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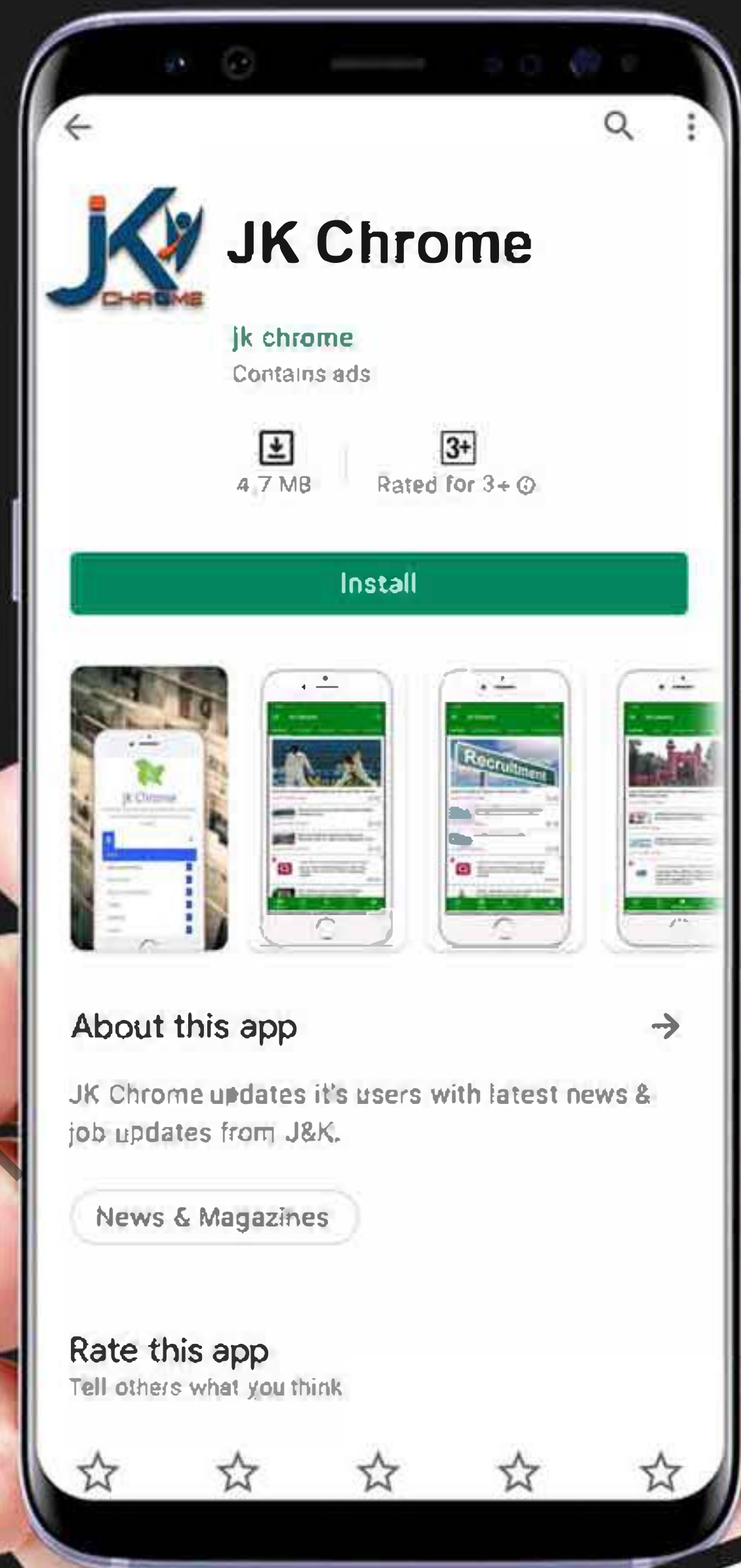
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Evolution of Indian Constitution

Although the systems of ancient India do have their reflections in the Constitution of India, the direct sources of the Constitution lie in the administrative and legislative developments of the British period. A concise and chronological description of the Acts, documents and events that culminated in the framing of the world's largest written Constitution is given here.

Administrative & Legislative Reforms Before 1857 Regulating Act of 1773

1. This Act was based on the report of a committee headed by the British Prime Minister Lord North.
2. Governance of the East India Company was put under British parliamentary control.
3. The Governor of Bengal was nominated as Governor General for all the three Presidencies of Calcutta, Bombay and Madras. Warren Hastings was the first such Governor General.
4. A Supreme Court was established in Calcutta (now Kolkata).
5. Governor General was empowered to make rules, regulations and ordinances with the consent of the Supreme Court.

Pitts India Act of 1784

1. It was enacted to improve upon the provisions of Regulating Act of 1773 to bring about better discipline in the Company's system of administration.
2. A 6-member Board of Controllers was set up which was headed by a minister of the British Government. All political responsibilities were given to this board.
3. Trade and commerce related issues were under the purview of the Court of Directors of the company.
4. Provinces had to follow the instructions of the Central Government, and Governor General was empowered to dismiss the failing provincial government.

Charter Act of 1793

1. Main provisions of the previous Acts were consolidated in this Act.

2. Provided for the payment of salaries of the members of the Board of Controllers from Indian revenue.
3. Courts were given the power to interpret rules and regulations.

Charter Act of 1813

1. Trade monopoly of the East India Company came to an end.
2. Powers of the three Councils of Madras, Bombay and Calcutta were enlarged, they were also subjected to greater control of the British Parliament.
3. The Christian Missionaries were allowed to spread their religion in India.
4. Local autonomous bodies were empowered to levy taxes.

Charter Act of 1833

1. The Governor General and his Council were given vast powers. This Council could legislate for the whole of India subject to the approval of the Board of Controllers.
2. The Council got full powers regarding revenue, and a single budget for the country was prepared by the Governor General.
3. The East India Company was reduced to an administrative and political entity and several Lords and Ministers were nominated as ex-officio members of the Board of Controllers.
4. For the first time the Governor-General's Government was known as the 'Government of India' and his Council as the 'Indian Council'.

Charter Act of 1853

1. This was the last of the Charter Acts and it made important changes in the system of Indian legislation.
2. This Act followed a report of the then Governor General Dalhousie for improving the administration of the company.
3. A separate Governor for Bengal was to be appointed.
4. Legislative and administrative functions of the Council were separately identified.

5. Recruitment of the Company's employees was to be done through competitive exams.
6. British Parliament was empowered to put Company's governance of India to an end at any suitable time.

Administrative & Legislative Reforms After 1857

Government of India Act, 1858

1. British Crown decided to assume sovereignty over India from the East India Company in an apparent consequence of the Revolt of 1857, described as an armed sepoy mutiny by the British historians and remembered as the First War of Independence by the Indians.
2. The first statute for the governance of India, under the direct rule of the British Government, was the Government of India Act, 1858.
3. It provided for absolute (British) imperial control over India without any popular participation in the administration of the country.
4. The powers of the crown were to be exercised by the Secretary of State for India, assisted by a council of fifteen members, known as the Council of India.
5. The country was divided into provinces headed by a Governor or Lieutenant-Governor aided by his Executive Council.
6. The Provincial Governments had to function under the superintendence, direction and control of the Governor-General in all matters.
7. All the authority for the governance of India was vested in the Governor-General in Council who was responsible to the Secretary of State.
8. The Secretary of State was ultimately responsible to the British Parliament.

Indian Councils Act, 1861

1. This is an important landmark in the constitutional history of India. By this Act, the powers of the crown were to be exercised by the Secretary of State for India, assisted by a council of fifteen members (known as the Council of India). The Secretary of State, who was responsible to the British Parliament, governed India through the Governor General, assisted by an Executive council.

2. This Act enabled the Governor General to associate representatives of the Indian people with the work of legislation by nominating them to his expanded council.
3. This Act provided that the Governor General's Executive Council should include certain additional non-official members also while transacting legislative business as a Legislative Council. But this Legislative Council was neither representative nor deliberative in any sense.
4. It decentralised the legislative powers of the Governor General's Council and vested them in the Governments of Bombay and Madras.

Indian Councils Act, 1892

1. The non-official members of the Indian Legislative Council were to be nominated by the Bengal Chamber of Commerce and the Provincial Legislative Councils while the non-official members of the Provincial Councils were to be nominated by certain local bodies such as universities, district boards, municipalities, zamindars etc.
2. The Councils were to have the power of discussing the Budget and dressing questions to the Executive.

Morley-Minto Reforms and the Indian Councils Act, 1909

Reforms recommended by the then Secretary of States for India (Lord Morley) and the Viceroy (Lord Minto) were implemented by the Indian Councils Act, 1909. The maximum number of additional members of the Indian Legislative Council (Governor-General's Council) was raised from 16 (under the Act of 1892) to 60 (excluding the Executive Councillors).

The size of Provincial Legislative Councils was enlarged by including elected non-official members so that the official majority was gone.

An element of election was also introduced in the Legislative Council at the centre also but here the official majority there was maintained.

The Legislative Councils were empowered to move resolutions on the Budget, and on any matter of public interest, except certain specified subjects, such as the Armed forces, Foreign Affairs and the Indian States.

It provided, for the first time, for separate representation of the Muslim community and thus sowed the seeds of separatism.

The Government of India Act, 1915

- This act was passed to consolidate the provisions of the preceding Government of India Acts.

Montague-Chelmsford Report and the Government of India Act, 1919

- 1.** The then Secretary of State for India Mr. E.S. Montagu and the Governor General Lord Chelmsford formulated proposals for the Government of India Act, 1919.
- 2.** Responsible Government in the Provinces was to be introduced, without impairing the responsibility of the Governor (through the Governor General), for the administration of the Province, by resorting to device known as 'Dyarchy' or dual government.
- 3.** The subjects of administration were to be divided into two categories Central and Provincial.
- 4.** Central subjects were those which were exclusively kept under the control of the Central Government.
- 5.** The provincial subjects were sub-divided into 'transferred' and 'reserved' subjects.
- 6.** The 'transferred subjects' were to be administered by the Governor with the aid of Ministers responsible to the Legislative Council in which the proportion of elected members was raised to 70 percent.
- 7.** The 'reserved subjects' were to be administered by the Governor and his Executive Council with no responsibility to the Legislature.
- 8.** The previous Central control over the provinces in administrative, legislative and financial matters was relaxed. Sources of revenue were divided into two categories so that the provinces could run the administration with the revenue raised by the provinces themselves.
- 9.** The provincial budget was separated from the central budget.
- 10.** The provincial legislature was empowered to present its own budget and levy its own taxes relating to the provincial sources of revenue.
- 11.** The Central Legislature, retained power to legislate for the whole country on any subject.
- 12.** The control of the Governor General over provincial legislation was retained by providing that a Provincial Bill, even though assented to by the Governor, would become law only when assented to also by the Governor General.
- 13.** The Governor was empowered to reserve a Bill for the consideration of the Governor General if it was related to some specified matters.

14. The Governor General in Council continued to remain responsible only to the British Parliament through the Secretary of State for India.
15. The Indian Legislature was made more representative and, for the first time 'bi-cameral'.
16. The Upper House was named the Council of State. This was composed of 60 members of whom 34 were elected.
17. The Lower House was named the Legislative Assembly. This was composed of about 144 members of whom 104 were elected.
18. The electorates were arranged on a communal and sectional basis, developing the Morley-Minto device further.
19. The Governor General's overriding powers in respect of Central legislation were retained as follows : (a) His prior sanction was required to introduce Bills relating to certain matters; (b) he had the power to veto or reserve for consideration of the Crown any Bill passed by the Indian Legislature; (c) he had the converse power of certifying Bill or any grant refused by the Legislature; (d) he could make Ordinances, in case of emergency.

Simon Commission

- This commission, headed by Sir John Simon, constituted in 1927 to inquire into the working of the Act of 1919, placed its report in 1930. The report was examined by the British Parliament and the Government of India Bill was drafted accordingly.

The Government of India Act, 1935

1. The Act of 1935 prescribed a federation, taking the Provinces and the Indian States (native states) as units.
2. It was optional for the Indian States to join the Federation, and since they never joined, the Federation never came into being.
3. The Act divided legislative powers between the Centre and Provinces.
4. The executive authority of a Province was also exercised by a Governor on behalf of the Crown and not as a subordinate of the Governor General.
5. The Governor was required to act with the advice of Ministers responsible to the Legislature.

6. In certain matters, the Governor was required to act 'in his discretion' without ministerial advice and under the control and directions of the Governor General, and, through him, of the Secretary of State.
7. The executive authority of the Centre was vested in the Governor General (on behalf of the Crown).
8. Counsellors or Council of Ministers responsible to the Legislature was not appointed although such provisions existed in the Act of 1935.
9. The Central Legislature was bi-cameral, consisting of the Federal Assembly and the Council of State.
10. In six provinces, the legislature was bi-cameral, comprising a Legislative Assembly and a Legislative Council. In other provinces, the Legislature was uni-cameral.
11. Apart from the Governor General's power of veto, a Bill passed by the Central Legislature was also subject to veto by the Crown.
12. The Governor General could prevent discussion in the Legislature and suspend the proceedings on any Bill if he was satisfied that it would affect the discharge of his special responsibilities.
13. The Governor General had independent powers of legislation, concurrently with those of the Legislature.
14. On some subjects no bill or amendment could be introduced in the* Legislature without the Governor-General's previous sanction.
15. A three-fold division in the Act of 1935— There was a Federal List over which the Federal Legislature had exclusive powers of legislation. There was a Provincial List of matters over which the Provincial Legislature had exclusive jurisdiction. There was a Concurrent List also over which both the Federal and Provincial Legislature had competence.
16. The Governor-General was empowered to authorise either the Federal or the Provincial Legislature to enact a law with respect to any matter which was not enumerated in the above noted Legislative Lists.
17. Dominion Status, which was promised by the Simon Commission in 1929, was not conferred by the Government of India Act, 1935.

Cripps Mission

- In March 1942, Sir Stafford Cripps, a member of the British cabinet came with a draft declaration on the proposals of the British Government.
- These proposals were to be adopted at the end of the Second World War provided the Congress and the Muslim League could accept them.

According to the proposals

- The Constitution of India was to be framed by an elected Constituent Assembly by the Indian people.
- The Constitution should give India Dominion Status.
- There should be one Indian Union comprising all the Provinces and Indian States;
- Any Province (or Indian State) not accepting the Constitution would be free to retain its constitutional position existing at that time and with such non-acceding Provinces the British Government could enter into separate Constitutional arrangements.

Cabinet Mission Plan

1. In March 1946, Lord Attlee sent a Cabinet Mission to India consisting of three Cabinet Ministers, namely Lord Pethick Lawrence, Sir Stafford Cripps and Mr. A.V. Alexander.
2. The object of the Mission was to help India achieve its independence as early as possible, and to set up a Constituent Assembly.
3. The Cabinet Mission rejected the claim for a separate Constituent Assembly and a separate State for the Muslim.
4. According to Cabinet Mission Plan there was to be a Union of India, comprising both British India and the States, and having jurisdiction over the subjects of Foreign Affairs, Defence and Communication. All residuary powers were to be vested in the Provinces and the States.
5. The Union was to have an Executive and a Legislature consisting of representatives of the Provinces and the States.
6. Any decision involving a major communal issue in the legislature was to require a majority support of representatives of each of the two major communities present and voting as well as a majority of all the members present and voting.
7. The provinces could form groups with executives and legislatures, and each group could be competent to determine the provincial subjects.

The Mountbatten Plan

- The plan for transfer of power to the Indians and partition of the country was laid down in the Mountbatten Plan.
- It was given a formal shape by a statement made by the British Government on 3rd June, 1947.

The Indian Independence Act, 1947 of the British Parliament

1. In pursuance of this Act, the Government of India Act, 1935, was amended by the Adaptation Orders, both in India and Pakistan, for setting up an interim Constituent Assembly to draw up the future Constitution of the country.
2. From the 15th August, 1947 India ceased to be a Dependency, and the suzerainty of the British Crown over the Indian States and the treaty relations with Tribal Areas lapsed from that date.
3. The office of the Secretary of State for India was abolished.
4. The Governor-General and the Governors lost extraordinary powers of legislations to compete with the Legislature.
5. The Central Legislature of India, composed of the Legislative Assembly and the Council of States, ceased to exist on August 14, 1947.
6. The Constituent Assembly itself was to function also as the Central Legislature with complete sovereignty.

Different Sources of the Indian Constitution

Although the skeleton of the constitution was derived from the Government of India Act 1935, many provisions were imported from other constitutions of the world. Some of them are listed below along with the Government of India Act, 1935 :

Government of India Act, 1935 : This Act formed the basis or 'blueprint' of the constitution of India with the features of Federal system, office of Governor, emergency powers etc. Besides, the Constitution of India has borrowed from the—

Constitution of Britain : Law making procedures, Rule of law, Single citizenship, Bicameral Parliamentary system, office of CAG.

Constitution of USA : Independence of judiciary, judicial review, fundamental rights, removal of Supreme Court and High Court judges, Preamble and functions of President and Vice-president.

Constitution of Canada : Federation with strong Centre, to provide residuary powers to the Centre, Supreme Court's advisory jurisdiction.

Constitution of Ireland : Directive Principles of State policy, method of presidential elections, and the nomination of members to Rajya Sabha by the President.

Weimar Constitution of Germany : Provisions concerning the suspension of fundamental rights during emergency.

Constitution of Australia : Idea, of the Concurrent List, Trade and Commerce provisions.

Constitution of South Africa : Amendment with 2/3rd majority in Parliament and election of the Members of Rajya Sabha on the basis of proportional representation.

Constitution of France : Republican System, / Principles of Liberty, Equality and Fraternity.

Constitution of former USSR : Fundamental Duties, Ideals of justice in Preamble.

Constituent Assembly and Making of the Constitution

- 1.** The Cabinet Mission envisaged the establishment of a Constituent Assembly to frame a Constitution for the country. Members of the Constituent Assembly were elected by the Provincial Legislative Assemblies.
- 2.** Each Province and each Indian State were allotted seats in proportion of its population, roughly in the ratio of one to a million. The seats so ascertained were distributed among the main communities in each Province. The main communities recognised were Sikh, Muslim and General.
- 3.** The total number of members of the Constituent Assembly was 385, of whom 93 were representatives from the Indian States and 292 from the Provinces (British India). After the partition of India number of members of the Constituent Assembly came to 299, of whom 284 were actually present on the 26th November, 1949 and signed on the finally approved Constitution of India. The Constituent Assembly, which had been elected for undivided India, held its first meeting on December 9, 1946, and reassembled on August 14, 1947, as the sovereign Constituent Assembly for the dominion of India.
- 4.** It took two years, eleven months and eighteen days for the Constituent Assembly to finalise the Constitution.
- 5.** Objective Resolution was moved in the first session of the Constituent Assembly (on 13 December, 1946) by Pandit Jawaharlal Nehru which was adopted after considerable deliberation and debate in the Assembly on 22 January, 1947. The following objectives were embodied in the resolution :
- 6.** The principles of the Constitution were outlined by various committees of the Assembly, and there was a general discussion on the reports of these Committees. The Assembly appointed the Drafting Committee with Dr. B.R. Ambedkar as the Chairman on August 29, 1947.
- 7.** The Drafting Committee, headed by Dr. B.R. Ambedkar, submitted a Draft constitution of India to the President of the assembly on 21 February 1948.
- 8.** The members of Drafting Committee were N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Ayyar, K.M. Munshi, Mohd. Saadullah, B.L. Mitter (later replaced by N. Madhava Rao), Dr. D.P. Khaitan (replaced on death by T.T. Krishnamachari).
- 9.** The third and final reading of the draft was completed on November 26, 1949. On this date, the signature of the President of the Assembly was appended to it and the Constitution was declared as passed.

