

unit-1

Indian Constitution

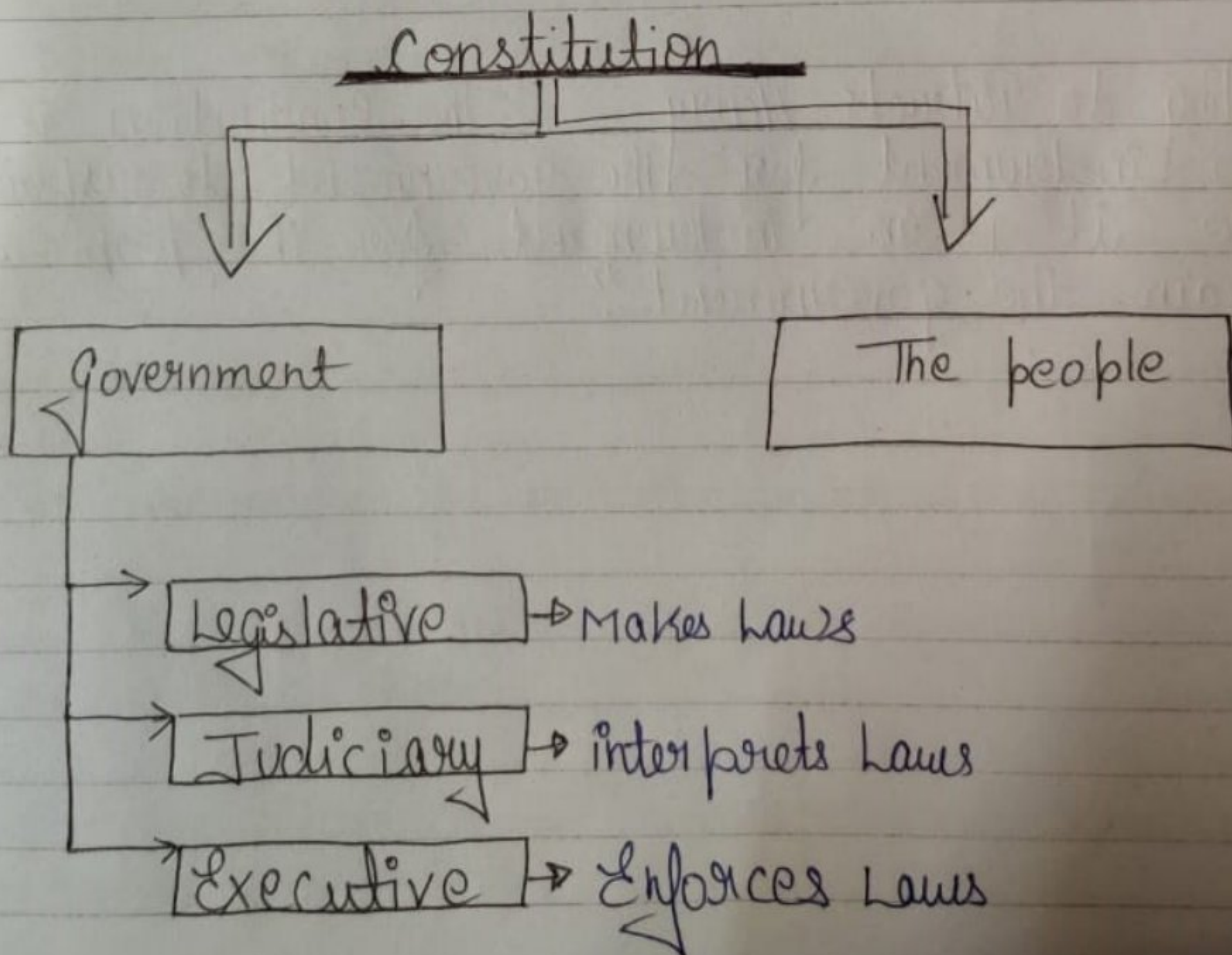
The Constitution is the Supreme law of the land. All other laws have to conform to the Constitution. The Constitution contains law concerning the government and its relations with the people.

A Constitution is concerned with 2 main Aspects

(A) The relation between the different levels of government and

(B) Between the government and the citizens

Role of Constitution in relationship b/w government and its people -



Definitions

A Constitution is a set of fundamental principles or established precedents according to which a state or other organisation is governed. These rules together make up, i.e. constitute, what the entity is. When these principles are written down into a single collection or set of legal documents, those documents may be said to comprise a written constitution.

“The document containing laws and ~~rules~~ rules which determine and describe the form of the government, the relationship between the citizens and the government, is called a Constitution.

According to Patrick Henry — “The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government.”

