

ADMINISTRATIVE STRUCTURE OF MALAYSIA

Malaysian
studies 3



Outline

- Introduction
- Main Features of Federalism
- Structure of Malaysian Government
 - a. The Executive
 - b. The Legislative
 - c. The Judiciary
- Local Government

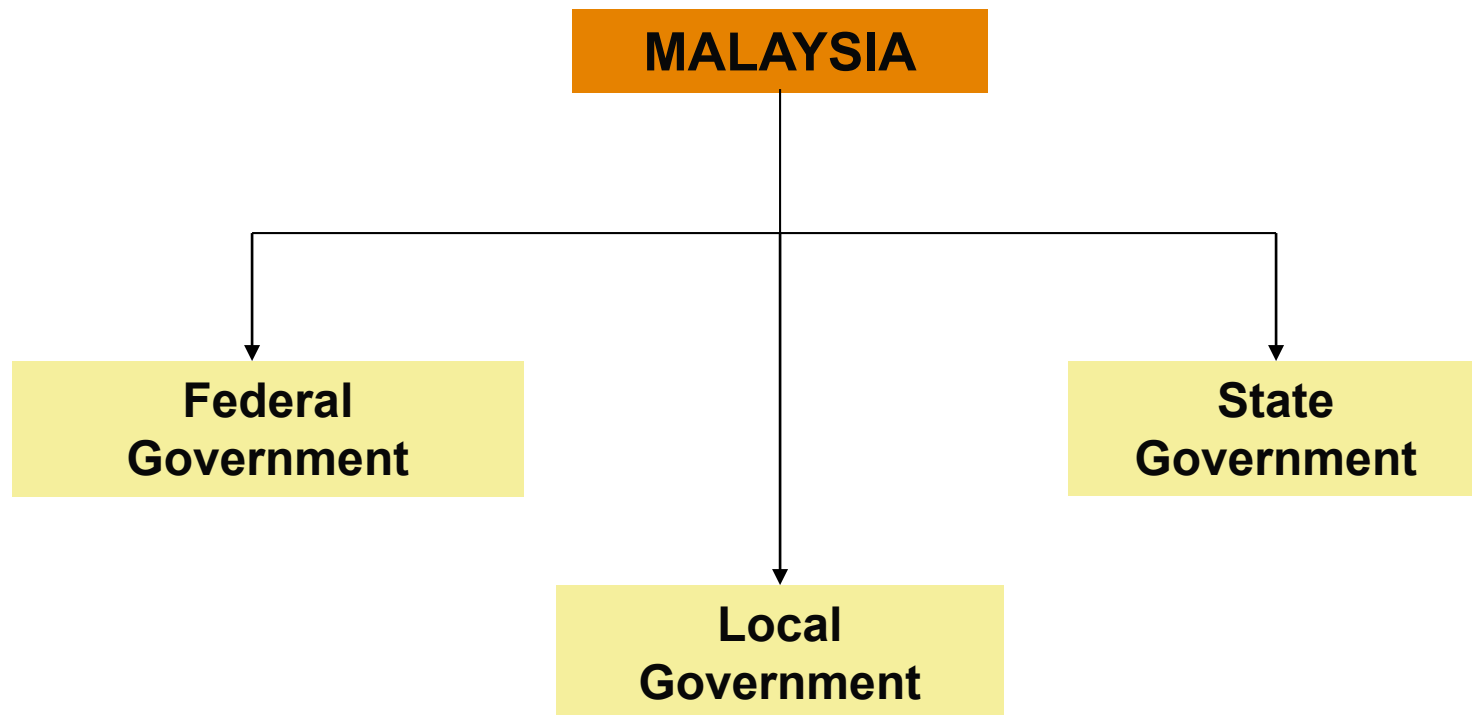
Introduction

- Malaysia is a federation country.
 - Federalism is a method of **dividing power** between **two levels of governments** – the **federal** and the **state** governments.
 - Both governments' roles and authority are clearly divided by the constitution and can be seen in the ***Federal list, State list and Common list***

Main features of Federalism

- a. **Division of power** based on the **written constitution**.
- b. The **authority of a government is supreme** in at least one or more areas that are assigned to it.
- c. Both levels of government have **direct relations with its citizens**.
- d. Either level of government **cannot change this constitutional relationship** (or arrangement) **by itself**.
- e. Each government **exists on its own rights and authority**.