10. The provisions relating to citizenship, elections and provisional Parliament etc. were implemented with immediate effect, that is, from the 26th November, 1949. The rest of the provisions of the constitution came into force on January 26, 1950 and this date is referred to in the Constitution as the date of its commencement.



Important Articles of the Constitution

Articles	Subject
Part I Art. 1-4	The Union and its territory.
Part II Art. 5-11	Citizenship
Part III	Fundamental Rights
Art. 12	Definition
Art. 13	Laws inconsistent with or in derogation of the fundamental rights
Art. 12	Definition
Art. 13	Laws inconsistent with or in derogation of the fundamental rights
Right to Equality	
Art. 14	Equality before law
Art. 15	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
Art. 16	Equality of opportunity in matters of public employment
Art. 17	Abolition of untouchability
Art. 18	Abolition of titles
Right to Freedom	
Art. 19	Protection of certain rights regarding freedom of speech, etc.
Art. 20	Protection in respect of conviction for offences
Art. 21	Protection of life and personal liberty
21A.	Right to education
Art. 22	Protection against arrest and detention in certain cases
Right against Exploitation	
Art. 23	Prohibition of traffic in human beings and forced labour
Art. 24	Prohibition of employment of children in factories, etc.
Right to Freedom of Religion	
Art. 25	Freedom of conscience and free profession, practice and propagation of religion
Art. 26	Freedom to manage religious affairs

Art. 27	Freedom as to payment of taxes for promotion of any particular religion
Art. 28	Freedom as to attendance at religious instruction or religious worship in certain educational institutions
Cultural and Educational Rights	
Art. 29	Protection of interests of minorities
Art. 30	Right of minorities to establish and administer educational institutions
Saving of certain Laws	
Art. 31A	Saving of laws providing for acquisition of estates, etc.
Art. 31B	Validation of certain Acts and Regulations
Art. 31C	Saving of laws giving effect to certain directive principles
Right to Constitutional Remedies	
Art. 32	Remedies for enforcement of rights conferred by this Part
Art. 33	Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.
Art. 34	Restriction on rights conferred by this Part while martial law is in force in any area
Art. 35	Legislation to give effect to the provisions of this Part
Part IV Directive Principles of State Policy	
Art. 36	Definition
Art. 37	Application of the principles contained in this Part
Art. 38	State to secure a social order for the promotion of welfare of the people
Art. 39	Certain principles of policy to be followed by the State
Art. 39A	Equal justice and free legal aid
Art. 40	Organisation of village panchayats
Art. 41	Right to work, to education and to public assistance in certain cases
Art. 42	Provision for just and humane conditions of work and maternity relief
Art. 43	Living wage, etc. for workers

Art. 43A	Participation of workers in management of industries Art.
43B	The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.
Art. 44	Uniform civil code for the citizens
Art. 45	Provision for early childhood care and education to children below the age of six years
Art. 46	Promotion of educational and economic interest of Scheduled Castes, Scheduled Tribes and other weaker sections
Art. 47	Duty of the State to raise the level of nutrition and the standard of living and to improve public health
Art. 48	Organisation of agriculture and animal husbandry
Art. 48A	Protection and improvement of environment and safeguarding of forests and wild life
Art. 49	Protection of monuments and places and objects of national importance
Art. 50	Separation of judiciary from executive
Art. 51	Promotion of international peace and security
Part VA : Fundamental Duties	
Art. 51A	Fundamental duties.
Part V The Union	
Chapter-I : The Executive	
Art. 52	The President of India
Art. 53	Executive power of the Union
Art. 54	Election of President
Art. 61	Procedure for impeachment of the President
Art. 63	The Vice-President of India
Art. 64	The Vice-President to be ex-officio Chairman of the Council of States
Art. 65	The Vice-President to act as President or to discharge his functions during casual

	vacancies in the office, or during the absence of President
Art. 66	Election of Vice-President
Art. 72	Power of President to grant pardons, etc. and to suspend, remit or commute sentences in certain cases
Art. 74	Council of Ministers to aid and advise President
Art. 76	Attorney-General for India
Chapter-II : Parliament	
Art. 79	Constitution of Parliament
Art. 80	Composition of the Council of States (Rajya Sabha)
Art. 81	Composition of the House of the People (Lok Sabha)
Art. 83	Duration of Houses of Parliament
Art. 84	Qualification for membership of Parliament
Art. 85	Sessions of Parliament, prorogation and dissolution
Art. 86	Right of President to address and send messages to Houses
Art. 87	Special address by the President
Art. 88	Rights of Ministers and Attorney General as respects Houses
Art. 89	The Chairman and Deputy Chairman of the Council of States
Art. 90	Vacation and resignation of, and removal from, the office of Deputy Chairman
Art. 93	The Speaker and Deputy Speaker of the House of the People
Art. 94	Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker
Art. 95	Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker
Art. 98	Secretariat of Parliament
Art. 99	Oath or affirmation by members
Art. 100	Voting in Houses, power of Houses to act notwithstanding vacancies and quorum

Art. 105	Powers, privileges, etc. of the Houses of Parliament and of the members and committees thereof
Art. 106	Salaries and allowances of members
Art. 107	Provisions as to introduction and passing of Bills
Art. 108	Joint sitting of both Houses in certain cases
Art. 109	Special procedure in respect of Money Bills
Art. 110	Definition of "Money Bills"
Art. 111	Assent to Bills
Art. 112	Annual financial statement (Budget)
Art. 113	Procedure in Parliament with respect to estimates
Art. 114	Appropriation Bills
Art. 115	Supplementary, additional or excess grants
Art. 116	Votes on account, votes of credit and exceptional grants
Art. 117	Special provisions as to financial Bills
Art. 118	Rules of procedure
Art. 119	Regulation by law of procedure in Parliament in relation to financial business
Art. 120	Language to be used in Parliament
Art. 121	Restriction on discussion in Parliament
Art. 122	Courts not to inquire into proceedings of Parliament
Chapter - III Legislative Powers of the President	
Art. 123	Power of President to promulgate Ordinances during recess of Parliament
Chapter-IV : The Union Judiciary	
Art. 124	Establishment and Constitution of Supreme Court
Art. 125	Salaries, etc. of Judges
Art. 126	Appointment of acting Chief Justice
Art. 127	Appointment of ad hoc Judges
Art. 128	Attendance of retired Judge at sittings of the Supreme Court
Art. 129	Supreme Court to be a Court of record
Art. 130	Seat of Supreme Court
Art. 131	Original jurisdiction of Supreme Court

Art. 132	Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases
Art. 133	Appellate jurisdiction of Supreme Court in appeals from High Court in regard to civil matters
Art. 134	Appellate jurisdiction of Supreme Court in regard to criminal matters
Art. 134A	Certificate for appeal to the Supreme Court
Chapter - III Legislative Powers of the President	
Art. 123	Power of President to promulgate Ordinances during recess of Parliament
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Art. 131	Original jurisdiction of Supreme Court
Art. 132	Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases
Art. 133	Appellate jurisdiction of Supreme Court in appeals from High Court in regard to civil matters
Art. 134	Appellate jurisdiction of Supreme Court in regard to criminal matters
Art. 134A	Certificate for appeal to the Supreme Court
Art. 135	Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court
Art. 136	Special leave to appeal by the Supreme Court
Art. 137	Review of judgements or orders by the Supreme Court
Art. 138	Enlargement of the jurisdiction of the Supreme Court

Art. 141	Law declared by Supreme Court to be binding on all Courts
Art. 143	Power of President to consult Supreme Court
Art. 144	Civil and judicial authorities to act in aid of the Supreme Court
Chapter-V : Comptroller and Auditor-General of India	
Art. 148	Comptroller and Auditor-General of India
Art. 149	Duties and powers of the Comptroller and Auditor-General
Part VI The States	
Art. 152-237	The Government at the State level : The Executive, The State Legislature, The High Courts and Subordinate Courts
Part VIII	
Art. 239-241	The Union Territories
Part IX	
Art. 243 to 243-0	The Panchayats
Part IXA	
Art. 243-P to 243-ZG	The Municipalities
Part IXB	
Art. 243-ZH to 243-ZT	The Co-operative Societies
Part X	
Art. 244-244A	The Scheduled and Tribal Areas
Part XI	
Art. 245-263	Relations between The Union and the States
Part XII	
Art. 264-300	Finance, property, contracts and suits; Distribution of revenue between Union and States; Finance Commission; Borrowing, Property, Contracts, Rights, Liabilities, Obligations and Suits
Obligations and Suits	
Art. 300A	Right to Property
Part XIII	
Art. 301-307	Trade, commerce and intercourse within India
Part XIV: Services Under The Union and The States	

Art. 309	Recruitment and conditions of service of persons serving the Union or a State
Art. 310	Tenure of office of persons serving the Union or a State
Art. 311	Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State
Art. 312	All-India Services
Art. 315	Public Service Commissions for the Union and for the States
Art. 316	Appointment and term of office of members
Art. 317	Removal and suspension of a member of a Public Service Commission
Art. 318	Power to make regulations as to conditions of service of members and staff of the Commission
Art. 320	Functions of Public Service Commissions
Art. 321	Power to extend functions of Public Service Commissions
Art. 323	Reports of Public Service Commissions
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Part XV Elections	
Art. 324	Superintendence, direction and control of elections to be vested in an Election Commission
Art. 325	No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex
Art. 326	Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage
Art. 327	Power of Parliament to make provision with respect to elections to legislatures
Art. 328	Power of Legislature of a State to make provision with respect to elections to such Legislature
Art. 329	Bar to interference by Courts in electoral matters
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Art .330-342	Special provisions for certain classes
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Art. 352 - 360	Emergency Provisions
Part XIX Miscellaneous	
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Art. 363	Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.
Art. 363A	Recognition granted to Rulers of Indian States to cease and privy purses to be abolished
Art. 364	Special provisions as to major ports and aerodromes Art. 365 Effect of failure to comply with, or to give effect to, directions given by the Union
Part XX	
Art. 368	Amendment of the Constitution
Part XXI	
Art. 369-392	Temporary, Transitional and Special Provisions Special status of States
Part XXII	
Art. 393-395	Short Title, Commencement, Authoritative text in Hindi and Repeals

Schedules of the Indian Constitution

The Constitution of India at the time of its adoption had only eight Schedules to which four more were added during the succeeding sixty-five years.

1st Schedule : 28 States and 7 Union Territories with Territorial demarcations

2nd Schedule :

Part 'A' : Salary and emoluments of the President and Governors of the States

Part 'B' : Omitted

Part 'C' : Salary and emoluments of the Speaker / Deputy Speaker or Chairman / Vice Chairman of the Lok Sabha, Rajya Sabha and State Legislative Assemblies or Councils.

Part 'D' : Salary and emoluments of the judge of the Supreme Court and High Courts

Part 'E' : Salary and emoluments of the Comptroller and Auditor General of India

3rd Schedule : Forms of oath and affirmations of members of legislatures, ministers and judges.

4th Schedule : Allocation of seats to States and Union Territories in the Rajya Sabha.

5th Schedule : Administration and control of Scheduled Areas and STs.

6th Schedule : Administration of Tribal Areas of North-Eastern States

7th Schedule : Distribution of power between the Union and the State Government. (Union List, State List and Concurrent List)

8th Schedule : Description of 22 languages recognised by the Constitution.

9th Schedule : Validation of certain Acts and Regulations

10th Schedule : Provisions as to disqualification on ground of defection (Anti-defection Law introduced by the 52nd Constitutional Amendment Act.). This Schedule followed latest developments by 91st amendment to the constitution in 2003.

11th Schedule : Powers, authority and responsibilities of Panchayats, 29 subjects over which the Panchayats have jurisdiction (refer to the 73rd Constitutional Amendment Act).

12th Schedule : Powers, authority and responsibilities of Municipalities, 18 subjects over which the Municipalities have jurisdiction (refer to the 74th Constitutional Amendment Act).

Citizenship

1.The Constitution of India provides for a single and uniform citizenship for whole of India.

2.Citizenship of India was granted to every person who domiciled in the territory of India at the commencement of the constitution and who was bom in the territory of India or —

- Either of whose parents was bom in the territory of India or
- Who had been ordinarily residing in the territory of India for not less than five years immediately preceding commencement of the Constitution.

3.Indian citizens have the following rights under the Constitution which aliens do not possess:

- Some of the Fundamental Rights enumerated in part III of the Constitution, e. g. Articles 15, 16, 19, 29, 30.
- Only citizens are eligible for offices of the President, Vice-President, Judge of the Supreme Court or a High Court, Attorney General, Governor of a State, Member of a legislature etc.
- Only citizens have the right to vote.

4.Enemy aliens are not entitled to the benefit of the procedural provisions in clauses (1)-(2) of Article 22 relating to arrest and detention.

5.The Citizenship Act, 1955, provides for the acquisition of Indian citizenship in the following ways :

- Generally, every person born in India on or after January 1950, shall be a citizen of India if either of his parents was a citizen of India at the time of his birth.
- A person who was outside India on or after 26 January; 1950, shall be a citizen of India by descent, if his father was a citizen of India at the time of that person's birth.
- A person can apply for and get registered as a citizen of India by the competent authority if he satisfies the conditions laid down.
- A person residing in India for more than 7 years and having adequate knowledge of a constitutionally recognised Indian language can seek citizenship by naturalisation, provided he is not a citizen of a country where

6.Indian citizens are prevented from becoming citizens by naturalisation.

- If any new territory becomes a part of India, the persons of the territory become citizens of India.

7. Citizenship of India may be lost by :

- Renunciation of citizenship.
- Termination of citizenship, if a citizen of India voluntarily acquires the citizenship of another country.
- Deprivation of citizenship by the Government of India.



Delimitation Commission of India

1. Delimitation Commission or Boundary Commission of India is a Commission established by Government of India under the provisions of the Delimitation Commission Act.
2. The main task of the Commission is to redraw the boundaries of the various assembly and Lok Sabha Constituencies based on a recent census (Art. 82).
3. The representation from each state is not changed during this exercise. However, the number of SC and ST seats in a state are changed in accordance with the census.
4. The Commission in India is a high power body whose order have the force of law and cannot be called in question before any court.
5. These orders come into force on a date to be specified by the President of India in this behalf. The copies of its orders are laid before the House of the People and the state Legislative Assembly concerned, but no modifications are permissible there in by them.
6. In India, such Delimitation Commissions have been constituted 4 times— in 1952, 1963, 1973 and in 2002.
7. The recent Delimitation Commission was set up on 12 July 2002 (after 2001 census) with Justice Kuldip Singh (retd. Judge of Supreme Court of India) as its Chairperson.
8. The recommendation of this commission was approved by the then President Pratibha Patil on 19 February 2008.
9. The Constitution of India was specifically amended in 2002 (84th Amendment Act, 2001, which amended the provisions 170 (3) of Art. 82) not to have delimitation of constituencies till the first census after 2026.
10. The recent delimitation has been done on the basis of census 2001.
11. Election Commissioners of all the States and Union Territories, along-with the Chief Election Commissioner (CEC) of India are the members of the Delimitation Commission.

Election

1. The general election is held on the basis of adult suffrage.
2. Every person who is a citizen of India and not less than 18 years of age is entitled to vote at the election, provided he is not disqualified by law.
3. Election to Parliament or the Legislature of a State can be called in question only by an election petition in the High Court, with appeal to the Supreme Court [Art. 329].
4. The exclusive forum for adjudicating disputes relating to the election of the President and Vice-president is the Supreme Court [Art. 71].

Election Commission

1. In order to supervise the entire procedure and machinery for election and for some other ancillary matters, the Constitution provides for this independent body [Art. 324].
2. The Election Commission is independent of executive control to ensure a fair election.
3. The Election Commission consists of a Chief Election Commissioner and two other Election Commissioners.
4. President can determine the number of Election Commissioners [Art. 324(2)].

Chief Election Commissioner (CEC)

1. The President appoints the Chief Election Commissioner who has a tenure of 6 years, or up to the age of 65 years, whichever is earlier.
2. The CEC enjoys the same status and receives the same salary and perks as available to judges of the Supreme Court.
3. The Chief Election Commissioner can be removed from his office only in a manner and on the grounds prescribed for removal of judge of the Supreme Court.
4. Other Election Commissioners can be removed by the President on the recommendation of the Chief Election Commissioner.
5. The Election Commission has the power of superintendence, direction and conduct of all elections to Parliament and the State Legislatures and of elections to the offices of the President and Vice-President {Ref.: Art. 324(1)}.

6. Regional Commissioners can be appointed by the President in consultation with the Election Commission for assisting the Election Commission {Ref.: Art. 324(4)}.

The main functions of the Election Commission are :

1. The preparation of electoral rolls before each general election and registration of all eligible voters.
2. The delimitation of constituencies.
3. The recognition of various political parties and allotment of election symbol to these parties.
4. The preparation of a code of conduct for the political parties.
5. The tendering of advice to the President regarding disqualification of the members of the parliaments etc.
6. The appointment of election officers to look into disputes concerning election arrangements.
7. The preparation of roster for central broadcasts and telecasts by various political parties.
8. Keep voters lists up-to-date at all times.
9. To issue identity cards to the voters.

Emergency Provisions

1. President can make proclamation of emergency under Art. 352 in case of war, external aggression or armed rebellion or threat thereof only on recommendation of the Cabinet.
2. Every such proclamation must be laid before Parliament and it ceases to be in operation unless it is approved by resolutions of both Houses of Parliament with special majority within one month from the date of its issue.
3. The proclamation gets a fresh lease of 6 months from the date it is approved by both Houses of Parliament.
4. After the 44th amendment, proclamation of emergency under Art. 352 can be made in respect of whole of India or only a part thereof.
5. During proclamation of emergency the Union can give directions to any State regarding exercise of the executive power {Ref.: Art. 353(a)}.
6. During emergency Parliament can extend the normal life of the Lok Sabha for one year at a time, and not exceeding 6 months after the proclamation has ceased to operate.
7. Normal life of Lok Sabha was extended only once in 1976.
8. During emergency, Parliament can legislate regarding State subjects.
9. During Emergency the President can modify the provisions of the Constitution relating to the allocation of financial resources [Art. 268-279] between the Union and the States by his own Order. Such Order is subject to approval by Parliament [Art. 354] and has no effect beyond the financial year in which the Proclamation itself ceases to operate.
10. **Effects of emergency on Fundamental Rights :**
 - Art. 358 provides that the rights provided by Art. 19, would be nonexistent against the State during emergency.
 - Under Art. 359, the right to move the Courts for the enforcement of the rights can be suspended, by Order of the President.
 - Articles 20 and 21 cannot be suspended during emergency.

11. The first proclamation of emergency under Art. 352 was made by the President on October 26, 1962 in view of Chinese aggression in the NEFA.

12. For the first time on June 25, 1975 proclamation of emergency under Art. 352 was made on the ground of "internal disturbance".

13. A proclamation of emergency for failure of constitutional machinery can be made by the President when the Constitutional Government of State cannot be carried on for any reasons {Ref.: Art. 356}.

14. During Emergency under Art. 352, the Centre does not get power to suspend the State Government.

15. In case of failure of the Constitutional machinery, the State Legislature is suspended and the executive authority of the state is assumed by the President in whole or in part. This is popularly called the 'President's rule'.

