Grants Commission Act, 1956, No. 3, Acts of Parliament, 1956 (India).

⁷ Roscoe Pound, *The Scope and Purpose of Sociological Jurisprudence*, 24 Harv. L. Rev. 591, 607 (1911).

were Roscoe Pound and Duguit, who emphasized law should be considered not just as a code of rules but as a dynamic instrument that should adapt to society's change and accommodate the common good of society. Discarding traditional theories that looked upon law as deriving from the authority of the monarch or the state, Duguit instead found the basis of law in the fact that humans are social animals endowed with a universal sense or instinct of solidarity and social interdependence.⁸ Duguit propounded a new approach to law based on the interdependence of individuals in social life. As life is lived today, social interdependence has become unavoidable eg. our food, houses, clothes, recreation, entertainment etc. Duguit made a distinction between two kinds of needs of men in society. Firstly, there are common needs of individuals which are satisfied by mutual assistance. Secondly, there are diverse needs of individuals which are satisfied by the exchange of services. Therefore, the division of labor is the most important fact of, social cohesion. He named it 'social solidarity'. With the development of free individual activities, the social solidarity develops. This 'social solidarity' is a fact and it is necessary for social life. In the present day society man exists by his membership of the society. Each man cannot manufacture and procure the necessities of life himself. The end of all human activities and organization should be to ensure the interdependence of men. This is Duguit's doctrine of social solidarity. Law also is to serve this end.⁹ Duguit says 'Law is a rule which men possess not by virtue of any higher principle whatever (good, interest or happiness) but by virtue and perforce of facts, because they live in society and can live in society.'¹⁰

Duguit used social solidarity as a criteria of the validity of laws. He asserted that a precept which does not further social solidarity is not law. He also stated that law serves the same purpose, that of being based on mutual interdependence between individuals.¹¹ Law is simply an embodiment of the duties that an individual is expected to perform as a part of the social organisation in order to further the cause of social solidarity. He envisions the gradual demise of the state and its replacement by groups or associations dedicated to the betterment of society.¹² The legitimacy of the State emanates from the role of keeping the social fabric intact and people's actions tending towards the common good of society. Duguit considered the State to be a necessary but limited institution, whose function ought to be to ensure social order without encroaching on its jurisdiction or impinging on individual autonomy.¹³

Law is a spontaneous product of social necessity according to Duguit, emerging from the collective consciousness of society. Law is not created by the State but reflects the values and needs of the social group.¹⁴ For Duguit, laws are only legitimate if they are accepted by society and follow the principle of social solidarity.

⁸ K. Anand, *Duguit's Theory of Social Solidarity*, SSRN, <https://ssrn.com/abstract=4653691> (2023).

⁹ Id.

¹⁰ Id.

¹¹ Panya Sethi, *Duguit's Social Solidarity*, 2 Indian J. Integrated Rsch. L. 1 (2022).

¹² Arpit Paul, *An Analysis of Léon Duguit's Theory of "Social Solidarity"*, 3 Indian J.L. & Legal Rsch. (Issue I) (Delhi Metropolitan Educ., IPU) (ISSN: 2582-8878).

¹³ Id.

¹⁴ Id.

¹⁵He asserted that a precept which does not further social solidarity is not law, and denied that statutes and decisions make law in themselves.¹⁶ Individuals have not the right to exercise their free activity as they understand it. If they act contrary to the social solidarity, those in power must intervene to repress such acts.¹⁷ Obedience to the law for Duguit is not owed to the authority of the State but to the social values and norms upon which the law rests. Law is only valid as long as it is in accordance with the social consciousness and with the aim of furthering social solidarity.

Duguit's focus on social solidarity implies that the state owes an essential responsibility for providing education. Education is not only an individual right but also a collective necessity that advances social cooperation and integration. In the Indian context, this notion is consistent with the constitutional mandate in Art. 21A that provides for the right to free and compulsory education to children between the ages of 6 and 14 years.¹⁸ The theory of Duguit also has implications in terms of comprehending the socio-economic responsibilities of the state. The intervention of the state in education, and in other social services, has to be judged on the basis of its contribution to social solidarity. In the case of *Mohini Jain v. State of Karnataka*, the Supreme Court underlined that the state is responsible for ensuring that education is made available to everyone, and Duguit's theory can serve as a framework for analyzing the responsibility of the state in this context.¹⁹

In the context of the Right to Education and Socio-Economic Duty, Duguit's theory offers a compelling lens through which to evaluate the role of the State in ensuring educational rights. If the State fails to promote social solidarity by ensuring access to education for all, it may be seen as failing in its fundamental duty to society. This perspective aligns with the principles of social justice and social duty, offering a critical framework for analyzing the constitutional and legal implications of the *Mohini Jain v. State of Karnataka* case in light of Duguit's sociological theory of law. Duguit's approach has to be weighed against constitutional protection of individual rights. While social solidarity is a valuable objective, it must not be achieved at the cost of individual rights. The challenge for Indian law, as indicated in the *Mohini Jain* case, is to balance the obligation of the state to encourage social solidarity with protecting individual rights and freedoms.²⁰

¹⁵ Id.