Structure of Malaysian Government



Structure of Federal Government

Concept of Separation of Power

- This separation is also known as the **doctrine of separation of power**
- The doctrine was firstly introduced by a famous French philosopher named *Montesquiu* in the 18th century

Structure of Federal Government

Concept of Separation of Power

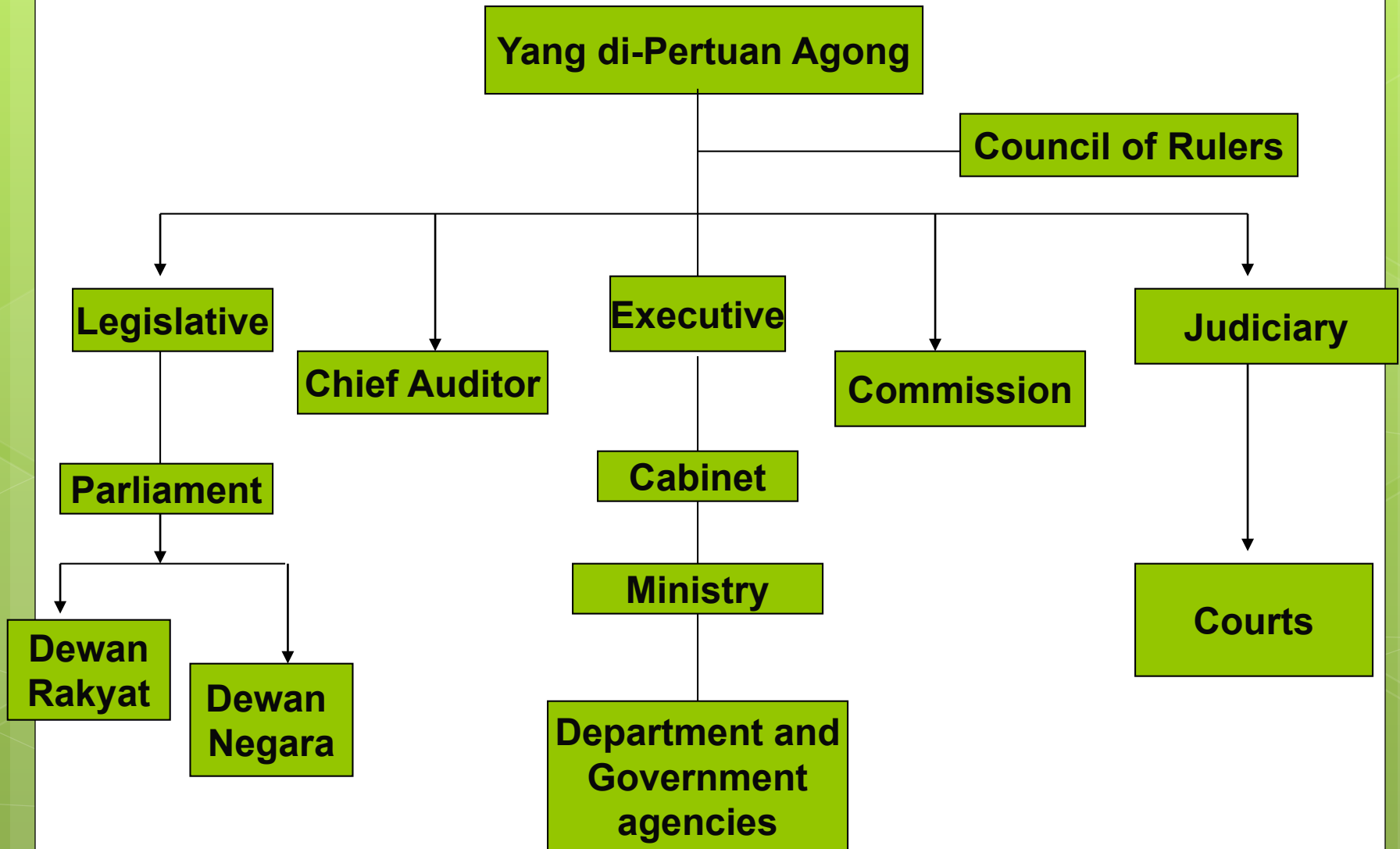
- 3 main bodies in the administration:
 1. **the executive**
 - has the rights to **govern and administer** the country and **cannot make law and do judiciary power**
 2. **the legislative**
 - to **make laws**
 3. **the judiciary**
 - has the authority to **implement the power of judiciary** and not the others

Structure of Federal Government

Concept of Separation of Power

- to avoid any *complot* between the bodies
- to guarantee the *people's freedom*
- to prevent *abuse of power* by the ruling power
- no occurrence of *centralization of power* among the three bodies
- to provide *check and balance* in the country's government system

Structure of Federal Government



The Executive

- Has the **power to govern**.
- Responsible for carrying out the matters of **governing and administering**.
- Has the role of **implementing the laws** that have been passed by the legislative body.

