FROM SOVEREIGNTY TO PRIVILEGE: A CRITICAL LEGAL ANALYSIS OF ROYAL PROPERTY REGIMES IN JODHPUR

Chirali Hundia, LLB (Hons.), O.P. Jindal Global University, Jindal Global Law School (JGLS), Sonipat, Haryana, India.

ABSTRACT

In order to make the case that India's shift from princely sovereignty to constitutional democracy reconfigured rather than destroyed monarchical property arrangements, this study investigates the continuous legal existence of royal property in Jodhpur after independence. It describes how the White Paper on Indian States (1950) and constitutional clauses like Articles 291, 362, and 363, which protected princely property settlements from redistribution and judicial review, reclassified the pre-independence system, in which land rights originated from sovereign authority rather than private title, after 1947. The underlying proprietary base palaces, urban estates, and related assets remained legally intact even after the Twenty-Sixth Amendment eliminated the privy purse and formal acknowledgement of monarchs in 1971. Along with the use of charitable trust structures and residential classification to obtain ongoing tax concessions for properties like Mehrangarh Fort and Umaid Bhawan Palace, the paper also examines the judicial treatment of royal property in cases like Raghunathrao Ganpatrao v. Union of India, Maharaja Gaj Singh v. State of Rajasthan, and Commissioner of Gift Tax v. H.H. Maharaja Gaj Singh ji. It argues that the Constitution's commitment to substantive equality is incompatible with this pattern of legal accommodation rather than analysis of historical privilege and urges a more thorough judicial investigation of the provenance and categorisation of former princely property.

Introduction:

One significant but unexplored aspect of India's constitutional transition is the evolution of property in relation to princely states in India. In Jodhpur, the transition from monarchical sovereignty to democratic rule rebuilt proprietary systems within a new legal framework rather than merely dismantling them.

This piece argues that Jodhpur's shift from princely sovereignty to constitutional democracy did not lead to a total break with medieval monarchy property regimes. Rather, it made it easier for sovereign power to become legally recognised private property, maintaining long-standing wealth and privilege hierarchies. This calls into question whether such arrangements are consistent with the Indian Constitution's equitable goals.

Pre-Independence Property Regime: Sovereignty as the Basis of Title

Before independence, the property rights in Jodhpur did not work as they do in modern times. They were based more on the idea of sovereignty rather than the idea of private property. Wherein the ruler represented both radical land ownership and ultimate political power. The ruler exercised this power through hierarchical order by exercising the system of grants and tenure. These grants were formalised through sanads[1], this was conferred on nobles, jagirdars, religious authorities and administrative intermediaries in exchange for military or administrative service. These grants did not transfer the absolute ownership but only gave limited and conditional proprietary rights.

As a result, intermediary elites controlled a sizable amount of land, roughly 70%, and had tremendous influence over agricultural output. Peasants and farmers, who had no ownership rights and were subject to rents, cesses, and other customary exactions, such as unpaid labour, were at the bottom of this hierarchy. Their rights were mostly kind of usufructuary mortgage and unstable, dependent on the condition of their adherence to feudal duties.

The lack of a distinction between "state property" and the ruler's personal belongings was a significant aspect of this regime. The sovereign's undifferentiated authority over palaces, forts, and other properties was a reflection of both private control and governmental power.

[1] B.H. Baden-Powell, *The Land-Systems of British India* vol. 1, at 163–65 (Oxford Univ. Press 1892) (defining "Sanad" as a formal grant issued by a sovereign conferring conditional rights in land or office, often tied to service obligations).

During the colonial period as well, this internal framework of property connections was largely preserved. This shows that deeply embedded feudal systems coexisted with imperial supervision.

Integration and Legal Transformation: Post-Independence Developments:

When Hanwant Singh assumed the throne of Jodhpur in June 1947 after the British withdrawal, he found himself in a challenging geopolitical position. Despite Jodhpur's political heritage's underlying inclination toward annexation to India, the monarch temporarily considered other options due to the state's close proximity to the newly formed Pakistan. During talks with Muhammad Ali Jinnah, he allegedly obtained significant concessions, including as access to the port of Karachi, financial incentives, and military guarantees.