16. Under a proclamation of emergency under Art. 352, Parliament can legislate in respect of state subjects only by itself; but under a proclamation under Art. 356 of the other kind, it can delegate its power to legislature for the State, —to the President or any other authority specified by him.

17. Proclamation of emergency for failure of constitutional machinery, can be extended by Parliament upto three years {Art. 356(4), Provision 1}.

Executive of the States

The Governor

1. The Governor of a state is appointed by the President and holds his office at the pleasure of the President.
2. Qualifications for the post of Governor are : ? Should be a citizen of India. ? Should be over 35 years of age. ? Must not hold other office of profit and should not be a Member of the Legislature of the Union or of any State {Ref.: Art. 158}.
3. If a Member of a Legislature is appointed Governor, he ceases to be a Member immediately upon such appointment.
4. The normal term of a Governor's office is five years, but it may be terminated earlier by : ? Dismissal by the President {Ref.: Art. 156 (1)}; ? Resignation {Art. 156(2)}.
5. There is no bar to a person being appointed Governor more than once.

Why an appointed Governor

1. Because, it would save the country from the evil consequences of still another election, run on personal issues.
2. If the Governor is elected by direct vote, then he might consider himself superior to the Chief Minister, leading to friction between the two.
3. The expenses involved and the elaborate machinery of election would not match the powers of Governor.
4. A second rate man of the party may get elected as Governor.
5. Through an appointed Governor the Union Government can maintain its control over the states.
6. The method of election may encourage separatist tendencies.

Powers of Governor

The Governor has no diplomatic or military powers like the President, but he has executive, legislative and judicial powers analogous to those of the President.

Executive : Governor has the power to appoint Council of Ministers, Advocate General and the members of the State Public Service Commission.

1. The Ministers as well as Advocate General hold office during the pleasure of the Governor but the Members of the State Public Service Commission can be removed only by the President on the report of the Supreme Court and in some cases on the happening of certain disqualifications {Ref.: Art. 317}.
2. The Governor has no power to appoint Judges of the State High Court but he is entitled to be consulted by the President in the matter {Ref.: Art. 217(1)}.
3. Like the President the Governor has the power to nominate members of the Anglo-Indian community to the Legislative Assembly of his State.
4. To the Legislative Council, the Governor can nominate persons having special knowledge or practical experience of literature, science, art, cooperative movement and social service {Ref.: Art. 171(5)}.
5. 'Co-operative movement' is not included in the corresponding list for Rajya Sabha.
6. Legislative : Governor is a part of the State Legislature and he has the right of addressing and sending messages, and of summoning, proroguing and dissolving the State Assembly.
7. Judicial : The Governor has the power to grant pardons, reprieves, respites, or remission etc. of punishments {Ref.: Art. 161}.
8. Emergency :The Governor has no emergency powers to counter external aggression or armed rebellion.
9. He has the power to report to the President if Government of the State cannot be carried on in accordance with the Constitution {Ref.:Art. 356}.

Chief Minister and The State Council of Ministers

1. Chief Minister is the head of the State Council of Ministers.
2. The Chief Minister is appointed by the Governor.
3. The other Ministers are appointed by the Governor on the advice of Chief Minister.
4. Any person may be appointed a Minister but he must become member of the legislature within six months of such appointment.

5. The Council of Ministers is collectively responsible to the Legislative Assembly of the state but individually responsible to the Governor.
6. The relation between the Governor and his Ministers is similar to that between the President and his Ministers.

Discretionary functions of the Governor

1. The functions which are specially required by the Constitution to be exercised by the Governor in his discretion are :
2. The Governor of Assam can determine the amount payable by the State of Assam to the District Council, as royalty accruing from licences for minerals. ? Where a Governor is appointed administrator of an adjoining Union Territory, he can function as such administrator independently of his Council of Ministers. ? The President may direct that the Governor of Maharashtra or Gujarat shall have a special responsibility for taking steps for the development of Vidarbha and Saurashtra. ? The Governor of Nagaland has similar special responsibility with respect to law and order in that State. ? Governor of Manipur has special responsibility to secure the proper functioning of the Committee of the Legislative Assembly consisting of the members elected from the Hill Areas of that State. ? Governor of Sikkim has special responsibility for peace and equitable arrangement for ensuring the social and economic advancement. ? The Governor has the power to dismiss an individual Minister at any time. ? Governor can dismiss a Council of Ministers or the Chief Minister, only when the Council of Ministers has lost confidence of the Legislative Assembly and the Governor does not think fit to dissolve the Assembly.

The Advocate General

1. Each state has an Advocate-General, an official corresponding to the Attorney-General of India and having similar functions for the State.
2. He is appointed by the Governor of the state and holds office during the pleasure of the Governor.
3. Only a person who is qualified to be a judge of a High Court can be appointed Advocate-General. He receives such remuneration as the Governor may determine.
4. He has the right to speak and to take part in the proceedings of, but no right to vote in, the Houses of the Legislature of the state {Ref. : Art. 177}.

5. Some states have bi-cameral Legislature (having two Houses). The Seven States having two Houses are Andhra Pradesh, Telangana, Bihar, Karnataka, Maharashtra, Uttar Pradesh and Jammu & Kashmir.
6. In the remaining States, the Legislature is uni-cameral and has the Legislative Assembly only.
7. For creation or abolition of Legislative Council, the Legislative Assembly of the State should pass a resolution by a special majority followed by an Act of Parliament {Ref. : Art. 169}.
8. The size of the Legislative Council may vary, but its membership should not be more than $1/3$ of the membership of the Legislative Assembly but not less than 40.
9. Legislative Council is a partly nominated and partly elected body.
10. Election to the Legislative Council is indirect and in accordance with proportional representation by single transferable vote.
11. $5/6$ of the total number of members of the Council is indirectly elected and $1/6$ is nominated by the Governor.
12. $1/3$ of the total members of the Council is elected by local bodies such as municipalities, district boards.
13. $1/12$ is elected by graduates of three years' standing residing in the State.
14. $1/12$ is elected by teachers of secondary schools or higher educational institutions.
15. $1/3$ is elected by members of the Legislative Assembly from amongst persons who are not members of the Assembly.
16. The remainder is nominated by the Governor from persons specialised in literature, science, art, co-operative movement and social service.
17. The Court cannot question the bona fides or propriety of the Governor's nomination in any case.
18. The Legislative Assembly of each State is directly elected on the basis of adult suffrage from territorial constituencies.
19. The Number of members of the Assembly can not be more than 500 nor less than 60.

20. The Assembly in Mizoram and Goa have only 40 members each. While the Assembly in Sikkim has only 32 members.
21. Governor can nominate one member of the Anglo-Indian community in the Assembly {Ref.: Art. 333}.
22. The duration of the Legislative Assembly is five years. It may be dissolved sooner than five years, by the Governor.
23. The term of five years may be extended by the Parliament in case of a Proclamation of Emergency by the President for not more than one year at a time {Ref.: Art. 172(1).}
24. Legislative Council (Vidhan Parishad) is a permanent body like the Council of State (Rajya Sabha).
25. The Legislative Council is not dissolved. One-third of the members of Legislative Council retire on the expiry of every second year {Ref.: Art. 172(2)}.
26. A Legislative Assembly has its Speaker and Deputy Speaker and a Legislative Council has its Chairman and Deputy Chairman, and the provisions relating to them are analogous to those relating to the corresponding officers of the Union Parliament.

Qualifications for membership of State Legislature are :

1. Should be a citizen of India;
2. For Legislative Assembly, not less than twenty-five years of age and for Legislative Council not less than thirty years of age;
3. Should possess other qualifications prescribed in that behalf by or under any law made by Parliament {Ref.: Art. 173}.

Some Special Features of the Indian Constitution

1. The Constitution of India is the lengthiest and the most comprehensive of all the written Constitutions of the world.
2. Originally the Constitution consisted of 395 Articles divided into 22 parts and 8 Schedules.
3. Now it consists of about 442 Articles divided into 22 parts and 12 Schedules.
4. Unlike the federal Constitutions of the USA and Australia the Indian Constitution lays down provisions relating to the Governmental machinery not only in the Centre but also in the States.
5. The Indian Constitution provides for matters of administrative detail. >- The Constitution contains detailed provisions relating to Centre-State relations including the emergency provisions.
6. Special status has been given to Jammu & Kashmir and some other states such as Nagaland, Mizoram, Assam, Gujarat etc.
7. Under the Constitution the people of India are the ultimate sovereign. The Constitution of India establishes a parliamentary form of Government both at the Centre and in the States.
8. The Indian Constitution, though written, is sufficiently flexible.
9. The Constitution declares certain Fundamental Rights of the individual.
10. It is a unique feature of the Indian Constitution that it makes the citizens' duties a part of the basic law of the land.
11. One of the most important and unique features of the Indian Constitution is the provisions of Directive Principles of State Policy to secure a truly welfare State.
12. The Indian Constitution, distributes the legislative subjects on which the Parliament and State Legislature can enact laws under three lists viz. Union List, State List and Concurrent List.
13. The Indian Constitution unlike other federal Constitutions provides for a single unified judiciary with the Supreme Court at the apex, the High Courts in the middle and the Subordinate Courts at the bottom.

14. There are provisions in the Constitution to ensure independence of judiciary.
15. The Constitution of India has adopted a balance between the American system* of Judicial Supremacy and the British principle of Parliamentary Supremacy.
16. The most remarkable feature of the Indian Constitution is that being a federal Constitution it acquires a unitary character during the time of emergency.
17. Under the Indian Constitution every adult above 18 years of age has been given the right to elect representatives for the legislature without prescribing any qualification based either on sex, property, education or the like.
18. A distinctive feature of the Indian Constitution is that it provides for the establishment of a Secular State. Regardless of their religious beliefs, all Indian citizens enjoy equal rights.
19. The State cannot discriminate against anyone on the ground of religion or caste, nor can it compel anybody to pay taxes for the support of any particular religion.
20. The Indian Constitution has special reservation of seats for the Scheduled Castes and Tribes in public appointments and in educational institutions and in the Union and State Legislatures.
21. An outstanding feature of the Constitution is Panchayati Raj. The idea for organising village Panchayats was provided in the Constitution under Article 40 of Part IV which received Constitutional legitimacy through the 73rd Amendment to the Indian Constitution.

Federal and Unitary Features of the Indian Union

India is different from the United States of America because in United States the federation is based on an agreement between different States, and the States have the right to secede from the Union.

The Indian Constitution has the features both of a federal and unitary forms of Government.

Federal features

1. Distribution of powers between Union and the States has been made as per the three lists.
2. The Union Government as well as the State Governments have to function strictly in accordance with the Constitution. They can neither alter the distribution of powers nor override the dictates of the Constitution.
3. Indian Constitution is entirely written. An amendment to it must be passed by the Parliament and if an amendment affects the federal structure it must be ratified by at least half the State Legislatures.
4. Like other federal states our country also has an independent Judiciary as an essential feature.

Unitary features of the Indian Constitution

1. In a federation, people enjoy dual citizenship, that of the Centre and of the State to which they belong. But the Indian Constitution provides every Indian with single citizenship.
2. The most important subjects are included in the Union List which has been allocated to the centre.
3. The centre can legislate on the subjects in the concurrent list.
4. Residuary powers belong to the Centre.
5. Single Constitutional Framework has been provided for the Centre as well as for the State.
6. The proclamation of National emergency can immediately turn the federal system of India into a Unitary one.

7.In a federation, each State should get equal representation irrespective of its size or population. But in the Rajya Sabha in India, States are represented on the basis of population. Besides, the President has the power to nominate twelve members to the Rajya Sabha.

8.The Governors of the States are appointed by the President and they continue to hold office only during his pleasure.

9.The Indian Constitution provides for single judiciary, a single system of civil and criminal law and command All India Services.

10.The authority of the Comptroller and Auditor General and the Chief Election Commissioner uniformly prevails over the Union as well as States.



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Finance Commission

The Constitution provides for the establishment of a Finance Commission (Art. 270, 273, 275 and 280) by the President. The first Finance Commission was constituted in 1951.

Finance Commissioners of India

1. The Finance Commission consists of a Chairman and four other members.
2. According to the qualifications prescribed by the Parliament, the chairman is selected among persons who have had experience in public affairs, while the members are selected among persons who : ★ are or have been or are qualified to be appointed judges of the High Court; or ★ have special knowledge of the finance and accounts of government; or ★ have had wide experience in financial matters and in administration; or ★ have special knowledge of economics.
3. The members of the commission hold office for such period as may be specified by the President in his orders and are eligible for reappointment.
4. The main functions or duties of the Finance Commission are : ★ To recommend to the President the basis for distribution of the net proceeds of taxes between the centre and states. ★ To recommend the principles which should govern the grants in-aid to be given to states out of the consolidated Fund of India. ★ To tender advice to the President on any other matter referred to the Commission in the interest of sound finance. ★ To suggest amounts to be paid to the states of Assam, Bihar, Odisha and West Bengal in lieu of the assignment of system of export duty on Jute products.
5. The commission submits its recommendations to the President which are generally accepted by the Central Government. The recommendations of the Commission are applicable for a period of five years.

Fundamental Duties

The Fundamental Duties are eleven in number, incorporated in Art. 51A [Part IVA], which has been incorporated by the 42nd Amendment Act, 1976.

Under this Article, it is the duty of every citizen of India :

1. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
2. to cherish and follow the noble ideals which inspired our National Struggle for freedom;
3. to uphold and protect the sovereignty, unity and integrity of India;
4. to defend the country;
5. to promote harmony and the spirit of common brotherhood amongst all the people of India;
6. to value and preserve the rich heritage of our composite culture;
7. to protect and improve the natural environment;
8. to develop the scientific temper and spirit of inquiry;
9. to safeguard public property;
10. to strive towards excellence in all spheres of individual and collective activity.
11. to provide opportunities for education to his child or ward as the case may be between the age of six and fourteen years.

Note : The 11th Fundamental Duty was added by the 86th Constitutional Amendment Act, 2002.

There is no provision in the Constitution for direct enforcement of any of the Fundamental Duties nor for any sanction to prevent their violation.

Fundamental Rights

1. Six Fundamental Rights have been provided by the Constitution :

- Right to equality
- Right to liberty
- Right against exploitation
- Right to freedom of religion
- Cultural and educational rights
- Right to constitutional remedy

2. Article 14 of the constitution provides that the State shall not deny any person equality before the law or equal protection of the laws within the territory of India.

3. Exceptions to the provision of equality before law, allowed by the Indian Constitution are :

- The President or the Governor of a State is not answerable to any Court for the exercise and performance of the powers and duties of his office.
- No criminal proceeding can be instituted or continued against the President or a Governor in any Court during his term of office.
- No civil proceeding in which relief is claimed against the President or the Governor of a State can be instituted during his term of office in any Court in respect of any act done by him in his personal capacity, without a prior notice of two months.

4. The above immunities do not bar Impeachment proceeding against the President and Suits or other appropriate proceeding against the Government of India or the Government of a State.

5. Exceptions acknowledged by the comity of nations in every civilized country, in favour of foreign Sovereigns and ambassadors.

- The guarantee of 'equal protection' is a guarantee of equal treatment of persons in 'equal circumstances', permitting differentiation in different circumstances.

6. Article 15 of the Constitution states that : The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

- No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them be subjected to any disability, liability restriction or condition with regard to access to shops, public restaurants, hotels and places of public entertainment or

the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.

- Nothing in this article shall prevent the State from making any special provisions for women, children or any socially and educationally backward classes.

7. Article 16 guarantees Equality of opportunity in matters of public employment. It says that :

- There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them, be ineligible for any employment under the State.

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The Mandal Commission Case

A nine-judge Bench of the Supreme Court has laid down in Indra Sawhney's case (popularly known as the Mandal Commission Case) regarding reservation in Government employment, that :

1. Under Article 16(4) provisions can be made in favour of the backward classes in the matter of employment by Executive orders also. ? Backward class of citizens is not defined in the Constitution. A caste may also constitute a class. ? The backwardness

contemplated by Art. 16(4) is mainly social. It need not be both social and educational. ? Income or the extent of property can be taken as a measure of social advancement and on that basis the 'creamy layer' of a given caste can be excluded. ? The reservations contemplated in Art. 16(4) should not exceed 50%. ? Reservation of posts under Art. 16(4) is confined to initial appointment only and cannot extend to providing reservation in promotion.

Note : Mandal Commission was set up in 1979 under the Chairmanship of B.N. Madal, M.P. (Former Chief Minister of Bihar).

1. The 77th Amendment has provided to continue reservation in promotion for the S.C. and S.T.
2. Identification of backward classes is subject to judicial review.
3. Article 17 ensures Abolition of Untouchability. The word 'untouchability' has not been defined either in the Constitution or in the relevant Act of Parliament. It has been assumed that the word has a well known connotation.
4. Article 18 ensures Abolition of titles. It prevents the State from conferring any title.
5. This ban is only against the State and not against other public institutions, such as Universities.
6. The State is not debarred from awarding military or academic distinctions, even though they may be used as titles.
7. The State is not prevented from conferring any distinction or award which cannot be used as a title. Bharat Ratna or Padma Vibhushan cannot be used by the recipient as a title and therefore does not come within the Constitutional prohibition.

8. Article 19 provides the six freedoms of :

---> Speech and expression; ? Assemble peacefully and without arms; ? Form associations or unions; ? Move freely throughout the territory of India; ? Reside and settle in any part of the territory of India; and ? Practise any profession, or to carry on any occupation, trade or business.

9. State can impose restrictions on the freedom of speech in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.

10. Restrictions can be imposed on the right to form associations in the interests of the sovereignty and integrity of India or public order or morality. Restrictions can also be imposed on freedom of movement and reside and settle in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

11. State can prescribe the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business. State can exclude any citizen from a business or industry run by the Government or a body of Government.

12. There is no specific provision in the Constitution guaranteeing the freedom of the press because freedom of the press is included in the wider freedom of 'expression' which is guaranteed by freedom of expression under Art. 19.

13. Article 20 guarantees certain protection in respect of conviction for offences. It prohibits :

---> Restrospective criminal legislation, commonly known as ex post facto legislation. ? Double jeopardy or punishment for the same offence more than once. ? Compulsion to give self-incriminating evidence.

14. Article 21 (A) makes the right of education for children of the age of 6 to 14 years a fundamental right. {Ref. : 86th Amendment Act, 2002} Article 21 of Constitution provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law.

15. Under the 'Due Process' Clause of the American Constitution, the Court has assumed the power of declaring unconstitutional any law which deprives a person of his liberty without reasonableness and fairness.

16. In England courts have no power to invalidate a law made by Parliament.

17. In the case of Gopalan Supreme Court held that our Constitution had embodied the English concept.

18. In Maneka's case the Supreme Court held that a law made by the State which seeks to deprive a person of his personal liberty must prescribe a procedure for such deprivation which must not be arbitrary, unfair or unreasonable. It follows that such law shall be invalid if it violates the principle of natural justice.

19. Article 22 provides that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest.

20. No arrested person can be denied the right to consult, and to be defended by a legal practitioner of his choice.

21. Every person who is arrested and detained in custody is to be produced before the nearest magistrate within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person can be detained in custody beyond that period without the authority of a magistrate.

22. The above safeguard is not available to an enemy alien and a person arrested or detained under a law providing for preventive detention.