The Executive

- **Article 39** mentioned that the **executive power** is in the hands of **YDPA**. However, His Highness has to **act on the advice of the cabinet or usually the PM**.
- YDPA has the **right to obtain all information** regarding the **administration of the country** from the **Cabinet**

The Executive

The Cabinet

- The **executive power** is basically **exercised by the cabinet** in the **name of Yang di-Pertuan Agong (YDPA)**.
- It is made up of those **who represent the party with a majority** in the **Parliament** (Dewan Rakyat), which is decided by a **general election process**

The Executive

The Cabinet

- ◉ **Headed by a PM** and the **ministers** as its **members**.
- ◉ The **ministers** are **appointed by YDPA** upon the **advice of the PM**.
- ◉ The **PM** is the **head of the government**.
- ◉ He is **assisted by Deputy PM** and some **Cabinet Ministers**

The Executive

The Cabinet

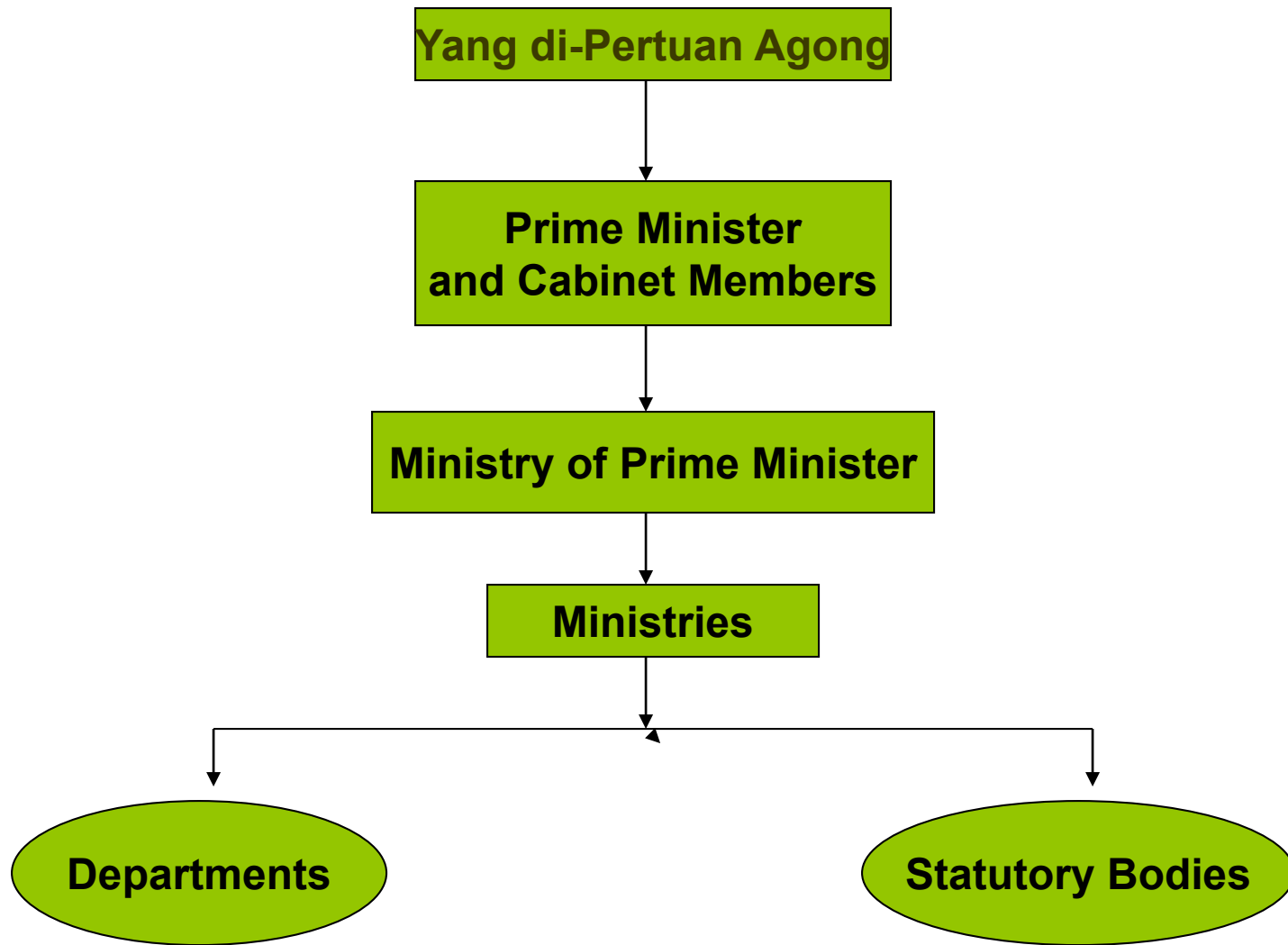
- ◉ Weekly meeting.
- ◉ collective discussion & decision
 - ◉ it is also collectively **responsible to Parliament**