Sardar Vallabhbhai Patel reportedly acted decisively after realising the strategic implications of Muhammad Ali Jinnah's actions. Patel emphasised the potential for significant sectarian unrest if a princely state with a sizable Hindu population joined Pakistan, in addition to matching several of the proposed benefits, such as the provision of firearms, train connectivity, and famine relief, which were offered. Ultimately, a mix of pragmatic incentives and political vision shaped the decision. Consequently, Jodhpur was included into the Dominion of India on August 11, 1947, when Hanwant Singh signed the Instrument of Accession.

Although the Indian state gained sovereignty, the previous property relations were not instantly abolished. The later merger agreements and administrative procedures aimed to redefine the legal status of princely assets. The White Paper on Indian States (1950)[2], which made a formal distinction between "state property" and the ruler's "private property," was a significant step in this process. Under this system, some assets, for example, palaces, private estates, and homes, were acknowledged as the former ruler's personal property, while others, like government buildings, roads, and highways, were incorporated into the public realm.

This categorisation marked a substantial change in the law. In the new constitutional order, property that had previously been possessed by virtue of royal authority was retroactively recognised as private property. Crucially, no accurate revaluation or allocation of these assets was part of this change. Rather, it made it possible for elite ownership to continue under a

[2] Ministry of States, *White Paper on Indian States* (Government of India 1950) 35.

different legal name.

Constitutional Recognition and the Persistence of Privilege:

Legislative initiatives show a pattern where the state was willing to address inequality in farming, but did not want to touch the ownership of valuable assets by the elite.

After India gained independence, legislative initiatives were made to remove feudal landholding arrangements and reorganise agrarian relations after independence. In Rajasthan, laws like the Rajasthan Zamindari Abolition Act of 1959[3] and the Rajasthan Land Reforms and Resumption of Jagirs Act of 1952[4] aimed to redistribute agricultural land and do away with intermediary tenures. Although these changes drastically changed the patterns of rural land ownership, they did not apply to properties that were already acknowledged as the private property of prior rulers. As a result, key assets like palaces and urban sites survived, notwithstanding the impact on big agrarian holdings.

This shows a pattern where the state was willing to address inequality in farming. Did not want to touch the ownership of valuable assets by the elite.

In its original version, the Indian Constitution actively extended erstwhile princely rulers constitutional protection in addition to accommodating their privileges. Articles 291[5] and 362[6], which formalised the continuation of monetary and private privileges resulting from pre-

[3] *Rajasthan Zamindari Abolition and Land Reforms Act* 1950.This law ended the zamindari system in Rajasthan and transferred all land ownership from landlords to the State**.** Zamindars lost their rights but were given compensation**,** while tenants got ownership rights (khatedari rights)**.**
[4] *Rajasthan Land Reforms and Resumption of Jagirs Act* 1952. This Act abolished the jagirdar system in Rajasthan by taking jagir lands from jagirdars and transferring them to the State. It gave rights to tenants and provided compensation to jagirdars**.**
[5] Constitution of India 1950, art 291[REPEALED]
(1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—
(a)such sums shall be charged on, and paid out of, the Consolidated Fund of India; and
(b)the sums so paid to any Ruler shall be exempt from all taxes on income.
(2)Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part A or Part B of the First Schedule, there shall be charged on, and paid out of, the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India under clause (1) and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 278, be determined by order of the President.
[6] Constitution of India 1950, art 362 In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.

independence covenants and agreements, were somewhat principally responsible for this.

Article 291[7] guaranteed set amounts that were charged to the Consolidated Fund of India and exempt from taxation in order to provide privy purses to prior kings. The clause guaranteed their financial stability and shielded them from regular political procedures by putting these payments outside the purview of legislative vote. As a result, negotiated political agreements became legally binding constitutional commitments.

In addition, Article 362[8] mandated that the Union and State governments give "due regard" to the rulers' personal rights, privileges, and dignity as acknowledged by previous agreements. This clause had substantial normative weight, even though it was not immediately enforceable in a court of law. In influencing legislative and executive behaviour in favour of maintaining royal status.