23. The Constitution authorises the Legislature to make laws for preventive detention for the security of State, the maintenance of public order, or the maintenance of supplies and services essential to the community, or for reasons connected with Defence and Foreign Affairs {Ref. : Art. 22}

24. Article 23 provides Right against Exploitation in following respects :

25. Traffic in human beings and begar and other similar forms of forced labour are prohibited.

26. The State can impose compulsory service for public purposes, and in imposing such service the State can not make any discrimination on grounds only of religion, race, caste or class or any of them.

27. Special provision for the protection of children is made in Art. 24 which provides that no child below the age of fourteen years can be employed to work in any factory or mine or engaged in any other hazardous employment.

28. Article 25-28 provides Right to Freedom of Religion.

29. Article 25 provides freedom of conscience and free profession, practice and propagation of religion subject to public order, morality and health.

30. Under Art. 25 State can regulate religious activities and provide for social reforms and throw open Hindu religious institutions of public character to all sections of Hindus.

31. Article 26 guarantees following rights to all religious groups subject to public order, morality and health :

---> Establish and maintain institution for religious and charitable purposes; ? Manage its own affairs in matters of religion; ? Own and acquire movable and immovable property; ? Administer such property in accordance with law.

32. The State can not compel any citizen to pay any taxes for the promotion or maintenance of any particular religion or religious institution {Ref. : Art. 27}
33. No religious instruction can be provided in any educational institution wholly maintained out of State funds {Ref. : Art. 28}
34. Where a religious community is in the minority, the Constitution enables it to preserve its culture and religious interests by providing that the State shall not impose upon it any culture other than the community's own culture {Ref.: Art. 29(1)}
35. Such community shall have the right to establish and administer educational institutions of its choice and the State shall not, in granting aid to educational institutions, discriminate against such an educational institution maintained by a minority community on the ground that it is under the management of a religious community {Ref. : Art. 30}.
36. Full compensation has to be paid if the State seeks to acquire the property of a minority educational institution {Ref. : Art. 30 (1 A)}.
37. The Fundamental Rights are guaranteed by the Constitution not only against the action of the Executive but also against that of the Legislature.
38. Right to constitutional remedy, which was termed "soul of the constitution" by Dr. B.R. Ambedkar, has been guaranteed by Art. 32 of the Constitution.

The Writs

1. For enforcement of fundamental rights, the judiciary has been armed with the power to issue the writs.
2. The power to issue these writs for the enforcement of the Fundamental Rights is given by the Constitution to the Supreme Court {Ref.: Art. 32} and High Courts {**Ref. : Art. 226**}.
3. Supreme Court has the power to issue writs only for the purpose of enforcement of the Fundamental Rights whereas under Art. 226 a High Court can issue writs for the purpose of enforcement of Fundamental Rights and / or for the redress of any other injury or illegality.
4. Supreme Court can issue a writ against any person or Government within the territory of India, while High Court can issue a writ against a person, Government or other authority only if they are located within the territorial jurisdiction of the High Court.

5. A writ of Habeas Corpus calls upon the person who has detained another to produce the latter before the court, in order to let the court know on what ground he has been confined and to set him free if there is no legal justification for the imprisonment. The words 'habeas corpus' literally mean 'to have a body'. This writ may be addressed to an official or a private person, who has another person in his custody.

6. Mandamus literally means a command. It commands the person to whom it is addressed to perform some public or quasi- public legal duty which he has refused to perform and the performance of which cannot be enforced by any other adequate legal remedy. Mandamus can not be granted against the President, or the Governor of a state, for the exercise and performance of the powers and duties of his office.

7. The writ of prohibition is a writ issued by the Supreme Court or a High Court to an inferior court forbidding the latter to continue proceeding therein in excess of its jurisdiction or to usurp a jurisdiction with which it is not legally vested.

8. While mandamus is available not only against judicial authorities but also against administrative authorities, prohibition and certiorari are issued only against judicial or quasi-judicial authorities.

9. Though prohibition and certiorari are both issued against Courts or Tribunals exercising judicial or quasi-judicial powers, certiorari is issued to quash order or decision of the Court or Tribunal while prohibition is issued to prohibit the Court or Tribunal from making the ultra vires order or decision. Prohibition is available during the pendency of the proceedings and before the order is made, certiorari can be issued only after the order has been made.

10. Quo warranto is a proceeding whereby the court enquires into the legality of the claim which a party asserts to a public office, and to oust him from its enjoyment if the claim is not well founded.

11. The conditions necessary for the issue of a writ of quo warranto are as follows :

---> The office must be public and it must be created by a statute or by the constitution itself. ? The office must be a substantive one and not merely the function or employment of a servant at the will and during the pleasure of another. ? There has been a contravention of the Constitution or a statute or statutory instrument, in appointing such person to that office.

12. The limitations on the enforcement of the fundamental rights are as follows :

13. Parliament has the power to modify the application of the Fundamental Rights to the members of the Armed Forces, Police Forces or intelligence organisations so as to

ensure proper discharge of their duties and maintenance of discipline amongst them {Ref. : Art. 33}.

---> When martial law is in force, Parliament may indemnify any person in the service of the Union or a State for any act done by him {Ref. : Art. 34}. ? Certain fundamental rights guaranteed by the Constitution may remain suspended, while a Proclamation of Emergency is made by the President under Art. 352.

Right to Information

1. Right to information has been granted to every citizen of India under Right to information Act, 2005 which came into force on 12th October, 2005.
2. It is not a Fundamental Right but it entails a clause for penalty in case of delay in giving information to the applicant.
3. Information Commission has been set- up at central and state levels to oversee implementation of the Act.



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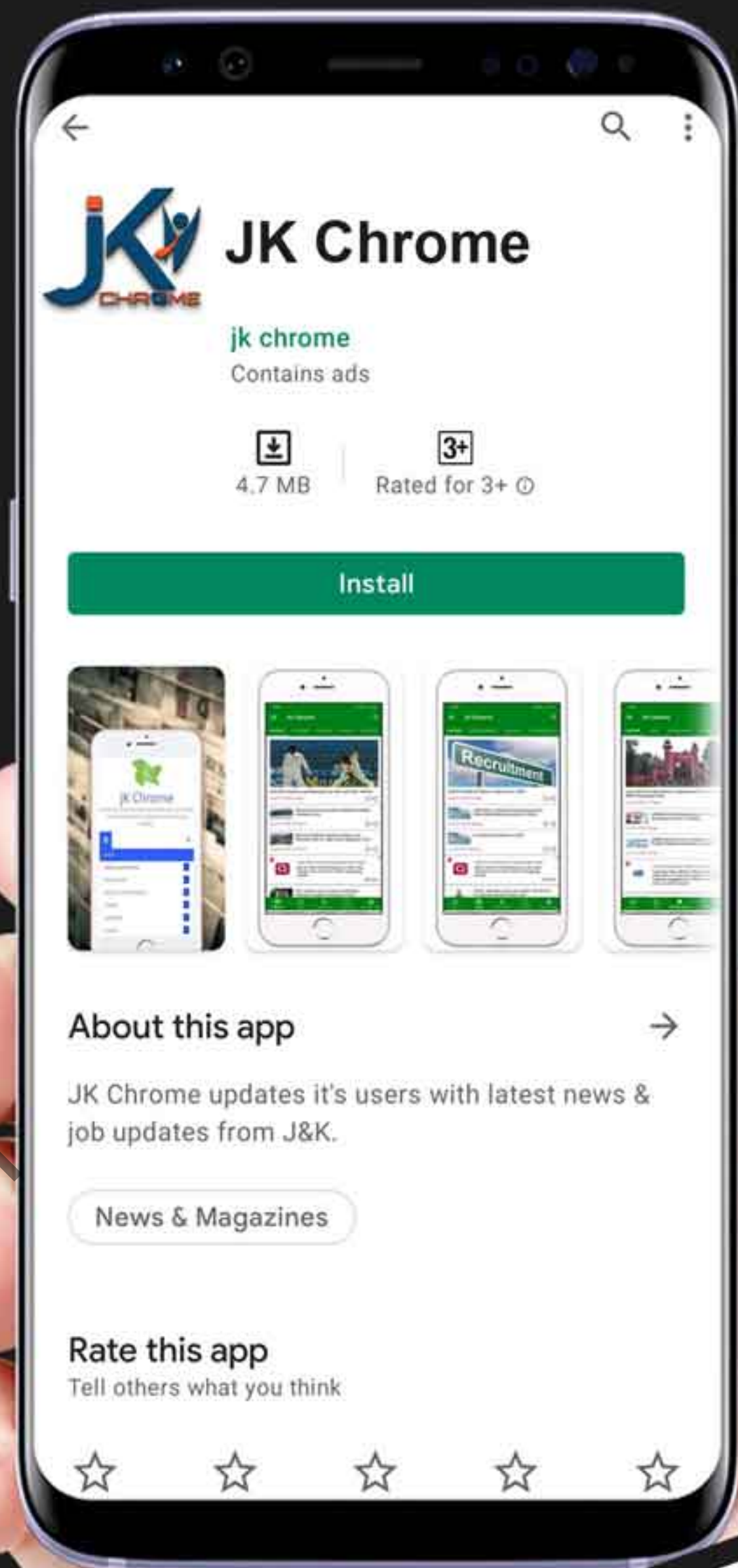
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Glossary of Constitutional Terms

Act of God, is a direct, violent, sudden and irresistible act of nature, which could not be by any reasonable care have been foreseen or resisted.

Act of Parliament, means a bill passed by the two Houses of Parliament and assented to by President and in the absence of an express provision to the contrary, operative from the date of notification in the Gazette.

Act of State, means the act of sovereign power of a country or its agent (if acting intra-vires). By its very nature such an act cannot be questioned by any Court of Law.

Address of President, is the prepared speech delivered by the President of India to both Houses of Parliament assembled together at the commencement of the first Session after each general election to Lok Sabha and at the commencement of the first Session of each year informing Parliament of the causes of its summons which is later laid before and discussed on a formal Motion of Thanks in each House of Parliament or an address by the President of India to either House of Parliament or both Houses, assembled together on any other occasion.

Adjournment Motion, if Speaker gives his consent after satisfying himself that the matter to be raised is definitely urgent and of public importance and holds that the matter prepared to be discussed is in order, he shall call the member concerned who shall rise in his place and ask for leave to move the adjournment of the House. If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifty members rise accordingly, the Speaker shall intimate that leave is granted, if not, he shall inform the House that the members have not to leave the House,

Adjournment of House, in Lok Sabha the Speaker determines when sitting of House is to adjourn sine die or to a particular day or to an hour or part of same day while in Rajya Sabha it is the Chairman who determines.

Admonition, is a judicial or ecclesiastic censure or reprimand.

Advocate-General, the Attorney-General and after him, the advocate-General of a State have precedence over other advocates.

Affirmation, is a solemn declaration without oath.

Amendment, is a device to alter a motion moved or question under discussion in the legislature, includes omission, substitution, addition and insertion of certain words, figures or marks to the clause of a bill, a resolution or a motion or to an amendment made there of is a structural improvement.

Anglo-Indian, is of a British birth but living or having lived long in India.

Appeal, is the judicial examination of the decision by a higher court of the decision of an inferior court.

Appropriation Bill, is the act of devoting or reserving for special or distinct purpose or of destining to a particular end; anything set aside especially money for a specific use.

Arrest, is the restraining of the liberty of a man's person in order to compel obedience to the order of a court of justice, or to prevent the commission of a crime, or to ensure that a person charged or suspected of a crime may be forthcoming to answer it is when one is taken into custody and restrained from his liberty.

Assent to Bill, is ratification, sovereign's formal acquiescence in a measure passed by legislature.

Attorney-General, is the Chief Law Officer of a country, legal adviser to the Chief Executive.

Backward Classes, the list of OBCs are prepared by the Central Government and are revised after the expiry of every 10 years. —Are the classes slow in development.

Ballot, is a small ball ticket or paper used in secret voting.

Begar, is a labour or service exacted by court or a person in power without giving remuneration.

Bill, is a draft of a law proposed to a lawmaking body is the draft or form of an Act presented to a legislature but not enacted.

Breach of privilege, disregard of any of the privileges, rights and immunities either of the members of Parliament individually or of either House of Parliament in its collective capacity or of its committees, also includes action which obstruct the House in the performance in its functions and thereby lower its dignity and authority such as disobedience of its legitimate order or libel upon itself, or its member or officers which are called contempt of the House.

Budget, refers to the statement of the estimated receipts and expenditure of the Government of India known as annual financial statement; it is caused to be laid before both House of Parliament by the President in respect of every financial year on such day as he may direct.

Bulletin, is an official notice of a public transaction or matter of public importance.

Business to the House, is the relative order of the items of business in the House of a legislature to be taken up on a particular day.

Cabinet, is a private and confidential assembly of the most considerable minister of State of concert measures for the administration of public affairs.

Censure Motion, is a motion moved against the government censuring its policy in some direction or an individual minister or minister of the Government.

Certiorari, is a writ of High Court to an inferior court to call up the records of a case therein depending that conscionable justice may be therein administered. —Is issued by the superior Court to inferior judicial or quasi-judicial body, grounds for invoking are excess of jurisdiction, violation of natural justice, fraud and terms on the face of the record. Conditions for issuing this writ are: (i) a body of persons having legal authority, (ii) to determine questions altering rights of subjects, (iii) having the duty to act judicially, (iv) act in excess of their legal authority, (v) issued on constitutional grounds also.

Chief whip, is the chief of the whips of different political parties in Parliament (generally the Minister of Parliamentary Affairs).

Citizen, is a member of a State or nation, especially one with a republican form of government, who owes allegiances to it by birth or naturalisation and is entitled to full civil rights.

Closure, is the Parliamentary Procedure by which debate is closed and the measure under discussion brought up for an immediate vote is the procedure in deliberative assemblies whereby debate is closed.

Coalition, usually takes place in multi-party system in which no single party is able to command support of a working majority.

Comptroller and Auditor-General, is the officer who is responsible for the auditing of all public accounts.

Concurrent List, is a list of subjects appended to a federal Constitution in respect of which the federal legislature and the State of regional legislatures have power to make laws, federal law prevailing in case of conflict.

Consolidated fund, is a repository of public money which now comprises the produce of customs, excise, stamps and several other taxes, and some small receipts from the royal hereditary revenue surrendered to its public use.

Constituent Assembly, is a legislative body charged with task of framing or revising a Constitution, set up for India after it became independent in 1947 for the purpose of framing its Constitution.

Constitution, is the system of fundamental laws and principles of a government written or unwritten is the basic law defining and delimiting the principal organs of Government and their jurisdiction as well as the basic rights of men and citizens.

Contempt of court, is a disobedience to or disregard of the rules, orders, process, or dignity of a court, which has power to punish for such offence by committal.

Contingency fund, is placed at the disposal of the executive to meet the unforeseen expenditure.

Court, is a place where justice is judicially administered.

Debate, is a Parliamentary discussion.

Defection, is abandonment of loyalty, duty, principle etc.,

Delegated legislation, is rules and regulations with the effect of law made by the executive under statutory sanction by Parliament.

Deprivation, is a loss of dismissal from office refers to property taken under the power of eminent domain.

Deputy Speaker, is the Officer of the House of a legislature who takes the Chair during the absence of the Speaker and performs his duties in relation to all proceedings in the House.

Directive Principles of State Policy, lay down guidelines which can be implemented only by passing legislation.

Discrimination, is a difference in treatment of two or more persons or subject is an act of depriving an individual or a group of equality of opportunity.

Dissolution, is the civil death of Parliament.

Doctrine of severability, is a rule of interpretation; it means that where some particular provision of statute offends against a constitutional limitation, but that provision is severable from the rest of the statute, only the offending provision will be declared void by the court and not the entire statute.

Double jeopardy, is subjection of an accused person to repeated trial for the same alleged offence.

Due process of law, is the law in conformity with due process a concept adopted by the American Constitution; the process of law which hears before it condemns; judiciary can declare a law bad, if it is not in accordance with due process even though the legislation may be within the competence of the legislature concerned.

Election, is act of selecting one or more from a greater number for an office.

Election Commission, is a constitutional body created for the purpose of holding elections to Parliament, State Legislatures and Offices of President and Vice-President.

Electoral college, is an intermediary body chosen by electors to choose the representatives in an indirect election.

Electoral roll, is known as voter's list in common parlance; is the basic document on which the whole electoral process is founded.

Equal protection, all individuals and classes will be equally subjected to the ordinary law administered by the law courts.

Equality, is the state of being equal in political, economic and social rights.

Existing law, is the law in force at the passage of an Act.

Expulsion, is the unseating of members for offences committed against the House or for grave misdemeanours.

Extradition, is the surrender by a foreign State of a person accused of a crime to the State where it was committed.

Financial memorandum, is a memorandum required to accompany all bills involving expenditure.

Fundamental duties, are certain obligations on the part of a citizen which he or she owes towards the State so that the individual may not overlook his duties to the community while exercising his fundamental right or commit wanton destruction of public property or life.

Fundamental rights, is protected and guaranteed by the written Constitution of a State.

Gazette, is the official newspaper of the Government is known as the Gazette of India or the Official Gazette of a State.

Government, is a established system of political administration by which State is governed.

Habeas corpus, commands a Judge of the inferior court to produce the body of the defendant with a statement of the cause of his detention, to do and to receive whatever the higher court shall decree.

Hung Parliament, is a Parliament wherein no party has won a working majority.

Impeachment, a person found guilty may be removed from his office.

Joint sitting, is a joint sitting of both Houses of a bicameral legislature for setting a disagreement between them.

Judgment, order or sentence given by a judge or law court.

Judicial review, is the power of the court to review statutes or administrative acts and determine their constitutionality. The examination of federal and State legislature statutes and the acts of executive officials by the Courts to determine their validity according to written Constitutions.

Judiciary, is the body of officers who administer the law.

Law, all the rules of conduct established and enforced by the authority.

Legislative relations, in case of conflict the union law prevails.

Legislature, is the body of persons in a State authorised to make, alter and repeal law. It may consist of one or two Houses with similar or different powers.

Liberty, is something which results from a permission given to or something enjoyed under sufferance by a particular person or body or persons as opposed to enjoyment by all and sundry.

Locus standi, means a place for standing, right to be heard.

Maiden speech, is one's first or earliest speech especially in Parliament.

Martial law, is arbitrary in its decisions and is not built on any settled principles.

Migration, means coming to India with the intention of residing here permanently.

Minority, is racial, religious or political groups smaller than and differing from larger, controlling group of which it is a party.

Money Bill, is a bill which contains only provisions dealing with the imposition, repeal, remission, alteration or regulation of taxes etc.

Motion, is a proposal made in the House of a legislature to elicit its decision on a subject.

Oath, is a ritualistic declaration, based on an appeal to God or some revered person or object that one will speak the truth, keep a promise, remain faithful etc.

Office of profit, is an employment with fees and emoluments attached to it; where pay or salary is attached to an office, it immediately and indisputably makes the office and "office of profit".

Official gazette, means the Gazette of India or the Official Gazette of a State.

Ordinance, is a State paper operative as a fundamental law, yet not describable as either a Constitution or a statute.

Personal liberty, consists in the power of locomotion, of changing situation or moving one's person to whatever place one's own inclination may direct, without imprisonment or restraint unless by due course of law.

Petition, is a solemn, earnest supplication or request to a superior or to a person or group in authority.

Pith and substance, is a doctrine relating to the interpretation of statutes, evolved by the Privy Council, to solve the problem of two competing legislatures.

Preamble, is an introduction, especially one to a constitutional statute etc., stating its reason and purpose.

