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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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THE DOMINION OF INDIA: A TAIL **OF 1947-1950**

AUTHORED BY - TANMAY BANSAL

INTRODUCTION

"Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to new, when an age ends, and when the soul of a nation, long suppressed, finds utterance..."¹ These words of the infamous speech, A Tryst with Destiny, by the first Prime Minister of India, late Pandit Jawahar Lal Nehru is often said to mark a new dawn of an Independent India on August 15th 1947; but was India actually independent on the said date? It is a misconception that India became independent on 15th August 1947. In reality, this date marked the day India became a British Dominion. From 15th August 1947 to 25th January 1950 India functioned as a Dominion of the British Empire, with a non-representative Legislative Assembly, also functioning as the constituent assembly. Pandit Jawahar Lal Nehru was the first Prime Minister, while Lord Mountbatten served as the first Governor General of the Dominion of India. So, what is the difference between the 3 years of Dominion of India and the 73 year old Union of India? Why is the concept of Dominion of India more often than not ignored while studying or researching the History of modern India? This paper aims to focus on the so called forgotten period of non-independent independent India and discover the mystery behind whether the 'recorded' 15th August 1947 or 'symbolic' 26th January 1950 lies as the true Indolence Day for the Union of India.

¹ www.youtube.com. (n.d.). Tryst with Destiny | Pandit Jawaharlal Nehru Independence Day Speech | 1947. [online] Available at: <https://www.youtube.com/watch?v=2Cudc5Mhlcc> [Accessed 20 Apr. 2023].

THE COMMONWEALTH AND INDIA'S DEMAND

The Balfour Declaration of 1926 and the Statute of Westminster of 1931 gave formal and statutory recognition of the autonomous status which the British Dominions had achieved by convention by that time.² This shows a transition from the Empire of Great Britain to the British Commonwealth of Nations, wherein all the dominions had a similar standing, with one common feature- their allegiance to the British Crown. States became immature members of the international community as a result of their dominion status, a transitional stage before adulthood. This signalled a change from an international nation state system with a more uniform division of sovereignty to an empire-based structure where imperial rulers could keep together diverse legal spaces.³ The Congress Party had approved a statement outlining independence as its objective, but other groups would not agree on a "higher ground" than Dominion status, at the All Parties Conference of 1928. The Conference took note of the British government's growing preference for "responsible government" over "Dominion status" with a squinting eye. Therefore, it can be derived that the radical leaders of the Indian National Congress were adamant about a formation of a Republic, thus an allegiance to the crown and the retention of the Dominion status was never an option, as observed by the calling for a Purna Swaraj and the hoisting of Independent India's flag by the then president of the INC, Pandit Jawahar Lal Nehru at the Lahore session on 26th January 1930. One of the main reasons why there was a full blown wave against the acquiring of a dominion status across Indian Politicians was the denial of the British to put the Defence Ministry under Indian Control. The British valued the manpower which India had supplied to the empire's defence during the world wars and believed that the negotiation of India's dominion status should lie on India's continued support to the imperial defence, which was against the famine stricken Indian Soldiers and Politicians, thus leading to multiple unrests and revolts by the British Indian Armed Forces. And by 1942's civil disobedience movement, the country was united in its demand for an Independent India.

² RAO, P.K. (1953). INDIA: THE REPUBLICAN DOMINION. *Current History*, [online] 25(148), pp.331–338. Available at: <https://www.jstor.org/stable/45308565?seq=1> [Accessed 25 Apr. 2023].

³ De, R. (2020). Between midnight and republic: Theory and practice of India's Dominion status. *International Journal of Constitutional Law*, 17(4), pp.1213–1234.

INDIA'S AGREEMENT

The reasoning given behind the acceptance of the dominion status by Indian leaders can be two fold. The first could be the power politics of the Indian National Congress in an attempt to shape an independent India the way it envisioned. It has often been argued that the Indian National Congress used the draconian provisions in Indian law established by the British to solidify their claim on the country. But the real reason lies in an attempt to a smooth transition. The 500 princely states saw independence as an opportunity to create their own individual kingdoms, however, the retention of the dominion status lead to them still being pledged to the British Crown. While the constituent assembly under Dr. Rajendra Prasad and Dr. B.R. Ambedkar were forming a constitution for a new and modern India, the prime minister Pandit Jawahar Lal Nehru, the home minister Shri. Vallabh Bhai Patel and the Governor General Lord Mountbatten were convincing the princely states to become a part of a Unified India, either through peaceful negotiations or through the show of military might. Thus the adoption of Dominion Status bought the centralist leaders time to prevent the complete disintegration of country into small fragments of kings and establish a Republic as envisioned by the makers of the Constitution. The acceptance of the dominion status can be seen as a marriage of necessity, between the newly formed nation and the old royal empire as it held different values in the eyes of Indians and British; while Indian leaders looked at it as an opportunity for integration before complete independence, the British envisioned that the addition of India to Commonwealth nations would secure future military ties which would continue even post complete independence of the country.