Article 363[9], which specifically barred judicial review in conflicts arising out of pre-Constitutional treaties, covenants, and agreements entered into with princely rulers, further strengthened this protection. The Constitution effectively shielded these arrangements from legal examination by putting such topics outside the purview of courts. Consequently, issues pertaining to the legitimacy, extent, or equity of property settlements resulting from princely agreements became non-justiciable. As a result, courts have historically avoided making direct decisions on these matters, only getting involved in certain situations like succession or taxation. The stability and continuation of the legal status of royal property were greatly aided

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[7]Constitution of India 1950, art 291
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[8] Constitution of India 1950, art 362 In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.
[9] Constitution of India 1950, art 363
Article 363 states that courts (including the Supreme Court) cannot hear disputes arising from old agreements between princely rulers and the Government before independence**.** These matters are treated as political, not legal, and are outside judicial review.

by this judicial exclusion.

Under Prime Minister Indira Gandhi's leadership, the Twenty-Sixth Constitutional Amendment Act, 1971[10], was passed. Abolishing the privy purse and invalidating official recognition of rulers. Dismantling remnants of feudal privilege and advancing an egalitarian social structure were the stated goals.

However, this reform's effects were more symbolic than structural. The modification did not affect the underlying proprietary arrangements that had been previously validated, even though it eliminated official recognition and pecuniary entitlements. Palaces, urban properties, and other assets recognised as private property continued to be the material foundation of royal privilege.

Judicial Interpretation and the Enduring Nature of Royal Property:

In decisions like Raghunath Rao Ganpatrao v. Union of India[11], The Supreme Court upheld this stance by recognising the narrow scope of judicial action in situations involving political agreements with prior rulers. Because of this, courts have typically limited their authority to ancillary matters like succession, taxes, and disputes within families, largely ignoring the fundamental legitimacy of royal property agreements.

The High Court upheld the ongoing protection of royal property within the post-independence legal framework in Maharaja Gaj Singh v. State of Rajasthan[12] by prohibiting the State from purchasing land under the former ruler's personal cultivation.

One important case is Maharaj Devi Singh v. Maharaja Gaj Singh[13], where the court said that the properties in question were private and could be governed by the laws that apply to Hindu families. This was important because it put property under personal law, which means the state cannot take it away or redistribute it. The court did not see these assets as having any public or royal character, even though they came from the royal family.

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[10] Constitution (Twenty-Sixth Amendment) Act 1971, The Constitution (Twenty-Sixth Amendment) Act 1971 abolished privy purses and special privileges of former princely rulers. It removed Articles 291 and 362 and inserted Article 363A, ending official recognition of rulers.
[11] *Raghunathrao Ganpatrao v Union of India* (1993) Supp (1) SCC 191
[12] *Maharaja Gaj Singh v State of Rajasthan and others* 1981 SCC OnLine Raj 275 (Raj HC)
[13] *Maharaj Devi Singh v H.H. Maharaja Gaj Singh and others* 1982 SCC OnLine Raj 358 (Raj HC)

The Rajasthan High Court has also made decisions about taxes on royal properties. In the case of Commissioner of Gift Tax v. H.H. Maharaja Gaj Singh ji,[14]They said that the value of one palace is exempt from tax, and this exemption stays even if part of the palace is used for business, as long as the ruler lives there.

Contemporary conflicts involving royal families also exhibit this judicial approach. Private property, succession, and corporate governance have been the main issues decided in litigation about Man Singh II, who is the former king of Jaipur, and now there is a dispute regarding his property [15] descendants and disagreements within the Mewar royal family involving Arvind Singh Mewar.[16] Courts have handled these conflicts within the scope of regular civil law, avoiding discussing the historical roots of such property.

When combined, these advancements show a recurring judicial trend. The economic underpinnings of princely monarchs' status have been maintained by legal recognition and interpretation restriction, even while their formal privileges and political authority have been eliminated. By designating royal assets as private property, restricting the scope of constitutional inquiry, and maintaining fiscal structures that support their continuous retention, courts have significantly contributed to this process. In recent times, the tax exemption granted by the royals of Rajasthan has been a topic of discussion in every house in Rajasthan. Now the question is: how are they able to get this much tax exemption when common people are forced to pay?

Taxation and the Reality Behind the "₹1 Tax" Claim

The recent local newspaper article (Danik Bhaskar) asserted that the royal family of Jodhpur pays "₹1 tax". Which is not legally proven, but it is true that under the blanket of a charitable trust, which is the Mehrangarh Museum Trust [17]they get exemptions from taxes.