President, is Chief executive of a Republic.

Presumption of constitutionality, is an assumption made failing proof of the contrary that an enactment is in accordance with the Constitution. The presumption is always in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles.

Privilege, is an exceptional right or advantage.

Privy purse, was the sum fixed by the Government of India for covering the expenses of each of the rulers of former Indian States and their families in consideration of their agreement of merger in the Indian Union.

Probationer, is one who is on probation or trial.

Procedure established by law, is the procedure prescribed by the law of the State. It does not mean the due process of law.

Prohibition, is a remedy provided by the Common Law against the encroachment of jurisdiction.

Proportional representation, is a method of representation designed to secure the election of candidates in proportion to the numerical strength of each section of political opinion thus accurately reflecting the political feeling of the country in Parliament.

Question hour, is the time fixed for asking and answering oral questions in a sitting in a

legislature; it is fixed under the rules of the House or standing orders.

Qua warranto, is a writ ordering a person to show by what right he exercises an office, franchise or privilege.

Quorum, is a minimum number required to be present at an assembly before it can validly proceed to transact business.

Reasonable restriction, is restrictions imposed by State on the enjoyment of the fundamental rights.

Religion, is the specific system of belief, worship, conduct involving a Code of ethics and philosophy.

Repugnancy, is contradictory of each other, set of clauses in statutes, will, etc.,

Resjudicata, is final judgment already decided between the same parties or their privies on the same questions by a legally constituted court having jurisdiction is conclusive between the parties, and the issue cannot be raised again.

Rule, is an established guide or regulation for action, conduct.

Rule of law, is absolute supremely or predominance of regular law as opposed to the influence of arbitrary power's equality before the law or the equal subjection of all classes to the ordinary law court; Constitution is the result of the ordinary law of the land.

Session, connotes the sitting together of the legislative body for the transaction of business.

Shadow cabinet, is a body of opposition leaders meeting from time to time and ready to take office.

State, comprises people, territory, government through which its policies are implemented and sovereignty having authority to make final legal decisions and having physical power to enforce them.

State Act, is an Act passed by Legislature of a State established or continued by the Constitution.

Statute, is synonymous with Act of Parliament.

Subordinate legislation, is a making of statutory instruments or orders by a body subordinate to the legislature in exercise of the power within specific limits conferred by the legislature, also covers statutory instruments themselves.

Swear, is to make a solemn declaration or affirmation with an appeal to God or to someone or something held sacred for confirmation.

Untouchability, is social disabilities historically imposed on certain classes of people by reason of their birth in certain castes.

Vote, is a decision by one or more persons on a proposal, resolution expressed by ticket, ballot, or voice.

Vote on account, is estimate of an advance payment to enable Government Departments to carry on their work from beginning of financial year till the passing of Appropriation Act.

Walk out, is a strike, an informal or unauthorised strike, an action of leaving a meeting or organisation as an expression of disapproval; continued absence from the meetings of an organisation as an expression of disapproval.

The High Court

1. The High Court is the head of the Judiciary in the State.
2. Every Judge of a High Court is appointed by the President.
3. In making appointment as a High Court Judge, President can consult the Chief Justice of India, the Governor of the State and also the Chief Justice of that High Court.
4. A Judge of the High Court can hold office until the age of 62 years.
5. A High Court Judge can leave his office : ? By resignation in writing addressed to the President. ? By being appointed a Judge of the Supreme Court or being transferred to any other High Court by the President. ? By removal by the President. ? The mode of removal of a Judge of the High Court is same as that of a Judge of the Supreme Court.
6. The qualifications for being a Judge of the High Court are ? Be a citizen of India. ? Not above 62 years of age. ? Must have held for at least 10 years a judicial office in territory of India or experience of at least 10 years as advocate of a High Court, or of two or more such courts in succession in India.
7. Salaries and allowances of the High Court Judges are charged on the Consolidated Fund of the State [Art. 202(3) (d)].
8. After retirement a permanent Judge of High Court can not plead or act in a Court or before any authority in India, except the Supreme Court and a High Court in which he has not worked.

Inter-State Council

1. Inter-State Council was constituted in April, 1990 under Art. 263.
2. Inter-State Council consists of Prime Minister, 6 Union Cabinet Ministers, the Chief Ministers of all the States and administrators of all UTs.
3. The Sarkaria Commission recommended the constitution of a permanent Inter-State Council for co-ordination among States and with the Union. (Justice R.S. Sarkaria died in 2007.)
4. Inter-state Council is chaired by the Prime Minister and it meets thrice a year.



Inter-State Relations

1. Art. 131 provides for the judicial determination of disputes between states by vesting the Supreme Court with exclusive jurisdiction in the matter, while Art. 262 provides for the adjudication of one class of such disputes by an extra judicial tribunal.
2. Art. 263 provides for the prevention of inter State disputes by investigation and recommendation by an administrative body.
3. Under Art. 262 Parliament has constituted the Inter-State Water Disputes Tribunal for adjudication of disputes between States for the waters of any inter-State river or river valley.
4. Inter-State river water disputes are excluded from the jurisdiction of all Courts including the Supreme Court.
5. An Inter-State Council has been constituted for co-ordinating in Inter-State disputes {Ref.: Art. 263 (a)}.
6. Six Zonal Councils have been established to discuss and advise on matters of common interest. These are :
7. The Central Zone : Uttar Pradesh, Madhya Pradesh, Uttarakhand and Chhattisgarh.
8. The Northern Zone : Haryana, Himachal Pradesh, Punjab, Rajasthan, Jammu & Kashmir, and the Union Territories of Delhi & Chandigarh.
9. The Western Zone : Gujrat, Maharashtra, Goa and the Union Territories of Dadra & Nagar Haveli and Daman & Diu.
10. The Southern Zone : Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, and the Union Territory of Puducherry.
11. The Eastern Zone : Bihar, Jharkhand, West Bengal and Odisha.
12. The North - Eastern Council : Arunachal Pradesh, Assam, Manipur, Mizoram, Tripura, Meghalaya, Nagaland and Sikkim.
13. Each Zonal Council consists of the Chief Minister and two other Ministers of each of the States in the Zone and the Administrator in the case of a Union Territory.
14. The Union Home Minister has been nominated to be the common chairman of all the Zonal Councils.

Lapse of Paramountcy

1. When the Indian Independence Act 1947, was passed, it declared the lapse of suzerainty (paramountcy) of the crown, in sec. 7(i)(b) of the Act.
2. As from the appointed day—the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at the date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority, or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise.....
3. Of the states situated within the geographical boundaries of the Dominion of India, all (numbering 552) save Hyderabad, Kashmir, Bahawalpur, Junagarh and the N.W.F. (North West Frontier) states (Chitral, Phulra, Dir, Swat and Amb) had acceded to the Dominion of India by the 15th August, 1947, i.e. before the 'appointed day' itself.



Integration and Merger of Indian States

The main objective of shaping the Indian States into sizeable or viable administrative units was sought to be achieved by a three-fold process of integration (known as the 'Patel Scheme' after Sardar Vallabhbhai Patel, Minister-in-charge of Home Affairs)—

1. 216 states were merged into respective Provinces, geographically contiguous (connected) to them.
2. These merged states were included in the territories of the states in Part B in the First Schedule of the constitution.
3. The process of merger started with the merger of Orissa and Chhattisgarh States with the then Province of Orissa on January 1, 1948.
4. 61 states were converted into Centrally administered areas and included in Part C of the First Schedule of the Constitution.
5. The third form of integration was the consolidation of groups of states into new viable units, known as Union of States.
6. As many as 275 states were integrated into 5 Unions—Madhya Bharat, Patiala and East Punjab States Union, Rajasthan, Saurashtra and Travancore—Cochin. These were included in the States in Part B of the First Schedule.
7. The other three States included in Part B were—Hyderabad, Jammu and Kashmir and Mysore.
8. Jammu and Kashmir acceded to India on October 26, 1947, and so it was included as a state in Part B, but the Government of India agreed to take the accession subject to confirmation by the people of the state, and a constituent. Assembly subsequently confirmed it, in November, 1956.
9. Hyderabad did not formally accede to India, but the Nizam issued a Proclamation recognising the necessity of entering into a constitutional relationship with the Union of India and accepting the Constitution of India subject to ratification by the Constituent Assembly of the State, and the Constituent Assembly of that state ratified this.
10. It is noteworthy here that the Rajpramukhs of the five Unions as well as the Rulers of Hyderabad, Mysore, Jammu and Kashmir all adopted the Constitution of India, by Proclamations.

11. The process of integration culminated in the Constitution (7th Amendment) Act, 1956, which abolished Part B states as a class and included all the states in Part A and B in one list.

12. The special provisions in the constitution relating to Part B states were, consequently omitted. The Indian States thus lost their identity and become on uniform political organisation embodied in the Constitution of India.



Municipalities

1. PART IXA gives a constitutional foundation to the local self government units in urban area.
2. Most provisions for municipalities are similar to those contained in PART IX, e.g. Structure, Reservation of Seats, Functions, Sources of Income etc.
3. Nagar Panchayat, is for an area being transformed from a rural area to an urban area.
4. Municipal Council is for a smaller urban area.
5. Municipal Corporation is for a larger urban area. The municipal corporation is the topmost urban local government.
6. The members of a municipality are generally elected by direct election.
7. The Legislature of a State can provide for representation in municipalities of : ? Persons having special knowledge or experience in municipal administration. ? Members of Lok Sabha, State Assembly, Rajya Sabha and Legislative Council. ? The Chairpersons of Ward Committees.
8. Note : If the population is 3 lacs or more Ward Committees are constituted.
9. Two Committees constituted for preparing development plan are : ? A District Planning Committee at the district level ? A Metropolitan Planning Committee at the metropolis level.

National Integration Council

1. National Integration Council was set-up in 1986, to deal with welfare measures for the minorities on an All-India basis.
2. It includes Union Ministers, Chief Ministers of State, representatives of National and Regional political parties, labour, women, public figures and media representatives. NDC is a non-constitutional body.



National Development Council (NDC)

1. The National Development Council was formed in 1952, to associate the States in the formulation of the Plans.
2. All members of the Union Cabinet, Chief Ministers of States, the
3. Administrators of the Union Territories and member of the Planning Commission are members of the NDC.
4. Functions of the NDC are :
 - ★ Review working of national plan.
 - ★ Recommend measures to meet targets of national plan.
5. It is an extra constitutional and extra legal body.





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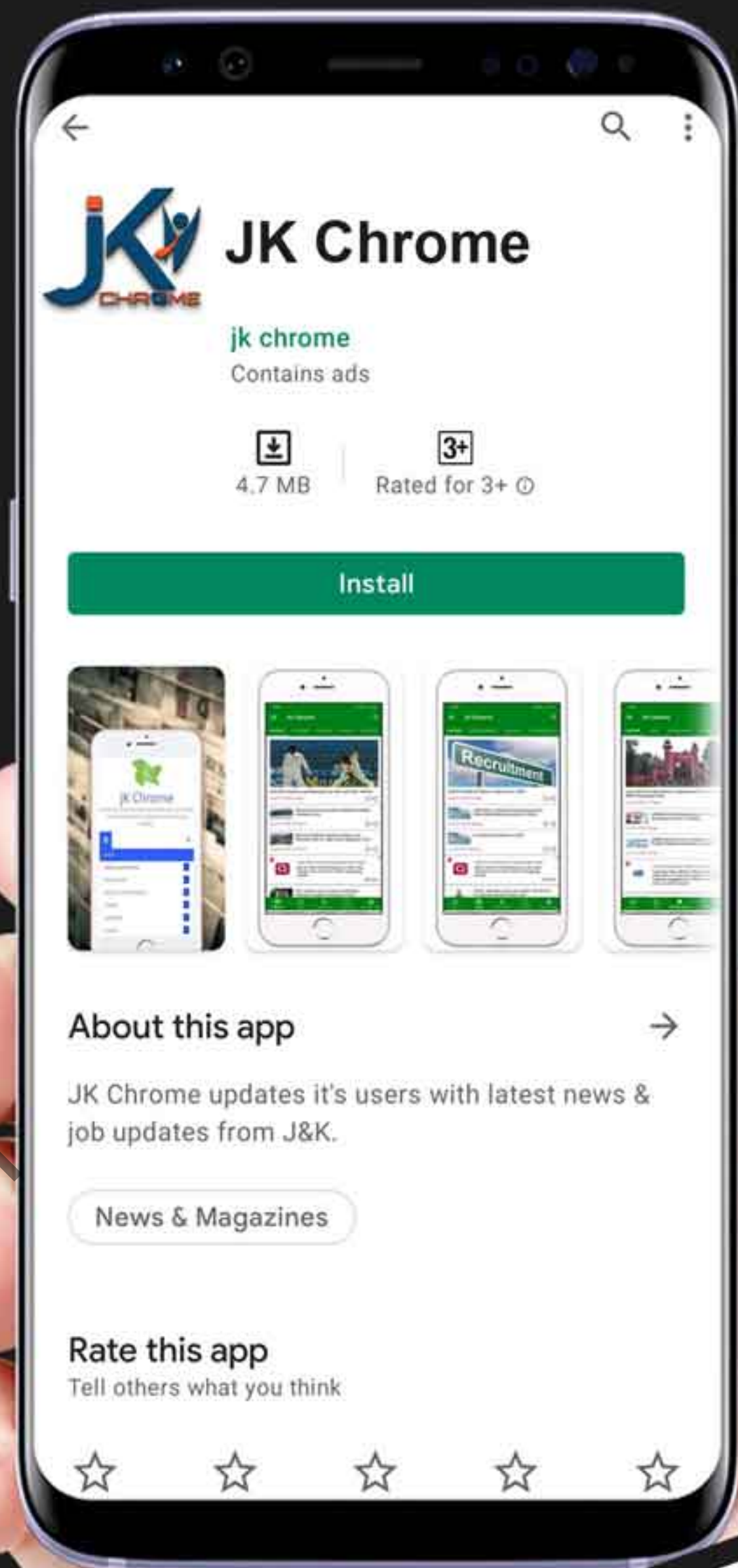
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The Official Languages

1. The Official language of the Union is Hindi in Devanagri script [Art. 343]. English was to continue to be used as principal official language of the Union side-by-side with Hindi till 1965.
2. The first Official Language Commission was appointed in 1955 under Shri B.G. Kher as Chairman and it recommended that a rigid date line for change over of language should not be prescribed. This recommendation was accepted.

Language of the State/Link Language :

1. Article 345 seeks to tackle the issue of the official language for each state and the language for intra-State official transactions.
2. The Legislature of a State can adopt any one or more languages used in the State or Hindi for the official purposes of that State. There is also a provision for the recognition of any other language for the official purpose of a State or any part thereof, upon a substantial popular demand for it being made to the President {Ref.: Art. 347}.

Language of the SC and HCs and authoritative text of laws :

1. Until Parliament by law provides otherwise, English is the language of authoritative text of—? All proceedings in the Supreme Court and in every High Court. ? All Bills or amendments thereto moved in either House of Parliament or the State Legislature. ? All Acts passed by Parliament or the Legislature of a State. ? All Ordinances promulgated by the President or the Governor of a State. ? All orders rules, regulations and by-laws issued under Constitution or under any law made by Parliament or the legislature of a State.
2. A State Legislature can prescribe the use of any language other than English for Bills and Acts passed by itself or Subordinate Legislation made thereunder.
3. The languages included in the 8th Schedule of the Constitution are: Assamese, Bengali, Gujrati, Hindi, Kannada, Kashmiri, Konkani, Malyalam, Manipuri, Marathi, Nepalese, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu, Urdu, Maithili, Santhali, Dogri and Bodo.
4. Sindhi was inserted by the Constitution (21st Amendment) Act, 1967.
5. Konkani, Manipuri and Nepali were inserted by the Constitution (71st Amendment) Act, 1992.

6. Maithili, Dogri, Bodo and Santhali were inserted by the Constitution (92nd Amendment) Act, 2003.
7. The only privileges gained by the languages included in the 8th Schedule are
8. To have a member in the Official Language Commission.
9. To be considered for contribution towards the development of Hindi language.



Panchayats

1. Part IX of the Constitution envisages a three tier system of Panchayats : ? Panchayat at the village level; ? The District Panchayat at the district level; ? The Intermediate Panchayat in States where the population is above 20 lakhs.
2. All the seats in a Panchayat is filled by direct election.
3. The electorate is named 'Gram Sabha'.
4. The Chairperson of each Panchayat is elected according to the law passed by a State.
5. Seats are reserved in Panchayat for Scheduled Castes, and Scheduled Tribes in proportion to their population [Art. 243D].
6. Out of the reserved seats, 1 / 3 is reserved for women belonging to Scheduled Castes and Scheduled Tribes. 1 / 3 of the total seats to be filled by direct election in every Panchayat is reserved for women.
7. A State can make similar reservation for Chairpersons in the Panchayats.
8. Every Panchayat can continue for 5 years from the date of its first meeting. It can be dissolved earlier in accordance with State law.
9. A Panchayat reconstituted after premature dissolution, continues only for the remainder of the period. But if the remainder of the period is less than 6 months it is not necessary to hold elections.
10. All persons above 21 years of age and qualified to be a member of the State Legislature are qualified as a member of a Panchayat [Art. 243F].
11. Panchayats can be entrusted to prepare and implement plans for economic development and social justice.
12. A State can authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls etc.
13. After the 73rd amendmend of the Constitution (25 April, 1993), every 5 years the States appoint a Finance Commission to review the financial position of the Panchayats and make recommendations.

- 14.** State Election Commission consisting of a State Election Commissioner is appointed by the Governor for superintendence, direction and control of elections to Panchayats [Art. 243K].
- 15.** The Community Development Programme was launched on Oct. 2, 1952.
- 16.** The Democratic Decentralisation was implemented for the first time in 1958 in some areas of Andhra Pradesh on experimental basis.
- 17.** The Panchayati Raj was introduced for the first time on Oct. 2, 1959 in Nagur District of Rajasthan by the Prime Minister Jawahar Lal Nehru. Rajasthan is the first state in India, where Panchayati Raj was implemented in the whole state.



The Parliament of India

1. The Parliament of India consists of the President, the Lok Sabha and the Rajya Sabha. {Ref.: Art. 79}.
2. The President is a part of the Legislature, even though he or she does not sit in Parliament.
3. The main functions of Parliament are : ? Providing the cabinet. ? Control of the Cabinet. ? Criticism of the Cabinet and of individual Minister. ? Parliament secures the information authoritatively. ? Legislation i. e. making laws {Ref.: Arts. 107; 108; 245} ? Financial control.
4. Bill passed by the House of Parliament cannot become law without the President's assent.

Rajya Sabha and Lok Sabha

1. The Rajya Sabha is composed of not more than 250 members of whom 12 are nominated by the President and 238 are representatives of the states and the Union Territories elected by the method of indirect election {Ref.: Art 80}.
2. The 12 nominated members are chosen by the President from amongst persons specialised in science, art, literature and social service.
3. Representatives of each State are elected by the elected members of the Legislative Assembly of the state in accordance with the system of proportional representation by means of the single transferable vote.
4. Prescribed composition of the Lok Sabha is : ? Not more than 530 representatives of the States; ? Not more than 20 representatives of Union Territories. ? Not more than 2 members of the Anglo-Indian community, nominated by the President.
5. The representatives of the States are directly elected by the people of the States on the basis of adult suffrage.
6. Every citizen who is not less than 18 years of age and is not otherwise disqualified is entitled to vote at such election {Ref.: Art. 326}.
7. There is no reservation for any minority community other than the Scheduled Castes and the Scheduled Tribes {Ref.: Arts. 330,341, 342}. The Council of State is not subject to dissolution. It is a permanent body. 1 / 3 of its members retire on the expiration of every second year.