¹⁶ R.W.M. Dias, *Jurisprudence* (5th ed. LexisNexis 2017).

¹⁷ Duguit, Léon. "The Law and the State." *Harvard Law Review*, vol. 31, no. 1, 1917, pp. 1–185. JSTOR, <https://doi.org/10.2307/1327671>.

¹⁸ India Const. art. 21.

¹⁹ *Mohini Jain v. State of Karnataka*, (1992) 3 S.C.C. 666 (India).

²⁰ Id.

CASE ANALYSIS – MOHINI JAIN V. STATE OF KARNATAKA

The Supreme Court's decision in *Mohini Jain v. State of Karnataka* (1992) was a landmark judgment in recognizing the Right to Education as a fundamental right under Art. 21 of the Indian Constitution. The case is a pillar in the struggle for socio-economic justice, upholding that education must be considered a public good and not a commodity.²¹

In this case Mohini Jain, a resident of Meerut (Uttar Pradesh), sought admission to a private medical college in Karnataka. The institution demanded a high capitation fee of Rs. 60,000 per annum, an amount significantly unaffordable to the average student. Since she could not pay the fee, she was denied admission. Challenging this practice, she filed a writ petition under Art. 32 of the Constitution, contending that the imposition of such fees was unconstitutional and violative of the right to equality and the right to life under Art. 14²² and 21.²³

At the time, the Karnataka government had issued a notification allowing private unaided educational institutions to charge such capitation fees from non-Karnataka students. The petitioner argued that this practice led to economic discrimination and denied meritorious students access to education.²⁴ The Supreme Court, in a bold and progressive judgment, struck down the Karnataka government's notification.²⁵ The Court held that the right to education is an integral part of the right to life under Art 21.²⁶ It emphasized that education is essential for the full development of an individual and thus, must be accessible to all, irrespective of economic status.²⁷ The Court also held that the right to education flows from the Directive Principles of State Policy (DPSP), especially Art. 41, which mandates the State to provide education within its economic capacity.²⁸

Justice Kuldeep Singh, delivering the judgment, observed:

*“The right to education flows directly from the right to life. The right to life and dignity of an individual cannot be assured unless it is accompanied by the right to education.”*²⁹

The social solidarity theory of Léon Duguit, where he prioritizes social obligations over individual rights, is seen closely mirroring the Court's ruling in *Mohini Jain*. Duguit held that the legitimacy of law stems from its function of advancing social welfare by satisfying collective obligations.³⁰ Here, the Court's identification of education as a basic right is an affirmation of Duguit's contention that the State has an obligation to provide for the welfare of its people through the provision of basic services such as education. The Court's ruling rejected the commodification view of education and instead underscored the fact that education is a

²¹ *Mohini Jain v. State of Karnataka*, (1992) 3 S.C.C. 666 (India).

²² India Const. art.14

²³ Id.at 667.

²⁴ Id.at 670-71.

²⁵ Id.at 675-76.

²⁶ Id.

²⁷ Id.at 677.

²⁸ India Const.art.41.

²⁹ Id.at 678.

³⁰ Léon Duguit, *Law in the Modern State* (Frida & Harold Laski trans., Allen & Unwin 1921).

fundamental social good that has to be available to all, which is congruent with Duguit's antipathy for the commodification of public goods.

In addition, Duguit's theory emphasizes that the rights of individuals are inseparable from their social duties. The Court, in highlighting the State's obligation to provide equal access to education, highlighted society's collective duty to provide access to education to all regardless of social or economic status. This is consistent with Duguit's view that the law ought to aim for social solidarity where the State is to advance the common good. The Mohini Jain judgment had far-reaching implications on the legal framework of education in India. It re-emphasized the concept that education is a public service and should be made available to everyone. This case provided the cornerstone for the Right to Education Act (2009), which further solidified education as a basic right.³¹ But later decisions, like *Unni Krishnan (1993)*³² and *T.M.A. Pai Foundation (2002)*³³, watered down the principles established in Mohini Jain. These judgments brought in the idea of "minimum standards" and recognized the place of private institutions in education, making room for privatization and capitation fees in certain situations. This development was an indication of a shift away from the duty-based system and towards a more market-oriented system of education, which was cause for concern regarding increasing commercialization of education.