The constitution of India

Constitution of India is considered to be the supreme law of the country, as it put forth the framework of fundamental political principles. It establishes the structure, procedures, powers and duties of the government and mentions the fundamental rights, directive principles and duties of citizens.

The constitution declares India as a Sovereign, Socialist Democratic, and Republic with a parliamentary form of Government.

The Indian Constitution shows federal as well as unitary system.

1- Federal System - Powers are divided and/or shared between state and Central Government.

~~2- Union System - Power concentration in central govt. with weak state Government.~~

Features of Federal System

1- Supremacy of the constitution

2- Division of power b/w the union (central Govt.) and state, and.

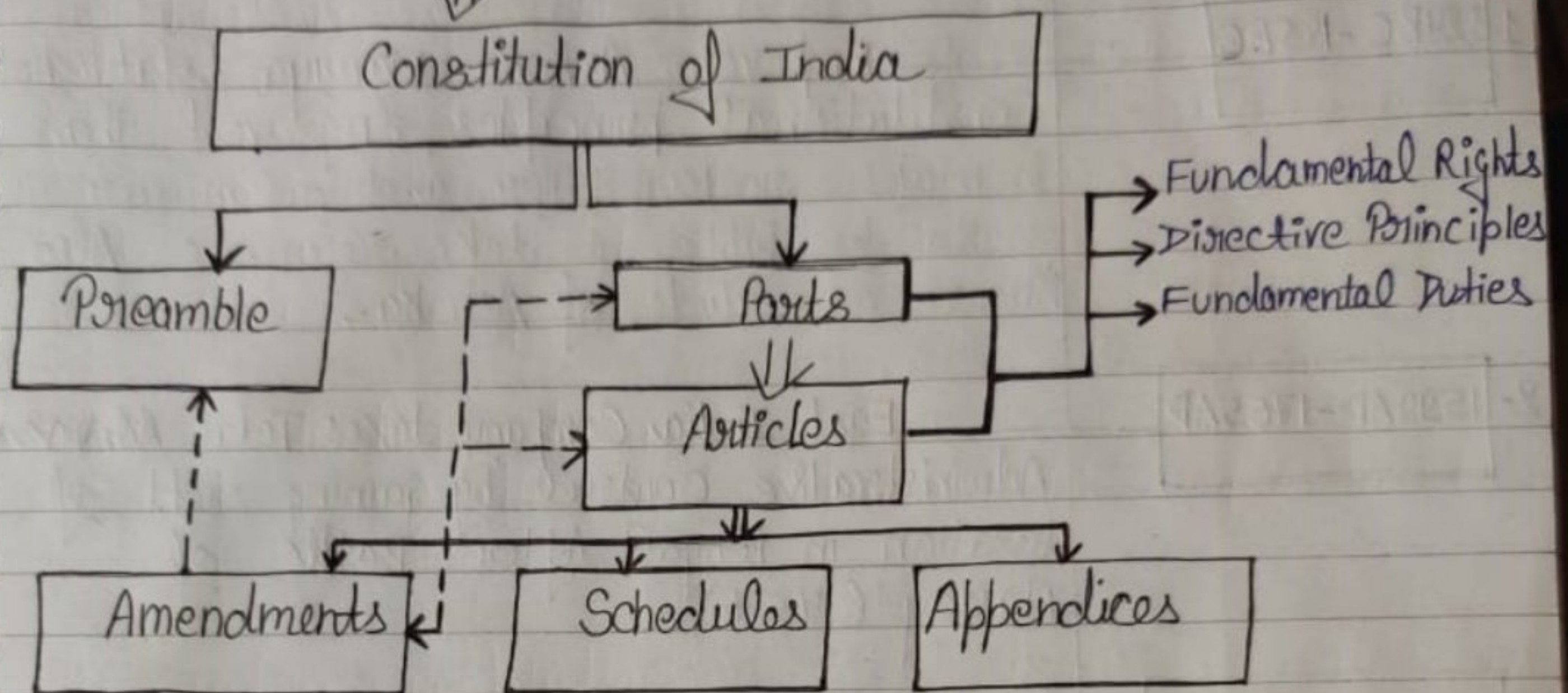
3- The existence of an independent Judiciary in the Indian Constitution.

2- Union System - Power Concentration in central Govt. with weak state Government.

Features of Union System -

- ⇒ Single Citizenship
- ⇒ Single Constitution
- ⇒ Power of union to override on the state matters
- ⇒ During Emergency the system became virtually unitary
- ⇒ Changes in the names and boundaries of the states by the Parliament.
- ⇒ Integrated Judiciary system
- ⇒ Centre Appoints the Governors.
- ⇒ Dependence of states on the Centre for Centre for Economic Assistance and Grants.