8. The normal term of the Lok Sabha is 5 years, but it may be dissolved earlier by the President.
9. The normal term of Lok Sabha can be extended by an Act passed by Parliament itself during Emergency.
10. The extension cannot be made for a period exceeding one year at a time.
11. Such extension cannot continue beyond a period of six months after the proclamation of Emergency ceases to operate.
12. Parliament must meet at least twice a year and not more than six months shall elapse between two sessions of Parliament.
13. A session is the period of time between the first meeting of Parliament and prorogation of Parliament.
14. The period between prorogation of Parliament and its re-assembly in a new session is called recess. Within a session, there are a number of daily sittings separated by adjournments which postpone the further consideration of a business for a specified time.
15. **The sitting of a House can be terminated by dissolution, prorogation or adjournment :**
 - While the powers of dissolution and prorogation are exercised by the President on the advice of the Council of Ministers. The power to adjourn the daily sittings of Lok Sabha and Rajya Sabha belongs to the Speaker and the Chairman, respectively.
 - A dissolution brings Lok Sabha to an end so that there must be a fresh election while prorogation merely terminates a session. Adjournment does not put an end to the session of Parliament but merely postpones the further transaction of business for a specified time, hours, days or weeks.
 - On dissolution of the Lok Sabha all matters pending before the House lapse. If these matters have to be pursued, they must be reintroduced in the next House after fresh election.
 - But a Bill pending in the Rajya Sabha which has not yet been passed by the Lok Sabha shall not lapse on dissolution.
 - A dissolution does not affect a joint sitting of the two Houses, if the President has notified his intention to hold a joint sitting before the dissolution {Ref.: Art. 108(5)}.
 - Adjournment has no such effect on pending business.

Qualifications for becoming a member of Parliament are :

1. Must be a citizen of India. ? Must not be less than 25 years of age in the case of Lok Sabha and 30 years in the case of Rajya Sabha.
2. Additional qualifications may be prescribed by Parliament by law {Ref.: Art. 84}.

A person can be disqualified for being a member of either House of Parliament, if :

1. He holds any office of profit under the Government of India or the Government of any State; ? He is of unsound mind and stands so declared by a competent Court; ? He is not a citizen of India or has voluntarily acquired citizenship of a foreign State or is under acknowledgment or allegiance or adherence to a foreign power; ? He is so disqualified by or under any law made by Parliament {Ref.:Art. 102}. ? In a dispute regarding qualification the President's decision in accordance with the opinion of the Election Commission, is final {Ref.: Art. 103}. ? The House can declare a seat vacant if the member absents himself from all meetings of the House for a period of 60 days without permission of the house.

Speaker and Deputy Speaker of The Lok Sabha

1. Speaker presides over the Lok Sabha.
2. The Speaker or the Deputy Speaker, normally holds office during the life of the House, but his office may terminate earlier in any of the following ways :
 - By his ceasing to be a member of the House.
 - By resignation in writing, addressed to the Deputy Speaker, and vice versa.
 - By removal from office by a resolution, passed by a majority of all the then members of the House {Ref.: Art. 94}.
3. A resolution to remove the speaker can not be moved unless at least 14 days notice has been given of the intention to move the resolution.
4. While a resolution for his removal is under consideration, the Speaker can not preside but he can speak in, take part in the proceedings of the House and vote except in the case of equality of votes {Ref.: Art. 96}.
5. At other meetings of the House the Speaker can not vote in the first instance, but can exercise a casting vote in case of equality of votes.
6. The Speaker has the final power to maintain order within the Lok Sabha and to interpret its Rules of Procedures.

7. In the absence of a quorum the Speaker adjourns the House or suspends the meeting until there is a quorum.
8. The Speaker's conduct in regulating the procedure or maintaining order in the House can not be questioned in a Court {Ref.: Art. 122}.
9. The Speaker presides over a joint sitting of the two Houses of Parliament {Ref.: Art. 118(4)}.
10. When a Money Bill is transmitted from the Lok Sabha to the Rajya Sabha the Speaker may certify that it is a Money Bill {Ref.: Art. 110(4)}.
11. The decision of the Speaker on whether a Bill is Money Bill is final.
12. While the office of Speaker is vacant or the Speaker is absent from a sitting of the House, the Deputy Speaker presides, except when a resolution for his own removal is under consideration.

Chairman and Deputy Chairman of the Rajya Sabha

1. Vice-President of India is ex-officio Chairman of the Rajya Sabha and functions as the Presiding Officer of that House so long as he does not officiate as the President.
2. When the Chairman acts as the President of India, the duties of the Chairman are performed by the Deputy Chairman.
3. The Chairman may be removed from his office only if he is removed from the office of the Vice-President.
4. The powers of Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha except that the Speaker has certain special powers like certifying a Money Bill, or presiding over a joint sitting of the two Houses.

Privileges of Parliament

1. The privileges of each House can be divided into two groups :
 - Those which are enjoyed by the members individually.
 - Those which belong to each House of Parliament, as a collective body.
2. **The privileges enjoyed by the members individually are :**

- Freedom from Arrest exempts a member from arrest during the continuance of a meeting of the House or Committee thereof of which he is a member and during a period of 40 days before and after such meeting or sitting.
- This immunity is confined to arrest in civil cases and not in criminal cases or under the law of Preventive Detention.
- A member cannot be summoned, without the leave of the House to give evidence as a witness while Parliament is in session.
- There is Freedom of Speech within the walls of each House.
- The limitation on freedom of speech is that no discussion can take place in Parliament with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for removal of the judge {Ref.: Art. 121}.

3. The privileges of the House collectively are :

- The right to publish debates and proceedings and to restrain publication by others.
- The right to exclude others.
- The right to regulate internal affairs of the House.
- The right to publish Parliamentary misbehaviour.
- The right to punish members and outsiders for breach of its privileges.

The Legislative Procedures in Parliament

1. The different stages in the legislative procedure in Parliament relating to Bills other than Money Bills are as follows : 1. Introduction of a Bill in either House of Parliament 2. Motions after introduction 3. Report by Select Committee 4. Passing of the Bill in the House where it was introduced 5. Passage in the other House 6. President's Assent

Money Bills and Financial Bills

1. A Bill is called Money Bill if it contains only provisions dealing with all or any of the following matters :

- The imposition, abolition, remission, alteration or regulation of any tax. ? The regulation of the borrowing of money by the Government.

- The custody of or the withdrawal of moneys from the Consolidated Fund of India. ? The appropriation of moneys out of the Consolidated Fund of India. ? The declaring of any expenditure to be expenditure charged on the Consolidated fund of India. ? The receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State.

2. The procedure for passing of Money Bills in Parliament is :

3. A Money Bill can not be introduced in the Rajya Sabha.

1. After a Money Bill has been passed by the Lok Sabha, it is transmitted to the Rajya Sabha (with the Speaker's certificate that it is a Money Bill).

2. The Rajya Sabha can neither reject a Money Bill nor amend it. It must, within a period of fourteen days from the date of receipt of the Bill, return the Bill to the Lok Sabha with its recommendations. Lok Sabha may accept or reject all or any of the recommendations of the Rajya Sabha.

3. It is upto the Lok Sabha to accept or reject the recommendations of the Rajya Sabha. If the Lok Sabha accepts any of the recommendations the Money Bill is deemed to have been passed by both Houses with the amendment recommended by the Rajya Sabha and accepted by the Lok Sabha. ? If a Money Bill is not returned by the Rajya Sabha within fourteen days, it shall be deemed to have been passed by both Houses in the form in which it was passed by the Lok Sabha {Ref.: Art. 109}.

4. Only those Financial Bills are Money Bills which bear the certificate of the Speaker as such.

5. Financial Bills which do not receive the Speaker's certificate are of two classes (Art. 117) :

- A Bill which contains any of the matters specified in Art. 110 but does not consist solely of those matters. It can be introduced in Lok Sabha only on the recommendation of President. Rajya Sabha can amend or reject such Bills.
- Any Ordinary Bill which contains provisions involving expenditure from the Consolidated Fund (Ref.: Art. 117(3)).

Joint Sittings

1. The President can summon Lok Sabha and Rajya Sabha for a joint sitting in case of disagreement between the two Houses in following ways : If, after a Bill has been passed by one House and transmitted to the other House—
2. the Bill is rejected by the other House;
3. the Houses have finally disagreed about the amendments to be made in the Bill; or
4. more than six months have elapsed from the date of the reception of the Bill by the other House without the Bill being passed by it.
5. The Speaker presides the joint sitting. In the absence of the Speaker, Deputy Speaker or Chairman of Rajya Sabha or Deputy Chairman of Rajya Sabha or a person chosen by the MPs may preside {Art. 118(4)} in the same order.

Financial legislation in Parliament

1. At the beginning of every financial year, on behalf of the President of India, a statement of the estimated receipts and expenditure of the Government of India for that year is laid before both the Houses of Parliament.
2. This is known as the 'annual financial statement' (i.e., the 'Budget') [Ref. Art. 112]
3. It also states the ways and means of meeting the estimated expenditure.
4. The Annual Financial Statement or the Budget contains :
 - Estimates of expenditure. ? Ways and means to raise the revenue. ? An analysis of the actual receipts and expenditures of the closing year and the causes of any surplus or deficit in relation to such year. ? An explanation of the economic policy and spending programme of the Government in the coming year and the prospects of revenue. ? Estimates relating to expenditure charged upon the Consolidated Fund of India are not put to vote of Parliament but each House can discuss any of these estimates. ? Estimates of other expenditure are submitted in the form of demands for grants to the Lok Sabha and it has the power to assent, or to refuse to assent to any demand.
5. No demand for a grant can be made except on the recommendation of the President. [Ref. Art. 113]
6. The scrutiny of budget proposals is done by the Parliament's Committee on Estimates in order to :

- Report to the House about the effect on economy, improvements in organisation, administrative reform etc. ? Suggest alternative policies. ? Examine whether the money is well laid out. ? Suggest the form in which estimates are to be presented to Parliament. ? The report of the Estimates Committee is not debated in the House.

7. The Comptroller and Auditor General is the guardian of the public purse and it is his function to see that not a paisa is spent without the authority of Parliament.

- The report of the Comptroller and Auditor General laid before the Parliament, is examined by the Public Accounts Committee.
- Public Accounts Committee is a committee of the Lok Sabha (having 15 members from that House), but seven members of the Rajya Sabha are also associated with this Committee, in order to strengthen it.

8. Public Accounts Committee examines that :

- The money disbursed was legally available and used for the right purpose.
- The expenditure conforms to the authority which governs it.
- Every re-appropriation has been made in accordance with the rules framed by competent authority.

Parliamentary Terms

Question Hour : The day's business normally begins with the Question Hour during which questions asked by the members are answered by the Ministers. The different types of question are :

(i) Starred Question is one for which an oral answer is required to be given by the Minister on the floor of the House. Supplementary decides if a question should be answered orally or otherwise. One member can ask only one starred question in a day.

(ii) Unstarred Question is one for which the Minister lays on the table a written answer. A 10-day notice has to be given to ask such questions and no supplementary questions can be asked with regard to such questions.

(iii) Short Notice Question is one for which can be asked by members on matters of public importance of an urgent nature. It is for the Speaker to decide whether the matter is of urgent nature or not. The member has also to State reasons for asking the question while serving notice.

Zero Hour : This period follows the Question Hour and it generally begins at noon. Usually the time used by the members to raise various issues for discussion.

Cut Motion : A motion that seeks reduction in the amount of a demand presented by the Government is known as a cut motion. Such motion are admitted at the Speaker's discretion. It is a device through which members (generally of the Opposition) can draw the attention of the Government to a specific grievance or problem. There are three types of cut motions :

(i) Disapproval of policy cut : which is to express disapproval of the policy underlying a particular demand, says that 'the amount of the demand be reduced by Rs. 1.

(ii) Economy cut asks for a reduction of the amount of the demand by a specific amount. The aim is to affect economy in the expenditure.

(iii) Token cut : Is a device to ventilate specific grievances within the sphere of the Government's responsibility. The grievance has to be specified. Usually the motion in the form, "the amount of the demand be reduced by Rs. 100.

Adjournment Motion : It is a motion to adjourn the proceedings of the House so as to take up for discussion some matter of urgent public importance. Any member can move the motion and, if more than fifty members support the demand, the Speaker grants permission for the motion. The notice for such a motion has to be given before the commencement of the sitting on the day.

Calling Attention Motion : A member may, with prior permission of the Speaker, call the attention of a Minister to any matter of urgent public interest or ask for time to make a Statement.

Privilege Motion : It is a motion moved by a member if he feels that a Minister has committed a breach of privilege of the House or of any one or more of its members by withholding facts of a case or by giving a distorted version of acts.

Point of Order : A member may raise a point of order if the proceedings of the House do not follow the normal rules. The presiding officer decides whether the point of order raised by the member should be allowed.

Vote on Account : As there is usually a gap between the presentation of the Budget and its approval, the vote on account enables the Government to draw some amount from the Consolidated Fund of India to meet the expenses in the intervening period.

Guillotine : On the last of the allotted days at the appointed time the Speaker puts every question necessary to dispose of all the outstanding matters in connection with demands for grants. This is known as guillotine. The guillotine concludes the discussion on demands for grants.

Quorum : It is the minimum number of members whose presence is essential to transact the business of the House. Article 100 provides that the quorum of either House shall be one-tenth of the total number of members of the House.

No-Confidence Motion : According to the Constitution, the Council of Ministers stays in office only so long as it enjoys the confidence of the Lok Sabha; once the confidence is withdrawn the Government is bound to resign. The rules of parliamentary procedure accordingly provide for moving a motion to ascertain this confidence. The motion is generally known as the "no-confidence motion".

Censure Motion : A censure motion differs from a no-confidence motion in that the latter does not specify any ground on which it is based, while the former has to mention the charges against the Government for which it is being moved. A censure motion can be moved against the Council of Ministers or against an individual Minister for failing to act or for some policy. Reasons for the censure must be precisely enumerated. The Speaker decides whether or not the motion is in order, and no leave of the House is required for moving it.

Lame-duck Session : Session held when a new parliament has been elected but the old Parliament meets for the last time before it is dissolved. The lame-ducks are the members of the parliament who have not got reelected.

Shadow Cabinet : A Parliament practice prevalent in the UK where senior members of the Opposition cover the areas of responsibility of the actual cabinet. They will form the cabinet if their party is elected to the government.

Leader of the Opposition

1. Government has given statutory recognition to the leaders of the Opposition in the Lok Sabha and Rajya Sabha.
2. Necessary legislation to this effect was passed by parliament in 1977 and the Rules framed thereunder were brought into effect on November 1, 1977.
3. For the first time Y.B. Chavan of the Congress (I) was given the official status of Leader of the Opposition in the Lok Sabha with the rank of a Cabinet Minister.

The Funds

1. All money received by or on behalf of the Government of India is credited to either the Consolidated Fund of India, or the Public account of India.
2. **The consolidated Fund of India consists of :** All revenues received by the Government of India ? All loans raised by the Government of India. ? All money

received by Government in repayment of loans {Ref.: Art 266(1)}. ? All other public money received by or on behalf of the Government of India is credited to the Public Accounts of India.

3. Art. 267 of the Constitution empowers Parliament and the Legislature of a state to create a 'Contingency Fund' for India or for a State, as the case may be for meeting unforeseen expenditure.

Extents of the Powers of Rajya Sabha

- 1.** A money Bill can not be introduced in Rajya Sabha.
- 2.** The Rajya Sabha has no power to reject or amend a Money Bill.
- 3.** The Speaker of the Lok Sabha has sole and final power of deciding whether a Bill is a Money Bil
- 4.** Though the Rajya Sabha can discuss, it cannot vote for the public expenditure and demands for grants are not submitted for the vote of the Rajya Sabha.
- 5.** The Council of Ministers is responsible to the Lok Sabha and not to the Rajya Sabha {Ref.: Art. 75(3)}.
- 6.** Rajya Sabha suffers by reason of its numerical minority, in case of a joint session to resolve a deadlock between the two Houses [Art. 108(4)].
- 7.** Parliament can legislate on a State subject only if Rajya Sabha resolves for this by a 2/3 majority. [Ref. : Art. 249]
- 8.** New All-India services can be created only after Rajya Sabha resolves for this with a 2 / 3 majority. [Ref.: Art. 312]

Planning Commission

1. Planning Commission is not mentioned in the Constitution.
2. Planning Commission is an economic advisory body set up by a resolution of the Union Cabinet in 1950.
3. At present, the Planning Commission consists of the Chairman, four Ministers as part time members and seven full-time members.
4. Prime Minister is the Chairman of Planning Commission.
5. Main functions of the Planning Commission are :
 6. To prepare an integrated Five Year Plan for the most effective and balanced utilisation of the country's resources for economic and social development.
 7. To act as an advisory body to the Union Government and State Governments.



The Preamble

1. The Preamble to the Constitution states the object which the Constitution seeks to establish and promote, and also aids the legal interpretation of the Constitution where the language is found ambiguous.
2. The ideals embodied in the Objectives Resolution is faithfully reflected in the Preamble to the Constitution, which, as amended in 1976, summaries the aims and objects of the Constitution.
3. Text of the Preamble : "We, the People of India having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all citizens justice, social, economic and political; Liberty of thought, expression, belief, faith and worship Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation in our Constituent Assembly on this twenty sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution."
4. The Preamble specifies the source of authority, i.e. people of India, the system of Government, the objectives to be attained by the political system and the date of adoption and enactment of the Constitution.
5. Though, the Preamble is not enforceable in a court of law, it provides a key to the understanding and interpretation of the Constitution.
6. In case of doubt, the Supreme Court has referred to the Preamble to elucidate vague aspects of the Constitution.
7. In the Berubari case, the Supreme Court held that the Preamble was not part of the Constitution, but later, in the Keshavananda Bharti case, it declared that it was part of the Constitution.

Executive of the Union The President

1. President is the head of the Union Executive.
2. The President of India is indirectly elected by an electoral college, in accordance with the system of proportional representation by means of the single transferable vote.
3. The electoral college for the President consists of : ? The elected members of both Houses of Parliament; ? The elected members of the Legislative Assemblies of the states; and ? The elected members of the Legislative Assemblies of Union Territories of Delhi and Pondicherry (now Puduchery) {Ref.:Art. 54}.
4. In the President's election vote value of an
6. Indirect election of the President is supported on two grounds :
7. Direct election by a large electorate of people would be very costly.
8. Real power is vested in the Ministry, so, it would be anomalous to elect the President directly without giving him real powers.

Qualifications for election as President are :

Be a citizen of India; ? Have completed the age of thirty-five years; ? Be qualified for election as a member of the House of the People; and ? Must not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the Control of any of the said Governments { Art. 58 }

1. A sitting President or Vice- President of the Union or the Governor of any state or a Minister either for the Union or for any state is not disqualified for election as President {Ref.:Art 58}
2. The President's term of office is five years from the date on which he enters upon his office.
3. President can submit resignation in writing under his hand addressed to the Vice-President of India.
4. The only ground for impeachment of President specified in Art 61(1) is 'violation' of the Constitution.
5. An impeachment is a quasi-judicial procedure in Parliament.