CRITICISM OF DUGUIT'S THEORY OF SOCIAL SOLIDARITY IN LIGHT OF JUDICIAL DEVELOPMENTS

The Supreme Court decision in *Mohini Jain v. State of Karnataka (1992)* was a revolutionizing event in Indian constitutional law, especially with respect to the establishment of the right to education as a fundamental right under Art. 21.³⁴ The judgment adopted a duty-oriented approach in line with Léon Duguit's theory of social solidarity in placing the State as a moral institution with a duty to provide public services such as education. But this progressive reading was short-lived, as later judicial rulings gave precedence to institutional autonomy and economic liberalization over the public duty doctrine. Two landmark cases — *Unni Krishnan v. State of Andhra Pradesh (1993)* and *T.M.A. Pai Foundation v. State of Karnataka (2002)* were instrumental in reinterpreting and limiting the scope of the Mohini Jain judgment.

In *Unni Krishnan*, a Supreme Court (SC) bench of five judges overruled the principles established in Mohini Jain. Though the Court did not reject the principle that education is a fundamental right, it immensely limited the sphere of that right.³⁵ The Court held that the right to education is implicit in Art. 21, but only for children up to 14 years of age, essentially linking it to Art 45 of the DPSP, which directs the State to make free and compulsory education available to children up to that age.³⁶ The Court also brought in a regulatory framework

³¹ *The Right of Children to Free and Compulsory Education Act*, No. 35 of 2009, & 3, Acts of Parliament, 2009 (India).

³² Id.

³³ Id.

³⁴ India Const.art.21

³⁵ *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 S.C.C. 645 (India).

³⁶ Id.

whereby private schools could impose fees to cover costs but did not allow profiteering or imposition of capitation fees.³⁷ This was aimed at balancing the interest of the private sector and the public interest but did so at the cost of diluting the absolute character of the right to education as asserted in Mohini Jain. The State's obligation, as imagined in the previous decision, was now qualified and restricted by economics and age.

This deviation from the Mohini Jain precedent was a watering down of Duguit's theory. Under Duguit, the State has an objective obligation to provide necessary social services like education regardless of the cost to the economy. In Unni Krishnan, however, the judiciary started accepting that the State could partially relinquish this obligation by engaging private actors, thereby diluting the ideal of social solidarity. The T.M.A. Pai judgment went a step further in dismantling the public duty model embodied in Mohini Jain. In a historic 11-judge bench judgment, the SC highlighted the independence of private education institutions and their freedom to govern without unreasonable interference from the State. The Court held that although the freedom to start and run educational institutions fell within Art. 19(1)(g), it could not be subjected to unreasonably restrictive conditions.³⁸

This verdict redirected the mind towards education as a private enterprise rather than a public good, more and more controlled by market forces. The role of the State was now seen as overwatching and not foundational. Significantly, the court ruling provided for charging reasonable fees and allowed for unaided institutions to function with minimal controls, thus providing the platform for commercialization of education.³⁹ From Duguit's standpoint, this development represents a significant deviation. His theory insists that the legitimacy of both law and government is derived from their ability to serve collective social needs. By prioritizing market autonomy and institutional freedom over universal access, the judiciary moved away from Duguit's central premise that essential services must be governed by public interest rather than private profit. Duguit's legal philosophy is based on the understanding that the State is not instituted to safeguard abstract rights but to make sure that social obligations are carried out. Within his theory, the understanding of law goes hand in hand with its usefulness in fostering social cohesion and common welfare. Public amenities such as education are not discretionary activities but imperative State functions.