Structure of Constitution of India



⇒ Amendments — An Amendment to the "Constitution of India" is an extremely difficult affair and normally needs at least "Two-Thirds $\frac{2}{3}$ " of the Lok Sabha and Rajya Sabha to pass it.

Amendment of the Constitution of India is the process of making changes to the Nation's fundamental law. Changes to the Indian Constitution are made by the federal Parliament.

Parts — Individual Articles of Constitution are grouped together.

Articles — Subcategory of different parts in Constitution which contains details info. of the subject or title.

Schedules — Schedules are lists in the constitution that categorize and tabulate bureaucratic activity and policy of the ~~Government~~ ^{Government}.

Appendices — They are extension to the Constitution.

Indian Constitutional History

- 1- 324BC - 185BC
Emperor Ashoka Maurya established Constitutional principles, Engraved them in major rocks, pillar and on minor rocks for public to take reference. Also, known as Edicts of Ashoka.
- 2- 1599AD - 1765AD
East India Company takes Total Administrative Control by gaining right of taxation in Bengal after Battle of Plassey (1757).
- 3- 1765AD - 1858AD
East India Company takes Total unified Control over the whole of India from a single centre in Calcutta. But its rule ended with the Revolt of 1857.
- 4- 1858AD - 1947AD
This period of the British Raj was the time when the Constitution of India took shape.
- 5- 1950 AD
Finally Constitution of India, created in Independent India by its own free people, was Adopted on 26 Nov 1949 and came into effect on 26 Jan 1950. As we know it and use it today.

The Framing of Constitution of India

The Constituent Assembly of India was elected to write Constitution of India. Following India's independence from Great Britain, its members served as the Nation's first Parliament.

This Body was formed in 1946 for the purpose of making independent India's Constitution. The Assembly passed a resolution in 1947 January defining the objective of the Constitution.

Dr. Sachchidananda Sinha was the first president (Temporary) of the Constituent Assembly when it met on December 9, 1946. Later, Dr. Rajendra Prasad became the president of the Constituent Assembly and Dr. Bhimrao Ambedkar became the chairman of its drafting Committee on December 11, 1946.

Note - For the time being till the Constitution was made, India would be governed in accordance with the Govt. of India Act 1935.

The Assembly met in sessions open to the public, for 166 days, spread over a period of 2 years, 11 months and 18 days before adopting the Constitution. It was finally passed and accepted on Nov 26, 1949. In all the 284 members of the Assembly signed the official copies (original) of the India Constitution. And which came into effect on Jan 26, 1950, known and celebrated as The Republic Day of India.

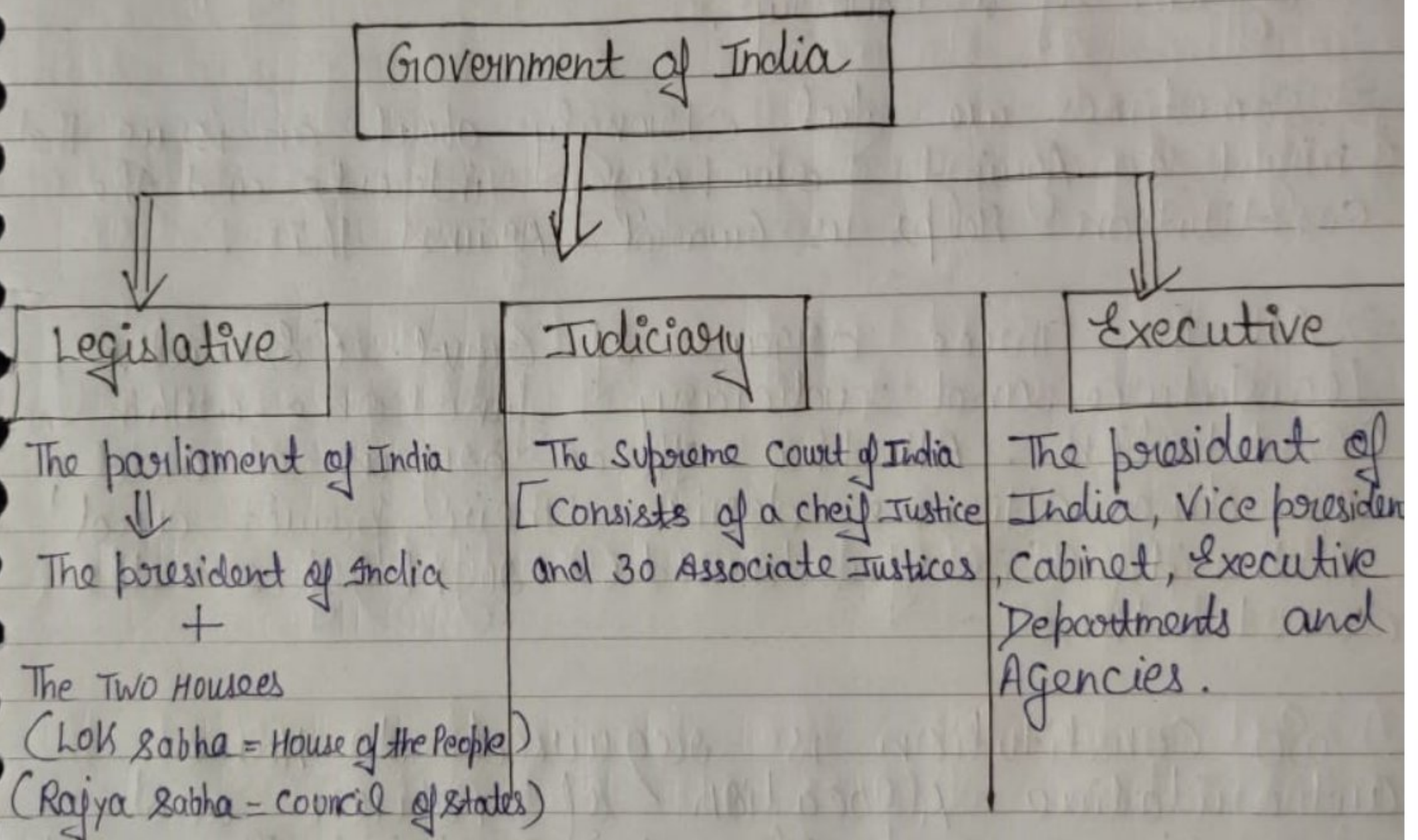
Basic Principles of the Constitution of India