DIFFERENCE BETWEEN TITLES AND THE ARGUMENT

After noting a brief track of accounts while lead to a compromise and an agreement between India and Great Britain, it is important to point out the difference which persisted between the Dominion of India, as on 15th August 1947 and the Republic of India post 26th January 1950. By passing the Act of 1947, the British Parliament handed its sovereign authority to India and Pakistan, making them Dominion territories under international law. The British Crown was remained the

official head of state, but its authority was mostly symbolic.⁴ So in essence, on 15th August 1947, the prime minister of India, Pandit Jawahar Lal Nehru worked at the pleasure of the Governor General Lord Mountbatten, and Lord Mountbatten worked at the pleasure of the King of India and the Great Britain, King George VI. Although countries like Canada, Australia, New Zealand, etc. are still British Dominions, none of them has asserted that they are not sovereign nations under international law. In their capacity, they are participants in the United Nations. However, when it comes to India, there is no King of the state. As of 26th January 1950, India has a prime minister, who works at the pleasure of the President, and considering that India is a Republic, the head of the state, i.e. the President is also elected by the people through an indirect parliamentary process.

Now it has often been argued by modern day radical scholars that the real Independence Day of India is 26th January 1950 and not 15th August, 1947. But this is not true at all. The British Monarch, i.e. King George VI was only the symbolic and not the actual head of the government. He had no decision making powers. If one was to consider that India became independent only after the British left the complete and not only the actual administration of India in the hands of the Indians, then according to this logic, the independence day should be shifted late in 1950's because, World War veterans Sirs Ronald Ivelaw-Chapman and Gerald Gibbs were the heads of Indian Air Force until 1951 and 1954 respectively. Similarly, Sirs Rob Lockhart and Roy Bucher were the heads of Indian Army until 1947 and 1949 respectively. Therefore, the argument doesn't seem to have any technical merit, even though it may be validated by confined legal sense.

CONCLUSION

Even under the British, unlike other colonies India was always given a special status, so much so that it became an Independent member of not only the United Nations but also the member of the League of Nations as British India. The Supreme Court has considered 26th November 1949, or the Constitution Day as a new dawn of law for the Union of India. There have been multiple cases of citizens lacking any remedy for the crimes committed before the said date. Furthermore, it was only after 26th January 1950 that India became a true republic, for it was only then that Dr. Rajendra Prasad was elected as the First President of India and it marked the true end British in

⁴ theleaflet.in. (2019). Declaration as Republic of India in 1950 versus gaining of Independence in 1947: What's the difference? – The Leaflet. [online] Available at: <https://theleaflet.in/declaration-as-republic-of-india-in-1950-versus-gaining-of-independence-in-1947-whats-the-difference/> [Accessed 25 Apr. 2023].

India. However, from a logical point of view, from 15th August 1947, it was the constituent assembly of India which truly functioned as the supreme legislative authority of the country. The assembly deliberated upon the matters of making the constitution in the morning hours and legislated upon the issues of immediate concern in the afternoons. The executive was authoritatively headed by an Indian Prime Minister, with an Indian Cabinet. The British had none but only symbolic presence in the countries decision making. The years between 1919 to 1942 can be defined as the definitive years of India which lead to the actual ideals on which the country is formed. By the end of the Second Civil Disobedience Movement in 1942, unlike dominions of Australia, Canada and New Zealand, the voice in India was always one and clear- 'Purna Swaraj' or 'Complete Independence'. The two and a half years as a British Dominion are nothing but an attempt to build a Unified Republic under the Indian Tri-colour and can't be defined as a period of British Rule over the nation. Therefore, after the presentation of all the facts, evidences and testimonies, this paper concludes that 15th August 1947 and not 26th January 1950 is the true and legitimate Independence Day of the Union of India.