The Executive

The **function of the Cabinet** is to:

- i. **make** and **legislate** the **government policies**
- ii. determine the **country policies**
- iii. **issue directives** for their implementation by the **government administrative machinery** at both **Federal** and **State** levels.
- iv. act as **advisory body** to **YDPA**

The Executive



Structure of Executive Body

The Legislative

- This is the **body that makes law**.
- **Parliament** is the **legislative authority** for the Federation
 - it makes **laws applicable to the Federation** as a whole
 - wields a **considerable and far-reaching** influence on the **life of the Federation**

The Legislative

○ **Role of the Parliament:**

- passes federal laws
- makes amendments to existing federal laws
- examines the government's policies
- approves the government's expenditures
- approves new taxes
- serves as the forum for criticism and the focus of public opinion on national affairs
- to pass national budget for any fiscal year

The Legislative

YDPA

1. not involved in making laws
2. to call, to stop and to dissolve Parliament
3. to put into laws bills that have been passed
4. to appoint Senator / member of senate in accordance to the PM's advice

The Legislative

House of Senate (*Dewan Negara*)

- consists of **70 members**.
- made up of **2 categories**:
 1. **26 members** elected by the **State Legislative Assembly** to represent **13 states** (each state represented by 2 members).
 2. **44 members** appointed by **YDPA** on the advice of the Prime Minister, including **2 members** from the **Federal Territory of Kuala Lumpur**, and **1 member** each from the **Federal Territory of Labuan and Putrajaya**

The Legislative

House of Senate (*Dewan Negara*)

1. be a **Malaysian citizen**;
2. be **not less than 30 years old**;
3. be of **sound mind**;
4. **not be an undercharged bankrupt**;
5. **don't have a criminal record**

The Legislative

House of Representative (*Dewan Rakyat*)

- has **219** elected members.
- **Most important** Dewan or House because its members **are elected by the people**.
- A **General Election** is held **every 5 years** to elect members of the Dewan Rakyat.
- **Parties** with the **most votes** can **form a government to rule the country**

The Legislative

House of Representative (*Dewan Rakyat*)

- i. be a **Malaysian citizen**;
- ii. be **not less than 21 years old**;
- iii. be of **sound mind**;
- iv. **not be an undercharged of bankruptcy**; and
- v. **don't have a criminal record**

The Legislative

- Customarily, a **Bill originates in the Dewan Rakyat**. Once **approved**, it is tabled in the **Dewan Negara for another debate**. After that, the **Bill has to be approved** before being **presented to YDPA for his consent**.
- The **Bill** will then be **gazette** in the form of '**Government Gazette**', thus making the **Bill a law** as stated in the Government Gazette

The Legislative

The Process of Enactment of Laws

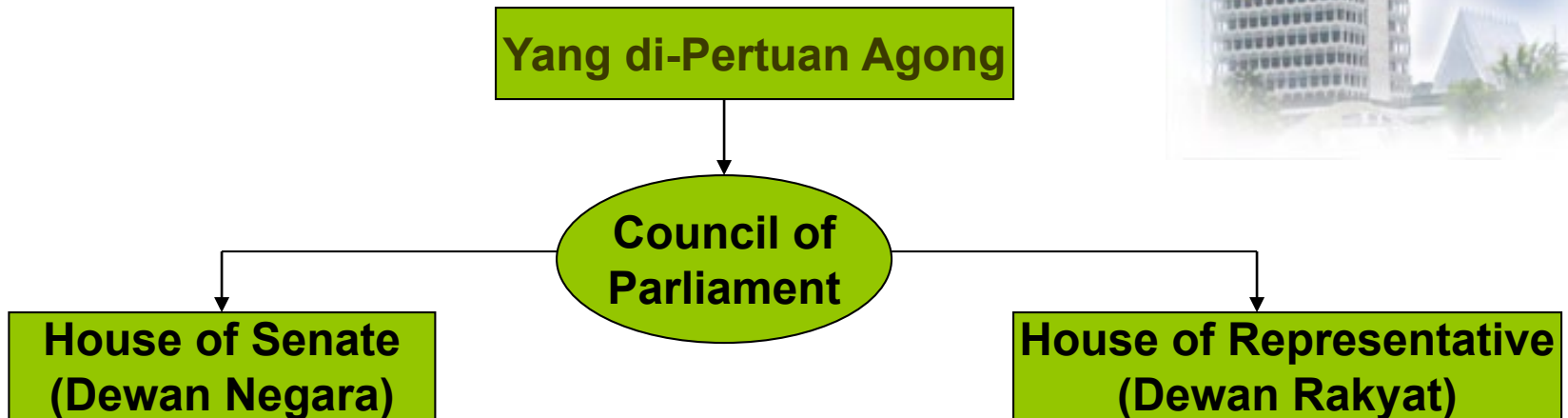
Drafting the Bill (Proposal stage)	A minister concerned drafts the bill to be introduced, usually consult the Attorney General's Chamber , then brings up the proposed bill into the Cabinet meeting to get feedback and endorsement . Secure the cabinet's agreement, the minister will then inform the Secretaries of both Houses who will order the Bill be printed and circulated among members of both houses of Parliament.
First Reading	The minister for the first time will introduce/read the Bill to the Dewan Rakyat
Second Reading	The Bill will be debated by discussing the general principles and its influence and implications to the people and the country.
House Committee	The Bill will be discussed in detail, review and amended by the House Select Committee
Third reading	The Bill will be debated again with amendments at the level of the Committee stage, vote will be done two times before it is passed by the Dewan Rakyat .