6. Either House may prefer the charge of violation of the Constitution by the President provided that :

- A resolution containing the proposal is moved after a 14 days' notice in writing signed by not less than 1 / 4 of the total number of members of that House; and
- The resolution is then passed by a majority of not less than 2/3 of the total membership of the House.
- Charge preferred by one House is investigated by the other House.

7. The President has a right to appear and to be represented at such investigation.

8. If a resolution is passed by not less than 2/3 of the total membership of the investigating House declaring that the charge had sustained, the President shall be removed from office {Ref.: Art. 61}.

9. The President shall not be a member of either House of Parliament or of a House of the Legislature of any State.

10. If a member of either House of Parliament or a House of the Legislature of any State is elected President, he shall be deemed to have vacated his seat in that House.

11. A vacancy in the office of the President can be caused in any of the following ways :

- On the expiry of his term of five years. ? By his death. ? By his resignation. ? On his removal by impeachment. ? Otherwise, e. g. on the setting aside of his election as President.

12. An election to the office of the President must be completed before the expiration of the term.

13. The outgoing President continues to hold office, notwithstanding that his term has expired, until his successor enters upon the office {Ref.: Art 56 (1) (c)}. There is no scope for the Vice-President getting a chance to act as President in this case.

14. If vacancy arises other than by expiry of the term an election to fill the vacancy must be held within six months from the date of occurrence of the vacancy.

15. If a mid-term vacancy arises in the office of the President, Vice-President acts as President until a new President is elected.

Powers of President Administrative power

The President is the formal head of the administration. All executive actions of the Union are expressed to be taken in the name of the President. {Ref. : Art. 77}

All officers of the Union are the President's subordinates and he or she has a right to be informed of the affairs of the Union {Art. 78,53(1)}.

The President shall have the power to appoint and remove high dignitaries including :

1. The Prime Minister of India
2. Other Ministers of the Union
3. The Attorney-General for India
4. The Comptroller and Auditor General of India*
5. The Judges of the Supreme Court*
6. The Judges of the High Courts of the states*
7. The Governors of states*
8. The Chief Election Commissioner*

can be removed from office through special constitutional provisions (by impeachment)

Military power

1. The Supreme command of the Defence Forces is vested in the President of India, but the Parliament can regulate or control the exercise of such powers {Ref : **Art. 53(2)**}.
2. Certain acts cannot be done by the President without approaching Parliament for sanction, e.g. acts which involved the expenditure of money {Ref. : Art. 114(3)}, such as the raising, training and maintenance of the Defence Forces.

Diplomatic power :

1. The President is empowered to negotiate treaties and agreements with other countries on the advice of his Ministers, subject to ratification by Parliament.
2. President of India represents India in International affairs, appoints Indian representatives to other countries and receives diplomatic representatives of other States.

Legislative power :

1. President has the power to summon or prorogue the Houses of Parliament and to dissolve the Lok Sabha. {Ref. : Art. 85}
2. He also has the power to summon a joint sitting of both Houses of Parliament in case of a deadlock between them {Ref: Art. 108}.
3. The President addresses both Houses of Parliament assembled together, at the first session after each general election to the Lok Sabha and at the commencement of the first session of each year.
4. The President has the right to address either Houses or their joint sitting, at any time and to require the attendance of members for this purpose [Art. 86(1)]
5. In the Rajya Sabha 12 members are nominated by the President from persons having special knowledge or practical experience of literature, science, art and social service {Ref : Art. 80(1)}.
6. The President is empowered to nominate not more than two Anglo-Indian members to the Lok Sabha, if that community is not adequately represented in that House {Ref. : Art. 331 }.
7. Previous sanction or recommendation of the President is required for introducing legislation on following matters : ? A Bill for the formation of new states or the alteration of boundaries, of existing states {Ref. : Art. 3}. ? A Bill providing for any of the matters specified in art 31A (1) ? A money Bill {Ref. : Art. 117(1)}. ? A Bill involving expenditure from the Consolidated Fund of India {Ref.: Art. 117(3)}. ? A Bill affecting taxation in which States are interested. ? State Bills imposing restrictions upon the freedom of trade {Ref.:Art. 304}.
8. A Bill becomes an Act of the Indian Parliament only after it receives the assent of the President.
9. When a Bill is presented to the President for assent : ? He may declare his assent to the Bill; or ? He may withhold his assent to the Bill; or ? He may, in the case of Bills other than Money Bills return the Bill for reconsideration of the Houses, with or without a message suggesting amendments. If the Bill is passed again by both Houses of Parliament with or without amendment and again presented to the President it would be obligatory upon him to declare his assent to it {Ref. : Art. 111 }.
10. The veto power of the Indian President is a combination of the absolute, suspensive and pocket vetos.

11. President of India has the power of disallowance or return for reconsideration of a Bill of the state legislature, which are reserved for his consideration by the Governor of the State {Ref.: Art. 201}. A Money Bill so reserved, can not be returned by the President.

12. It is not obligatory upon the President to give his assent even to the Bills reconsidered by the state legislature {Ref.: Art. 201}.

13. The President can legislate by Ordinances at a time when it is not possible to have a Parliamentary enactment on the subject, immediately {Ref. : Art. 123}.

Pardoning Power :

- 1.** President as well as the Governors possess power to grant pardon {Ref. : Arts. 72,161}
- 2.** Pardon rescinds (abrogates or revokes) both the sentence and the conviction and absolve the offender from all punishment and disqualifications.
- 3.** Commutation merely substitutes one form of punishment for another of a lighter character.
- 4.** Remission reduces the amount of sentence without changing its character.
- 5.** Respite means awarding a lesser sentence instead of the penalty prescribed in view of pregnancy of a woman offender etc.
- 6.** Reprieve means a stay of execution of a sentence, e.g. pending a proceeding for pardon or commutation.

Comparison Between Pardoning Powers of the President and a Governor

- 1.** President has the power to grant pardon, reprieve, respite, suspension, remission or commutation, in respect of punishment or sentence by court-martial. Governor has no such power.
- 2.** President's powers extend up to the executive power of the union. Governor's powers extend up to the executive power of the state.
- 3.** Governor has no power to pardon in case of sentence of death, but he can suspend, remit or commute a sentence of death. Only President can pardon a death sentence.

Emergency power :

- The President has extraordinary powers to deal with a situation of emergency.

Miscellaneous powers :

1. The President has the Constitutional authority to make rules and regulations relating to various matters.
2. He / she has the power to give instruction to a Governor to promulgate an Ordinance if a Bill containing the same provisions requires previous sanction of the President.
3. President has the power to refer any question of Public importance for the opinion of the Supreme Court.
4. President has the power to appoint certain commissions for the purpose of reporting on specific matters, such as, Commissions to report on the administration of Scheduled Areas and welfare of Scheduled Tribes and backward classes; the Finance Commission; Commission on Official Language; an Inter-State Council.
5. President has some special powers relating to Union Territories or territories which are directly administered by the Union.
6. The President shall have certain special powers in respect of the administration of Scheduled Area and Tribes, and Tribal Area in Assam. The President has certain special powers and responsibilities regarding the administration of the Scheduled Caste.

The Vice-President

1. Vice-President is indirectly elected by means of single transferable vote.
2. State Legislatures do not take part in the election of Vice-President.
3. The electoral college for Vice-President consists of the members of both Houses of Parliament {Ref.:Art. 66(1)}.
4. To be elected as Vice-President of India a person must be : ? A citizen of India. ? Over 35 years of Age. ? Must not hold an office of profit save that of President, Vice-President, Governor or Minister for the Union or a state {Ref.: Art. 66}. ? Qualified for election as a member of the Rajya Sabha.
5. In case a member of the Legislature is elected Vice-President, he shall be deemed to have vacated his seat in the House to which he belongs

6. Term of the office of Vice-President is five years from the date on which he enters upon his office. Office of Vice-President may terminate earlier than the fixed term either by resignation or by removal.
7. A formal impeachment is not required for Vice-President's removal.
8. Vice-President can be removed by a resolution of the Rajya Sabha passed by a majority of its members and agreed to by the Lok Sabha {Ref.: Art 67}.
9. A sitting Vice-President is eligible for re-election. Dr. S. Radhakrishnan was elected as the Vice-President of India for a second term in 1957.
10. No functions are attached to the office of the Vice-President. The normal function of the Vice-President is to act as the ex-officio Chairman of the Rajya Sabha.
11. If any vacancy occurs in the office of the President, Vice-President acts as President until a new President is elected and enters upon his office {Ref.:Art. 65(1)}.
12. For the first time during the 15-day visit of Dr. Rajendra Prasad to the Soviet Union in June 1960, the then Vice-President, Dr. S. Radhakrishnan acted as the President owing to the 'inability' of the President to discharge his duties.
13. The power to determine when the President is unable to discharge his duties or when he should resume his duties is understood to belong to the President himself.
14. If the offices of both the President and the Vice-President fall vacant by reason of death, resignation, removal etc. the Chief Justice of India or in his absence the senior most Judge of the Supreme Court acts as President.
15. For the first time in 1969 when the President Dr. Zakir Hussain died and the Vice-President Shri V. V. Giri resigned, the Chief Justice Md. Hidayatullah acted as President.
16. When the Vice-President acts as President, he gets the emoluments of the President; otherwise, he gets the salary of the Chairman of the Rajya Sabha. When the Vice-President acts as President, the Deputy Chairman of the Rajya Sabha acts as its Chairman [Art. 91].
17. Determination of doubts and disputes relating to the election of a President or Vice-President is described in Art. 71. Main provisions are as follows : ? Such disputes are decided by the Supreme Court whose jurisdiction is exclusive and final. ? No such dispute can be raised on the ground of any vacancy in the electoral college. ? If the election of the President or the Vice-President is declared void by the Supreme Court, acts done by him prior to the date of such decision of the Supreme Court is not

invalidated. ? Matters other than the decision of such disputes are regulated by law made by Parliament.

The Prime Minister and The Union Council Of Ministers

1. In a parliamentary system of Government, the Prime Minister occupies a unique position as the most powerful functionary who controls both the Parliament and the Executive.
2. Prime Minister is appointed by the President. Other ministers are appointed and / or dismissed by the President on the advice of the Prime Minister.
3. Prime Minister, must be the leader of the party in majority in the Lok Sabha or a person who can win the confidence of the majority in that House.
4. As the head of the Council of Ministers, the Prime Minister (PM) is the head of the Government. Also, he / she is the leader of his / her party or / and of a coalition of parties in Parliament and usually the Leader of the Popular House.
5. The PM enjoys large powers of patronage. All the ministers are appointed at his/her recommendation and stand dismissed at his/her demand.
6. The PM allots work among the ministers. Also, he / she can change their portfolios at will.
7. The PM is the channel of communication between the Council of Ministers and the President.
8. Ministers get the salaries and allowances etc. as payable to members of parliament. In addition they get a sumptuary allowance at a varying scale and a residence, free of rent. Cabinet Ministers attend meeting of the Cabinet.
9. Ministers of State are not members of the Cabinet and they can attend a Cabinet Meeting only if invited to attend any particular meeting.
10. A Deputy Minister assists the Minister in discharge of his duties and takes no part in Cabinet meetings.
11. There is no bar to the appointment of a non- MP as Minister, but he cannot continue as Minister for more than 6 months unless he secures a seat in either House of Parliament.
12. Though the ministers are collectively responsible to the legislature, they are individually responsible to the President.

13. A Minister can take part in the proceedings of both Lok Sabha and Rajya Sabha, but he / she can vote only if he / she is a member of that House.

The Attorney-General for India

- 1.** The Attorney-General is the first Law Officer of the Government of India, who gives advice on legal matters and performs other duties of a legal character as assigned to him by the President.
- 2.** The Attorney-General for India is appointed by the President and holds office during the pleasure of the President. He must have the same qualifications as are required to be a judge of the Supreme Court.
- 3.** He discharges the functions conferred on him by the Constitution or any other law {Ref.: Art. 76}.
- 4.** The Attorney-General for India is not a member of the Cabinet. But he has the right to speak in the Houses of Parliament or in any Committee thereof, but he has no right to vote {Ref.: Art 88}.
- 5.** He is entitled to the privileges of a member of Parliament [Art. 105(4)]. In the performance of his official duties, the Attorney-General has the right of audience in all Courts in the territory of India.
- 6.** He is not a whole-time counsel for the Government nor a Government servant.

The Comptroller & Auditor General of India

- 1.** The CAG controls the entire financial system of the Union as well as the States {Ref.: Art. 148 }.
- 2.** Though appointed by the President, the Comptroller and Auditor-General can be removed only on an address from both Houses of Parliament on the ground of proved misbehaviour or incapacity.
- 3.** His salary and conditions of service are laid down by Parliament and can not be varied to his disadvantage during his term of office.
- 4.** The term of office of the Comptroller and Auditor-General (CAG) is 6 years from the date on which he assumes office.

5. CAG vacates office on attaining the age of 65 years even without completing the 6-year term. He can resign by writing under his hand, addressed to the President of India. He can be removed by impeachment {Ref.: Arts. 148(1); 124(4)}.
6. His salary is equal to that of a Judge of the Supreme Court.
7. Other conditions of his service are similar to an I. A. S. of the rank of Secretary to the Government of India.
8. He is disqualified for any further Government office after retirement.
9. The salaries, etc. of the Comptroller and Auditor-General and his staff and the administrative expenses of his office are charged upon the Consolidated Fund of India and thus non-votable {Ref.: Art. 148 (6)}.
10. The main duties of the Comptroller and Auditor General are : ? To audit and report on all expenditure from the Consolidated Fund of India and of each state and each Union Territory having a Legislative Assembly as to whether such expenditure has been in accordance with the law. ? To audit and report on all expenditure from the Contingency Funds and Public Accounts of the Union and of the states. ? To audit and report on all trading manufacturing profit and loss accounts etc. kept by any department of the Union or a state. ? To see that rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue. ? To audit and report on the receipts and expenditure of all bodies and authorities substantially financed from the Union or State revenues, Government companies; and other corporations or bodies, if so required by the laws relating to such corporations or bodies.



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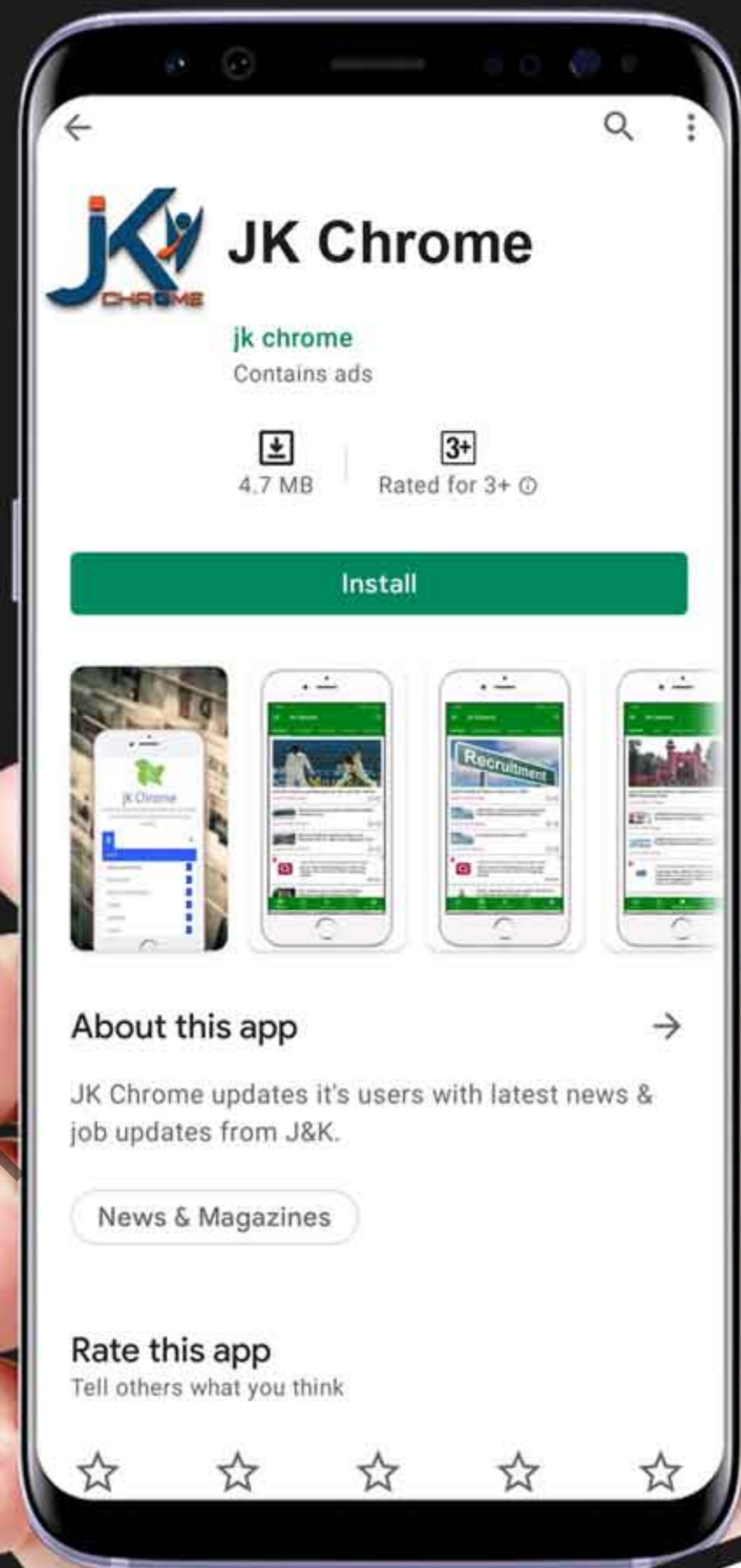
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Procedure for Amending the Constitution

1. The alteration of certain provisions of the Constitution are not considered amendment of the constitution. Such provisions can be altered by the Parliament by a simple majority.
2. Other provisions of the Constitution can be changed only by the process of 'amendment' prescribed in Art. 368.
3. In the case of provisions which affect the federal structure, a ratification by the Legislatures of at least half of the states, is required before the Bill is presented to the President for his assent. Such provisions are : ? The manner of election of the President {Ref: Arts. 54,55} ? Extent of the executive power of the Union and the States {Ref: Arts. 73, 162}; ? The Supreme Court and the High Courts {Art. 241, Chap. IV of part V, Chap. V of part VI} ; ? Distribution of legislative power between the Union and the States [Chap.I of Part XI]; ? Any of the Lists in the 7th Schedule; ? Representation of the States in Parliament {Arts. 80-81,4th Schedule}; ? Provisions of Art. 368 itself,
4. There is no separate Constituent body provided for by our Constitution for the amending process.
5. An amendment of the Constitution can be initiated only by the introduction of a Bill for the purpose in either House of Parliament.
6. The Amendment Bill should be passed by each House by a special majority i.e., more than 50% of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting.
7. Constitution stands amended in accordance with the terms of the Amendment Bill after President's assent is accorded to it.

The blend of rigidity and flexibility in the procedure for amendment

1. The procedure for amendment is 'rigid' in so far as it requires a special majority and a special procedure.
2. There is no separate body for amending the Constitution, as exists in some other countries (e.g., a Constitutional convention)
3. The State Legislatures cannot initiate any Bill or proposal for amendment of the Constitution.