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[14] *Commissioner of Gift Tax v. H.H. Maharaja gaj singh ji* ,1996 218 ITR 133 (Raj HC)

[15] "This is the ongoing property dispute involving the former royal family of Udaipur. The Supreme Court has heard a challenge to the will of Arvind Singh Mewar. Lakshyaraj Singh Mewar, the son of Arvind Singh Mewar, a former member of the royal family, and his daughter Padmaja Kumari Parmar are at odds.", English Bhaskar,136706081.htmlhttps://www.bhaskarenglish.in/local/rajasthan/news/udaipur-royal-family-property-dispute-reaches-supreme-court-over-arvind-singh-mewar-will-136706081.html

[16] "It is related to deciding of the ownership of the royal family over the 145-year-old Sawai Man Singh Town Hall, or Old Vidhan Sabha now proposed to be converted into a Heritage Museum?", Dhananjay Mahapatra, 'Jaipur royal family wants state to return 140-year-old Town Hall: SC to decide whether claim justified as per 1949 merger covenant,2025', accessed 19 March, 2026

[17] Mehrangarh,< https://www.mehrangarh.org/>accessed 19 March, 2026

Although there is no explicit legal provision allowing such a nominal tax payment, the combination of tax exemptions, concessional valuation methods, and the identification of palace properties as residential assets has significantly reduced the effective tax burden on such properties.

Even judicial interpretation has helped in giving ways to be exempt from tax. In cases involving royal properties, the Supreme Court has acknowledged exemptions where such assets are used as residences, even when a portion of the property is used for commercial purposes. Large estates can now earn income while still receiving advantageous tax treatment through this strategy. [18] In recent years, due to the commercial usage of royal properties, the legal composition has become more complex. Particularly in the hotel industry, properties like Umaid Bhawan Palace serve as both private houses and profitable businesses. Despite their significant commercial use, these properties are nevertheless classified as private residential assets, which presents classification issues. The fact that tax exemptions are still available in these situations raises significant concerns about the justification for preferential treatment.

In general, rather than rigorously examining historical privilege, judicial and administrative methods in this area reflect a larger propensity to accommodate it within modern legal frameworks.

Conclusion

A major conflict between constitutional principles and legal practice is shown by the continued existence of royal property regimes in Jodhpur. Although the Indian Constitution is based on the ideas of social justice and equality, the judicial system has, in reality, maintained important aspects of pre-existing privilege.

The post-independence designation of royal property is where this conflict is most noticeable. Redistributive changes were essentially shielded from assets that were acknowledged as private property. High-value royal assets like palaces and urban estates were not covered by legislative measures, which were intended to restructure land ownership in Rajasthan.

Tax breaks, favourable valuation criteria, and judicial interpretation have established an

[18] Times of India, 'Who owns the iconic Umaid Bhawan Palace in Jodhpur and how did it become India's most valuableproperty',2026<http://timesofindia.indiatimes.com/articleshow/128418982.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, >accessed 19 March ,2026

underlying reality that is reflected in the notion that royal possessions are subject to minimal taxation. When taken as a whole, these factors reduce the real financial burden on these possessions while preserving the economic advantages derived from their historical significance.

The Jodhpur experience serves as an example of how formal equality can only go so far in a constitutional democracy. Despite the dismantling of political authority, institutional norms and legally recognised property rights allow economic privilege to endure. This highlights a discrepancy between the legal system's actual implementation of equality and its normative promise.

It is imperative to undertake a critical re-evaluation of the judiciary's role regarding the classification of royal property. The long-standing characterisation of "Royal property" as private property allows a privilege to function without proper Constitutional scrutiny. The judiciary has not evaluated the substantive origins of many of the assets classified as private when, in fact, they were granted as an expression of the sovereign authority rather than true private ownership.

To determine the true nature of these properties and whether the mere use of trust structures or residential classifications is sufficient justification to obtain tax-exempt status for legal protections, or if these arrangements are merely an abuse of legal constructs intended for use within legitimate private or charitable endeavours, the judiciary must now take a more active role in interpreting these.

To ensure that constitutional justice regarding equality can be properly implemented and to stop historical privilege from continuing, the judiciary's oversight in this area must be expanded and strengthened.