The Legislative. . .

The Process of Enactment of Laws

Motion of Bill (Dewan Negara)	The Bill passed in the Dewan Rakyat will be sent to the Dewan Negara for approval and will go through the same process and procedure.
Royal Assent / Approval	The passed Bill is presented to the YDPA to be approved and stamped with Royal Seal
Gazette	The Bill is announced to the public through the government gazette before it can be implemented.

The Legislative



Structure of Legislative body

The Judiciary

- responsible for the **process of justice** to be enforced in the country. The duty is **carried out in the courts of law**.
- Compared to Legislature and Executive, **Judiciary has wider power**.
- The **Federal Court of Malaysia** is the **highest judicial authority** and the **final court of appeal in Malaysia**

The Judiciary

- Basic role:
 - to **defend justice** for **everyone** regardless of the status, special rights, colour, political ideology, religion, size of organization or its influence.
- The body is **guided by the Constitution** itself

The Judiciary

- According to Tun Mohammad Suffian, the courts have **4 areas of jurisdiction:-**
 - i. The power to **interpret the Constitution**
 - ii. The power to **interpret the law**
 - iii. The power to **proclaim a written Federal or state law invalid**
 - iv. The power to **declare a government action as invalid in the eyes of the law**

The Judiciary

- **Judge is appointed by the YDPA on the advice of the PM, after consultation with the Council of Rulers.**
- **Head of Judge is called Chief Justice.**

The Judiciary

- **Attorney General** is the **government legal advisor**.
- **Judiciary Service Commission**
 - handle judiciary matters such as **appointment, promotion and allowances of legal officers**