The transformation started in Unni Krishnan and consolidated in T.M.A. Pai shows a divergence from this ideology on several levels:

1. From Social Duty to Market Logic

In spite of Article 21A's constitutional promise and the statutory support provided by the Right to Education (RTE) Act, 2009,⁴⁰ Indian education today represents an increasing pervasiveness of market reason over the principle of social solidarity. Léon Duguit's thesis, which placed central emphasis on the moral imperative of

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Right of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).

the State to deliver public goods such as education, gets pushed further into the background. The public school system still grapples with underfunding, dilapidated facilities, and truancy by teachers, driving a large number of students to private schools, even at the primary level. In the universities, the situation is worse. Public schools are subject to regular cuts in government funding, and student fees have increased so much that they have become unaffordable to a significant part of society.⁴¹

The University Grants Commission (UGC) under its 2018 autonomy regulations gave "Category I" and "Category II" universities the autonomy to launch new courses, set fee structures, and enter into international collaborations without UGC approval in advance.⁴² Even as these are aimed at encouraging academic excellence, they also promote commodification of education. The response of governance to withdraw State funding pressures public universities to operate as quasi-financing institutions, thus emphasizing finance over public accountability and access. This is a direct deviation from Duguit's belief that the legitimacy of any institution is its utility in governance for the collective good rather than profit.

2. Marginalization of the Poor and Reduced Role of the State

The neoliberal turn in education policy has serious social consequences, especially for economically weaker sections (EWS), Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). The increasing expense of higher education has effectively made affordability the new standard for entry, overtaking merit-based inclusion. This is a contravention of the rule enunciated in *Mohini Jain v. State of Karnataka*, where the Supreme Court held that refusal of access to education on economic incapacity is a violation of the right to life and dignity under Article 21.⁴³ But the post-Mohini Jain judicial line, specifically in *Unni Krishnan v. State of Andhra Pradesh*⁴⁴ and *T.M.A. Pai Foundation v. State of Karnataka*⁴⁵, increasingly frames education as a sphere of controlled private initiative as opposed to a public good. The State, instead of being the primary guarantor of education, becomes a facilitator or regulator of private actors. This is what undermines the moral basis of Duguit's welfare State, where law and government are valid only if they put the welfare of society first.

3. Revitalizing Duguit's Social Solidarity in Education Policy

Duguit's theory is still an appealing critique of the commodification of education. He opposed the idea of rights without associated duties and underscored the fact that the State is for the satisfaction of collective needs such as education. In this context, education is not a commodity or privilege but an elemental public service connected with the moral dimension of social cohesion.

⁴¹ Right of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).

⁴² University Grants Commission (Categorization of Universities for Grant of Graded Autonomy) Regulations, 2018, Reg. 5, Gazette of India, Notification No. F.1-1/2017(CPP-II) (India).

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

To bring education policy back to Duguit's ideals, there needs to be a return to the State as the principal supplier. This would involve more public expenditure, strengthened regulating regimes to police privatization excesses, and judicial rulings based not just on economic expediency but on the constitutional commitment of social justice. Courts must acknowledge that the right to education is not merely the negative of barriers, but the positive of active State facilitation a concept that gives life to Duguit's vision for a solidarity-based legal and institutional order.

CONCLUSION

The critical analysis of *Mohini Jain v. State of Karnataka*⁴⁶ using Léon Duguit's social solidarity theory uncovers significant depth in understanding India's developing definition of the right to education. The Supreme Court's classic ruling in *Mohini Jain* first adopted a duty-based vision of education as an integral right under Article 21, stressing the State's moral and constitutional duty to make education within reach of every citizen. This obligation-based principle is consistent with Duguit's dismissal of legal individualistic rights in place of social collective obligations, where the validity of government and law derives from their function in meeting basic social needs such as education. But later judicial evolution, especially in *Unni Krishnan and T.M.A. Pai Foundation*, took a wide departure from this solidarity principle. These judgments imposed restrictions on the extent of the right to education and gave greater autonomy to private institutions and in practice transferred responsibility from the State to market forces and institutional autonomy. This change is part of an overall trend towards education privatization and commercialization, which violates Duguit's vision that public services should be guided by the principle of social solidarity, not economic logic.⁴⁷ Commercialization of education has severe social implications, such as the marginalization of poor economic groups and erosion of the State's role as a provider of social justice. In spite of constitutional requirements such as Article 21A and the Right to Education Act, access to quality education is unequal, and economic constraints continue to deny many opportunities for higher education.⁴⁸ Restoring Duguit's theory of social solidarity in modern education policy would involve reaffirming the State's fundamental responsibility as the educator, funding sufficiently, and imposing measures that safeguard equal access. Courts also need to interpret educational rights in more than economic terms, focusing on the constitutional promise of social welfare. In conclusion, Duguit's theory offers an important jurisprudential basis to criticize the prevailing market-oriented approach and to promote education as a universal social right needed to create a fair and harmonious society.

⁴⁶ Id.

⁴⁷ Leon Duguit, *law In the Modern State* 39–42 (Frida & Harold Laski trans., Allen & Unwin 1921).

⁴⁸ Id.

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