Eight basic principles which are embodied in it and which form the foundation of the political system in India. These are —

- ⇒ Popular Sovereignty
- ⇒ Socialism
- ⇒ Secularism
- ⇒ Fundamental rights
- ⇒ Directive Principles of state policy
- ⇒ Judicial Independence
- ⇒ Federalism and
- ⇒ Cabinet Government

Constitution of India and Government

The Indian Government is divided into three distinct but interrelated branches - Legislative, Executive and Judiciary, have to function within their own spheres demarcated under the constitution.



Need of Constitution in India

- ⇒ We need a constitution to govern a country properly.
- ⇒ The constitution defines the Nature of political System of a country.
- ⇒ Sometimes we feel strongly about an issue that might go against our larger interests and the constitution helps us guard against this.
- ⇒ All the Three organs of Govt. (Executive, Legislature and Judiciary) functions within the Constitution. All the three organs of Govt, including citizens derive their power and Authority (i.e. fundamental right) from the Constitution.

So Constitution is required to have authoritative Allocation of Power and function, and also to restrict them within its limit.

- ⇒ A constitution is to provide a set of Basic rules that allow for minimal co-ordination Among Society.
- ⇒ A Constitution is to specify who has the power to make decision in a society.
- ⇒ A constitution is to set some limit on what a Govt can impose on its citizens.
- ⇒ A constitution is to enable the Govt to fulfill the separations of a society and create conditions for a society.

The Preamble to Constitution of India

The preamble to the constitution of India is a brief introductory statement that sets out the guiding purpose and principles of the document.

The first word of the preamble "we, the People" signifies that power is ultimately vested in the hands of the people of India. So far the preamble has been amended only once in 1976 by 42nd Amendment (Change) which inserted the words Socialism, Secularism and Integrity.

A brief description of these concepts are as follows

- 1- Sovereign — it means free to follow internal and external policies.
- 2- Secular — it means no particular religion is preferred.
- 3- Socialist — it means no concentration of power and money.
- 4- Democratic — it means rule by elected representatives of the people of India.
- 5- Republic — it means no room for hereditary ruler or monarch.

We, The people of India, having solemnly resolved to constitute India into a Sovereign socialist secular Democratic Republic and to secure to all its citizens.

Justice, social, economic and political liberty of thoughts, expression, belief, faith and worship Equality of status and opportunity and also to promote Among them all, Fraternity Assuring the Dignity of the Individual and the unity and integrity of the Nation.

In our Constituent Assembly this 26th day of November 1949, do hereby ADOPT ENACT and GIVE To ourselves this constitution.

The preamble to our Constitution serves Two purpose —

- (A) it indicates the source from which the Constitution derives its Authority.
- (B) it Also states the object, which the Constitution seeks to establish and promote.