The Judiciary

Peninsular Malaysia

Sabah & Sarawak

Federal Court

Appeal Court

**Upper
Court**

**High Court
Of Malaya**

**High Court of
Sabah & Sarawak**

Sessions Court

Sessions Court

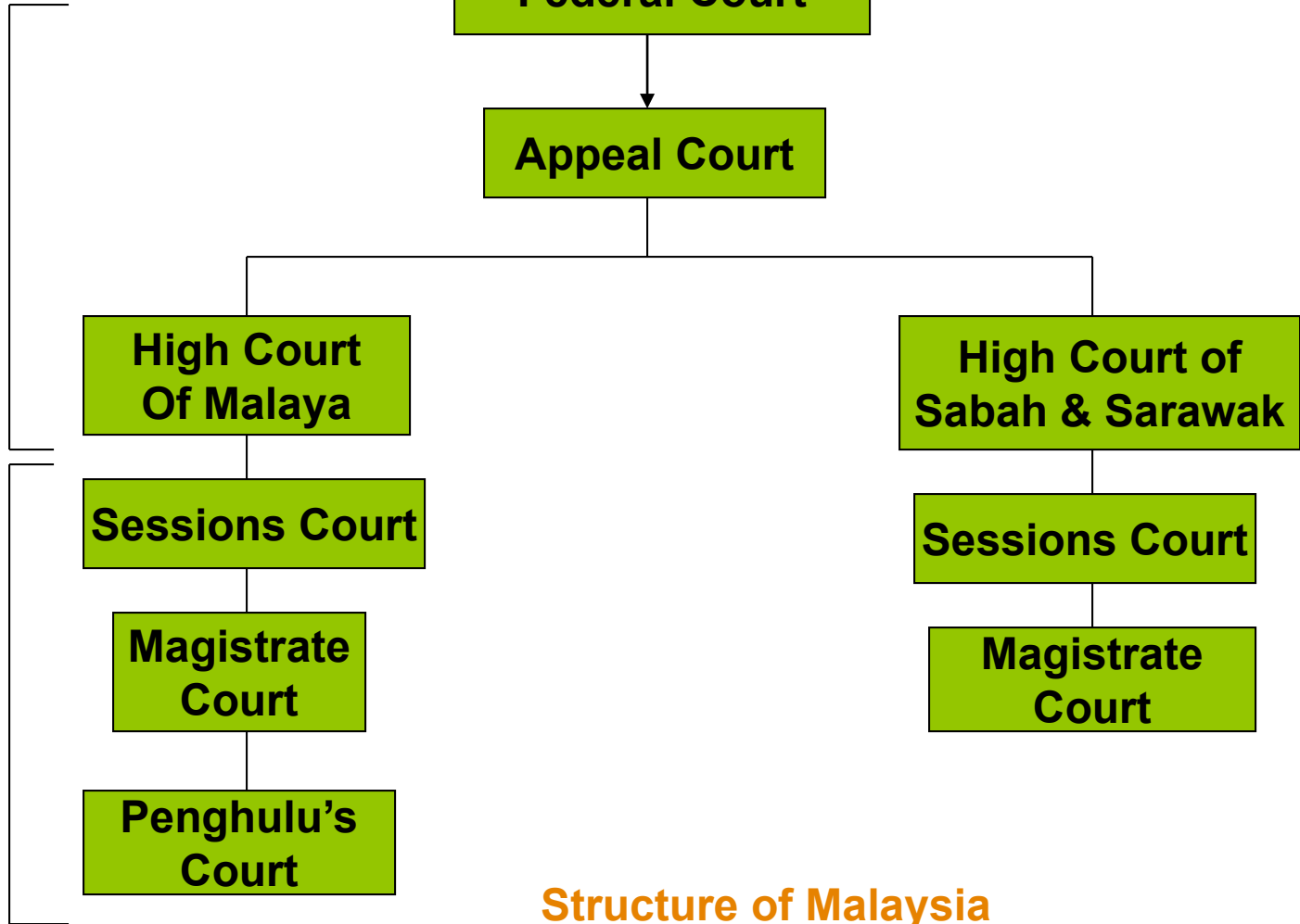
**Lower
Court**

**Magistrate
Court**

**Magistrate
Court**

**Penghulu's
Court**

**Structure of Malaysia
Judiciary**



The Judiciary

Types of Courts and their Duties

Federal Court	⑩ Consists of the Chief Justice of FC, the Chief Justice of HC, 4 judges and a member of additional judges. ⑩ Decides on the validity of laws made in Parliament or State Legislature ⑩ Decides on dispute between Federal & State governments. ⑩ Decides on dispute between 2 states ⑩ Deliberates on appeals of civil and criminal cases from the HC ⑩ Advises the YDPA on the Constitution
Appeal Court	⑩ Comprises the President of the AC, and 10 other judges ⑩ Decides on appeals of civil and criminal cases from the HC ⑩ For appeal on civil cases, the amount involve should not less than RM250,000.00 ⑩ The court does not have any original jurisdiction
High Court	⑩ Headed by the Chief Judge of the HC ⑩ Generally, the HC has the jurisdiction to hear cases which carry death sentence ⑩ The HC has the jurisdiction to hear civil and criminal cases ⑩ Hear and decides on appeal of civil and criminal cases from MC and SC ⑩ To observe and check all decisions of civil and criminal cases of the LC

The Judiciary

Types of Courts and their Duties

Sessions Court	⑩ Headed by a Sessions Court Judge ⑩ Hears all criminal offences except those related with death ⑩ Can impose jail sentences, fine & whipping befitting the offence committed, as permitted by the law ⑩ Hears civil cases where the amount disputed not exceed RM250,00.00 ⑩ Hear civil cases on landlord and tenant
Magistrate Court	⑩ Headed by a Magistrate ⑩ Hears light criminal and civil cases where the maximum imprisonment does not exceed 10 years or punishable by fine only ⑩ Hears claims for repayment of debts in the monetary form ⑩ Can impose caning for criminal cases
Penghulu's Court	⑩ Headed by the Penghulu or Head of the Mukim (Peninsular M'sia) ⑩ Examines light criminal cases (not exceed RM25) ⑩ Examines civil cases (not exceed RM50)

The Judiciary

Special Courts

- formed for **specific purposes**
- Usually it is a **close court** (except **Syariah Court**).