4. Subject to the provisions of Art. 368, Constitution Amendment Bills are to be passed by the Parliament in the same way as Ordinary Bills.
5. The procedure for joint session is not applicable to Bills for amendment of the Constitution.
6. The previous sanction of the President is not required for introducing any Bill for amendment of the Constitution.
7. The requirement relating to ratification by which the state Legislatures is more liberal than the corresponding provisions in the American constitution. The latter requires ratification by three fourths of the states.
8. The amendment of Art. 368 in 1971 has made it obligatory for the President to give his assent to a Bill for amendment of the Constitution, when it is presented to him after its passage by the Legislature {Ref.: 24th Amendment 1971}.

Whether Fundamental Rights are Amendable

1. Until the case of Golak Nath, Supreme Court held that no part of our Constitution was unamendable.
2. In Golak Nath's case(1967) a majority of six judges, in a special bench of eleven, overruled the previous decisions and held that if any of such rights is to be amended, a new Constituent Assembly must be convened for making a new Constitution or radically changing it.
3. Constitution (24th Amendment) Act, 1971, held that an amendment of the Constitution passed in accordance with Art. 368, will not be law within the meaning of Art. 13 and the validity of a Constitution Amendment Act shall not be questioned on the ground that it takes away or affects a fundamental right {Ref.: Art. 368(3)}
4. Validity of the 24th Constitution Amendment Act itself was challenged in the case of Keshavananda Bharati.
5. In the case of Keshvananda Bharati the Supreme court overruled its own decision given in the case of Golak Nath and held that the Parliament could amend any provision of the constitution including fundamental rights in accordance with.

The Doctrine of Basic Features

1. The Supreme court held in the case of Keshavananda Bharati that there are certain basic features of the Constitution of India, which cannot be altered by an amendment under Art. 368.
2. Article 31C, introduced by 25th Amendment Act provided that if any law seeks to implement the directive principles contained in Art. 39(b)-(c) i.e. regarding socialistic control and distribution of the material resources of the country, such law shall not be void on the ground of contravention of Art. 14 or 19. The Supreme Court later held that Art. 368 did not empower the Parliament to take away judicial review, in the name of 'amending' the Constitution.
3. The 42nd Amendment 1976 inserted two clauses in Art. 368 to the effect that Constitution Amendment Act "shall be called in Question in any court on any ground". These clauses were nullified by the Supreme Court in the Minerva Mills case.
4. There are three implications of the decision in Keshavananda Bharati's case. ? Any part of the Constitution may be amended as per the procedure laid down in Art. 368. ? No referendum or reference to Constituent Assembly is required to amend any provision of the Constitution. ? Basic features of the Constitution can not be amended.
5. There is no limited list of basic features. In so many decisions the Supreme Court has declared different things a basic features. Prominent among them are the following :
? Supremacy of the Constitution. ? Rule of law. ? The principle of separation of powers. ? The objectives specified in the Preamble to the
6. Judicial review; Art. 32.
7. Federalism. ? Secularism. ? The Sovereign, Democratic, Republican structure. Freedom and dignity of the individual.
8. Unity and integrity of the Nation.
9. The Principle of equality, not every feature of equality, but the quintessence of equal justice.
10. The 'essence' of fundamental rights in Part III.
11. The concept of social and economic justice to build a Welfare State.
12. The balance between fundamental rights and directive principles.
13. The Parliamentary system of Government.
14. The principle of free and fair elections.

15. Limitations upon the amending power conferred by Art. 368.
16. Independence of the Judiciary.
17. Effective access to justice.
18. Powers of the Supreme Court under Arts. 32,136,141,142.



Public Service Commissions

- 1.** Constitution provides a Public Service Commission for the Union, a Public Service Commission for each State or a Joint Public Service Commission for a group of States.
- 2.** A Joint Public Service Commission can be created by Parliament in pursuance of a resolution passed by the State Legislatures concerned.
- 3.** The Union Public Service Commission can serve the needs of a State, if so requested by the Governor of that State and approved by the President {Ref.: Art. 315}.
- 4.** The appointment, determination of number of members of the Commission and their conditions of service is done by : The President in the case of the Union or a Joint Commission, and The Governor of the State in the case of a State Commission.
- 5.** Conditions of service of a member of the Public Service Commission can not be varied to his disadvantage after his appointment [Art. 318].
- 6.** Half of the members of a Commission should be persons who have held office under the Government of India or of a State for at least 10 years {Art. 316}.
- 7.** The term of service of a member of a Commission is 6 years from the date of his entering upon office, or until the age of retirement, which ever is earlier.
- 8.** Age of retirement for a member of UPSC is 65 years.
- 9.** Age of retirement for a member of PSC of a State or a Joint Commission is 62 years.
- 10.** Services of a member of a Public Service Commission can be terminated by : Resignation in writing addressed to the President (to the Governor in the case of a State Commission). Removal by the President.
- 11.** President can remove a member if he is : adjudged insolvent; or engages himself in paid employment outside the duties of his office; or is infirm in mind or body; or found guilty of misbehaviour by the Supreme Court.
- 12.** Even in the case of a State Commission, only the President can remove a member, while Governor has only the power to pass an interim order of suspension.
- 13.** The expenses of the Commission are charged on the Consolidated Fund of India or of the State (as the case may be) {Ref.: Art. 322}.

14. Disabilities imposed upon the Chairman and members of the Commission for future employment under the Government are : The Chairman of the UPSC is ineligible for further employment either under the Government of India or under the Government of a State. The Chairman of a State Public Service Commission is eligible for appointment as the Chairman or member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India Or under the Government of a State.

15. A member of a State Public Service Commission is eligible for appointment as the Chairman of a State Public Service Commission and Chairman or member of UPSC, but not for any other employment either under the Government of India or under the Government of a State.

16. The Public Service Commissions are advisory bodies. Government can accept its recommendation or depart from it.

17. Functions of Public Service Commission : To conduct examination for appointments to the services of the Union and States. To advise on any matter so referred to them and on any other matter which the President or the Governor of a state may refer to the appropriate Commission [Art. 320] To exercise such additional functions as may be provided for by an act of Parliament or of the Legislature of a State.

Reorganization of States

1. A Bill seeking to create a new State or alter boundaries of existing States can be introduced in either House of the Parliament, only on the recommendation of the President.
2. President refers (The State Reorganization Bill to the State Legislature concerned for its opinion, fixing a time limit.
3. Parliament is not bound to accept or act upon the views of the State Legislature on a state Reorganization Bill. The State Reorganization Bill requires simple majority in both Houses of the Parliament.
4. It is not necessary to obtain the views of legislatures of Union territories before a bill affecting their boundaries or names is introduced.
5. The States Reorganization Act, 1956 reorganised the boundaries of different States to establish a new State of Kerala and merge the former States of Madhya Bharat, Pepsu, Saurashtra, Travancore, Cochin, Ajmer, Bhopal, Coorg, Kutch and Vindhya Pradesh in other adjoining States and thus 14 states and 6 Union Territories were established in India.
6. The Bombay Reorganization Act, 1960, divided the State of Bombay to establish two States of Gujarat and Maharashtra.
7. In 1962 Nagaland was created as a separate State.
8. In 1966, Punjab was divided into Punjab and Haryana.
9. Union Territory of Himachal Pradesh was made the State of Himachal Pradesh by an Act of 1970.
10. States of Manipur, Tripura, Meghalaya and Union Territories of Mizoram and Arunachal Pradesh were established in 1971. Later Mizoram and Arunachal Pradesh achieved statehood in 1986.
11. Sikkim was made part of India by 36th Amendment of the Constitution.
12. In 1987 Goa was made a separate State of the Union.
13. Chhattisgarh came into existence on 1st November, 2000.
14. Uttaranchal (now Uttarakhand) came into existence on 8th November, 2000.

15. The State of Jharkhand, which was established on 15th November 2000 is the newest (28th) State of India.
16. The Union Government (on 30 July, 2013) gave a go ahead to create 'Telangana' (the proposed 29th State) bifurcating Andhra Pradesh.
17. Telangana came into being on the 2nd June 2014.



The Supreme Court

1. Every Judge of the Supreme Court after consulting the Chief Justice of the Supreme Court, is appointed by the President of India.
2. In appointment of the Chief Justice of India, President can consult such Judges of the Supreme Court and the High Court as he thinks appropriate.
3. A person is qualified for appointment as a judge of the Supreme Court, if he is : ? A citizen of India ? Has been a High Court Judge for at least 5 years ? Has been an Advocate of a High Court, or two or more courts in succession for at least 10 years {Ref.: Art. 124(3)}.
4. No minimum age or fixed period of office is prescribed for appointment as a Judge of the Supreme Court.
5. A Judge of Supreme Court ceases to be so, on : ? Attaining the age of 65 years; ? Resigning in writing addressed to the President; ? On being removed by the President. ? The only grounds for such removal are proved misbehaviour and incapacity {Ref.: Art. 124(4)}.
6. Procedure for removal or impeachment of a Supreme Court Judge : ? A motion addressed to the President signed by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha is delivered to the Speaker or the Chairman. ? The motion is investigated by a Committee of 3 (2 Judges of the Supreme Court and a distinguished Jurist). ? If the Committee finds the Judge guilty, report of Committee is considered in the House where the Motion is pending. ? If the motion is passed in each House by majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting the address is presented to the President.
7. The Judge is removed after the President gives his order for removal on such address.
8. The procedure for impeachment is the same for Judges of the Supreme Court and the High Courts.
9. After retirement a Judge of the Supreme Court can not plead or act in any Court or before any authority within the territory of India {Ref.: Art. 124(7)}.
10. Jurisdiction of the Supreme Court is three-fold : 1. Original; 2. Appellate; and 3. Advisory.
11. Disputes between different States of the Union or between Union and any state is within exclusive Original jurisdiction of the Supreme Court {Ref.: Art. 131}

- 12.** The jurisdiction of the Supreme Court to entertain an application under Art. 32 for the issue of writs for the enforcement of Fundamental Rights is treated as an 'original' jurisdiction of the Supreme Court though called Writ Jurisdiction
- 13.** The Supreme Court is the highest court of appeal from all courts in the territory of India.
- 14.** Supreme Court is the highest authority for interpretation of the Constitution.
- 15.** Supreme Court may hear appeals by granting special leave against any kind of judgement or order made by any court or tribunal (except a military tribunal).
- 16.** Under advisory jurisdiction, Supreme Court can give its opinion on any matter of law or fact of public importance referred to it by the President. {Ref.: Art. 143}.



National Symbols

National Flag

1. The National flag is a horizontal tricolour of deep saffron (Kesaria) at the top, white in the middle and dark green at the bottom in equal proportion. The ratio of width of the flag to its length is two to three. In the centre of the white band is a navy-blue wheel which represents the chakra. Its design is that of the wheel which appears on the abacus of the Sarnath Lion Capital of Ashoka. Its diameter approximates to the width of the white band and it has 24 spokes. The design of the National Flag was adopted by the Constituent Assembly of India on 22 July 1947.
2. Apart from non-statutory instructions issued by the Government from time to time, display of the National Flag is governed by the provisions of the Emblems and names (Prevention of Improper Use) Act, 1950 (No.12 of 1950) and the Prevention of Insults to National Honour Act, 1971 (No. 69 of 1971).
3. The Flag Code of India, 2002, took effect from 26 January 2002 which brings together all such laws, conventions, practices and instructions for the guidance and benefit of all concerned.
4. In an important judgement in January, 2004 the Supreme Court (under the chairmanship of the Chief Justice B. N. Khare) pronounce that unfurling (hoisting) of National Flag is a fundamental right under Article 19 (1) (A).

Note : For the first time the National Flag of India was hoisted in the mid-night of 14th August, 1947.

State Emblem

1. The state emblem is an adaptation from the Sarnath Lion Capital of Ashoka. In the original, there are four lions, standing back to back, mounted on an abacus with a frieze carrying sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening wheels over a bell-shaped lotus. Carved out of a single block of polished sandstone, the Capital is crowned by the Wheel of the Law (Dharma Chakra).
2. In the state emblem, adopted by the Government of India on 26th January 1950 only three lions are visible, the fourth being hidden from view. The wheel appears in relief in the centre of the abacus with a bull on right and a horse on left and the outlines of other wheels on extreme right and left. The bell-shaped lotus has been omitted. The words Satyameva Jayate from Mundaka Upanishad,

meaning 'Truth Alone' Triumphs, are inscribed below the abacus in Devanagari script.

3. The use of the state emblem of India, as the official seal of the Government of India, is regulated by the State of India (Prohibition of Improper Use) Act, 2005.

National Anthem

1. The song Jana-gana-mana, composed originally in Bengali by Rabindranath Tagore, was adopted in its Hindi version by the Constituent Assembly as the National Anthem of India on 24 January, 1950. It was first sung on 27 December, 1911 at the Kolkata Session (Chairman-Pt. Vishan Narayan Dutt) of the Indian National Congress. The complete song consists of five stanzas.

2. Rabindranath Tagore had published it in 'Tatvabodhini' in 1912 with the title 'Bharat Bhagya Vidhata' and translated it into English in 1919 with the title 'Morning song of India'. The credit of composing the present tune (Music) of our national anthem goes to Captain Ram Singh Thakur (an I N A sepoy)

3. Playing time of the full version of the national anthem is approximately 52 seconds. A short version of the first and last lines of the stanza (Playing time approximately 20 seconds) is also played on certain occasions.

National Song

1. The song 'Vande Mataram', composed in Sanskrit by Bankimchandra Chatterji, was a source of inspiration to the people in their struggle for freedom. It has an equal status with Jana-gana-mana. The first political occasion when it was sung at the 1896 session (Chairman-Rahimtulla Sayani) of Indian National Congress.

2. The song was published in the novel 'Anandmath', authored by Bankimchandra Chatterji and was adopted as the National Song on 26 January, 1950.

3. Playing time of this song one (1) minute and five (5) seconds (65 seconds). No body can be forced is to sing the National Song.

Note : Session of Parliament begins with 'Jana-gana-mana' and concludes with 'Vande Mataram.'

National Calendar

1. The National Calendar based on the Saka Era, Chaitra as its first month and a normal year of 365 days was adopted from 22nd March 1957 along with the Gregorian calendar for the following official purposes: (i) Gazette of India, (ii) news broadcast by All India Radio, (iii) calendars issued by the Government of India and (iv) Government communications addressed to the members of the public.
2. Dates of the National Calendar have a permanent correspondence with dates of the Gregorian calendar, 1 Chaitra falling on 22 March normally and on 21 March in leap year.

National Animal : The magnificent tiger, *Panthera tigris*.

National Bird : The Indian peacock, *Pavo cristatus*.

National Flower : Lotus (*Nelumbo Nucipera Gaertn*).

National Tree : The Banyan Tree (*Ficus benghalensis*).

National Fruit : Mango (*Manigifera indica*).

National Aquatic Animal : The mammal Ganges River Dolphin (*Platanista gangetica*).

The Union and its Territories

1. Article 1 lays-down that India, i.e. Bharat, shall be a Union of States. The Territory of India shall consist of (i) the Territories of the States, (ii) the Union Territories and (iii) any Territories that may be acquired.
2. Article 1 of the Constitution describes India as a Union of States not as a federation of states. Union of India is not the result of an agreement, nor has any State the right to secede from it.
3. The Federation is called a Union of States, because it is indestructible.
4. The Union Territories are not included in the "Union of States". Whereas the expression "Territory of India" includes the States, the Union Territories and such other territories as may be acquired by India.
5. The States and their territories are specified in the First Schedule to the Constitution. The Constitution empowers the Parliament for the admission or establishment of new States.
6. Article 2 provides that Parliament may by law admit new States into the Union of India or establish new States on such terms and conditions as it deems fit.
7. The Parliament has admitted the French settlements of Pondicherry, Karaikal, Mahe and Yanam, the Portuguese settlements of Goa, Diu and Daman and Sikkim, etc. into India after independence.
8. Article 3 of the Constitution empowers the Parliament to form a new State by altering boundaries of existing States.



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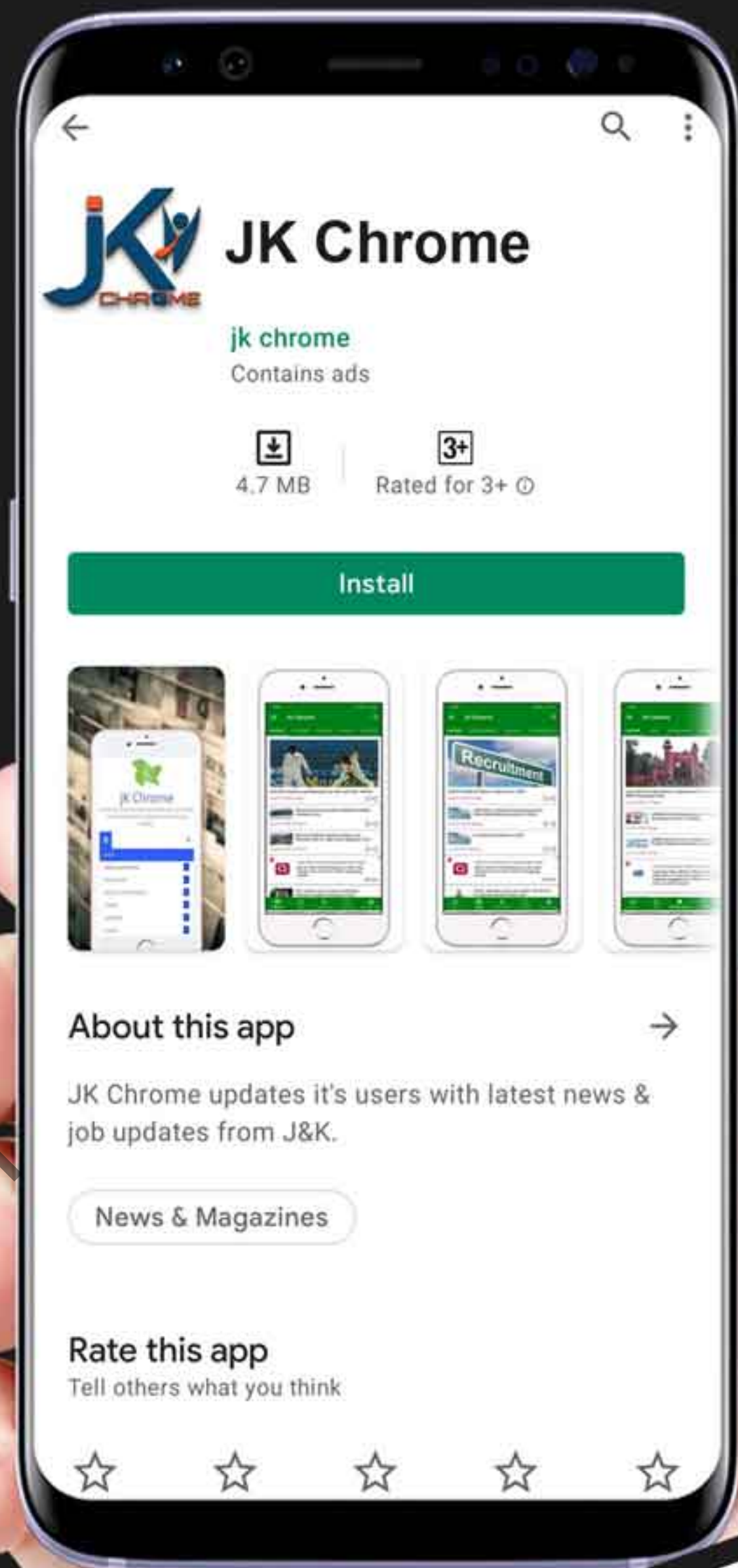
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