The Judiciary

Special Courts

There are **6 types** of Special Courts:

1. Special Court of Rulers
2. Juvenile Court
3. Syariah Court
4. Court Martial
5. Bumiputera Court (deals with customs of the indigenous people of Sabah & Sarawak)
6. Industrial Court

Local Government

- under the **authority of state government**
 - its administration is under the **control of fed. government** through the **Ministry of Housing & Local Government**.
- Responsible to provide **town services to specified areas**

Local Government

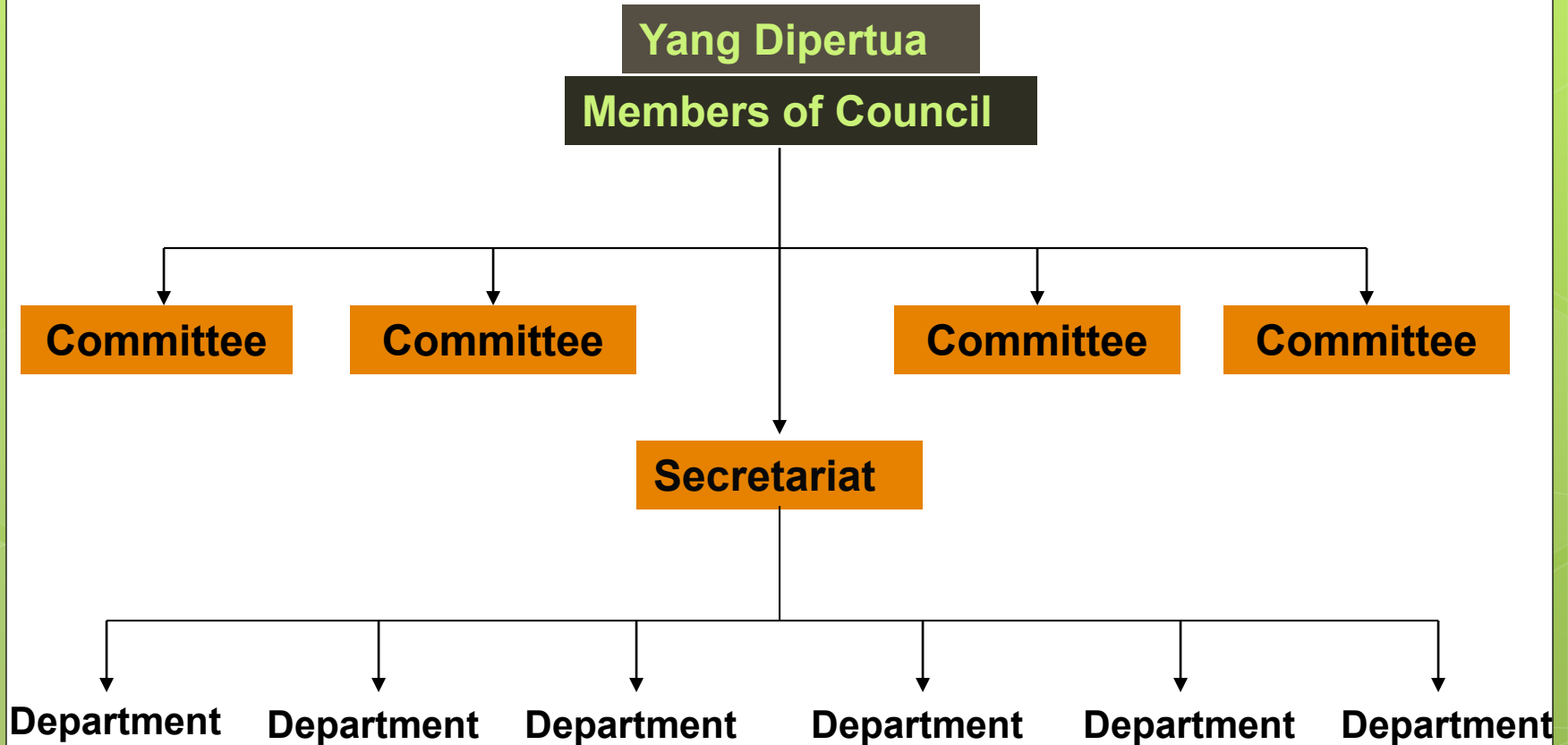
○ Examples:

- ✓ Dewan Bandaraya Kuala Lumpur (DBKL),
- ✓ Dewan Bandaraya Ipoh (DBI),
- ✓ Majlis Bandar Raya Petaling Jaya (MBPJ),
- ✓ Majlis Perbandaran Subang Jaya (MPSJ),
- ✓ Majlis Perbandaran Kelang
- ✓ Majlis Perbandaran Alor Setar
- ✓ Majlis Daerah Kota Tinggi
- ✓ Majlis Daerah Ulu Langat

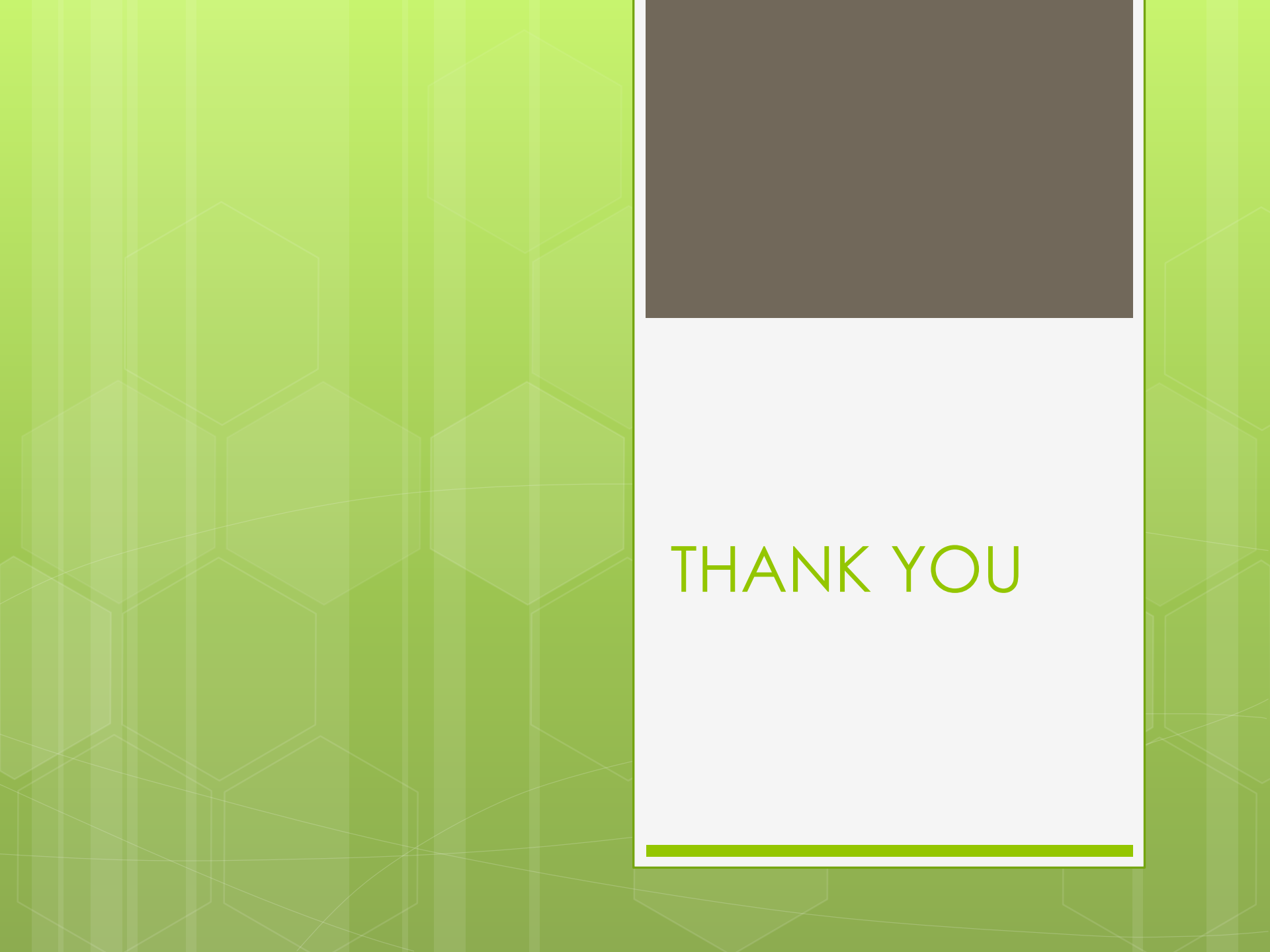
Types of Local Government

<u>City Council</u>	<u>Municipal Council</u>	<u>District council</u>
1. City 2. Annual Income > RM 20 m 3. Population: > 1 million 4. Centre of administration and commerce 5. Mayor / Datuk Bandar	1. Town (urban) 2. Annual Income > RM 5 m 3. Population: > 100,000 4. Centre of admin. of a district 5. Yang Dipertua	1. Rural-based 2. Annual Income < RM 5 m 3. Population: < 100,000 4. District Officer

Local Government



Administration Structure of Local Authorities



THANK YOU