

Judicial Federalism

(Theory, Structures &
Constitutional Practice)

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Structure of the Three Days Lecture

Day 1- New Constituent Units




Day 2 - Judicial Federalism



Day 3 - Judicial Federalism






Outlines (Day 1)

Session 1 – Lecture (1 hour and 45 Minutes)

- Introduction to Judicial Federalism
- The Role of Judiciary in Federalism
- The Practice of Judicial Systems in Federal Countries

Session 2

- Group Work Discussion (30 minutes)
 - Group Presentation (30 minutes)
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What is Federalism?



- ❖ A system of government (at least two level of governments)
- ❖ Power is constitutionally divided between a central (Federal/national) government and subnational (state, provincial, or regional) governments
- ❖ Each level of government has its own responsibilities and authority (constitutionally protected)
- ❖ Allows for shared governance, balancing unity and regional diversity, and promotes local decision-making

What is Judicial Federalism?



JF - Federal systems
adopt different
structural approaches

- ❖ Judicial federalism is the **constitutional arrangement** through which **judicial authority** is distributed and exercised between
- ❖ **federal and state institutions**
 - ✓ to maintain the federal balance and
 - ✓ uphold constitutional supremacy.



Continue....

Judicial Federalism

- Dual Judiciary (Have Separate Court Systems – within jurisdiction of federal (issues involving national law or constitutional matters) or state (focus on regional legislation))
- Judicial Review (has the power to review laws for constitutionality)
- Federal-State Relations (resolve intergovernmental disputes and ensure cooperative federalism)
- Human Rights and Minority Protections (Courts interpret laws to safeguard federal human rights standards and minority protections, sometimes influenced by international treaties.)



Why Judicial Federalism Matters?



- ❖ Maintains constitutional balance
- ❖ Prevents central domination
- ❖ Protects minority rights
- ❖ Ensures legal uniformity where required.

တရားစီရင်ရေးဖက်ဒရယ် စနစ်ဆိုတာ အဓိကအားဖြင့် ဥပဒေရေးရာယန္တရားတစ်ခုလား၊ နိုင်ငံရေးအရ အကာအကွယ်တစ်ခုလား။





The Role of Judiciary in Federalism

- ❖ plays a crucial role in maintaining the federal balance by interpreting the constitution,
- ❖ resolving disputes between the different levels of government, and
- ❖ ensuring that both national and subnational laws comply with the constitution.
- ❖ The judiciary, especially at the federal level, safeguards the rights of the states or provinces while ensuring that national laws are uniformly applied

Structural Models of Judicial Federalism



SINGLE COURT



DUAL COURT



INTEGRATED COURT



SINGLE-INTEGRATED COURT SYSTEM

Court structure hierarchy)ဖက်ဒရယ် ဖြစ်နိုင်ပါတယ်။

ဘယ်လိုဖြစ်ဖြစ် (dual / ဖွဲ့စည်းပုံအောက်မှာဆိုရင်

integrated / Judicial

single Federalism

Single Court System

The country operates under one unified judiciary

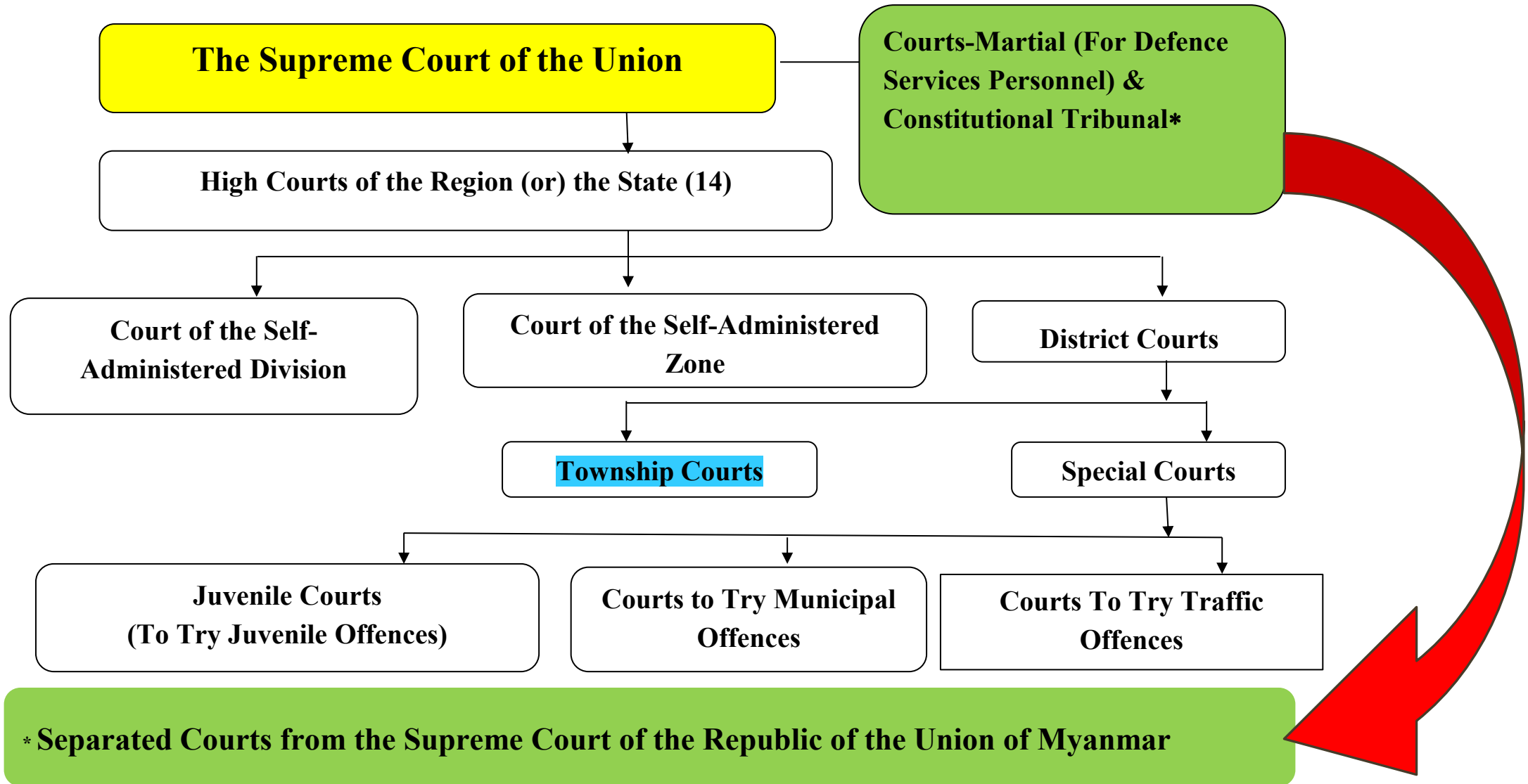
No separate federal and state courts

All cases are heard within the same court hierarchy

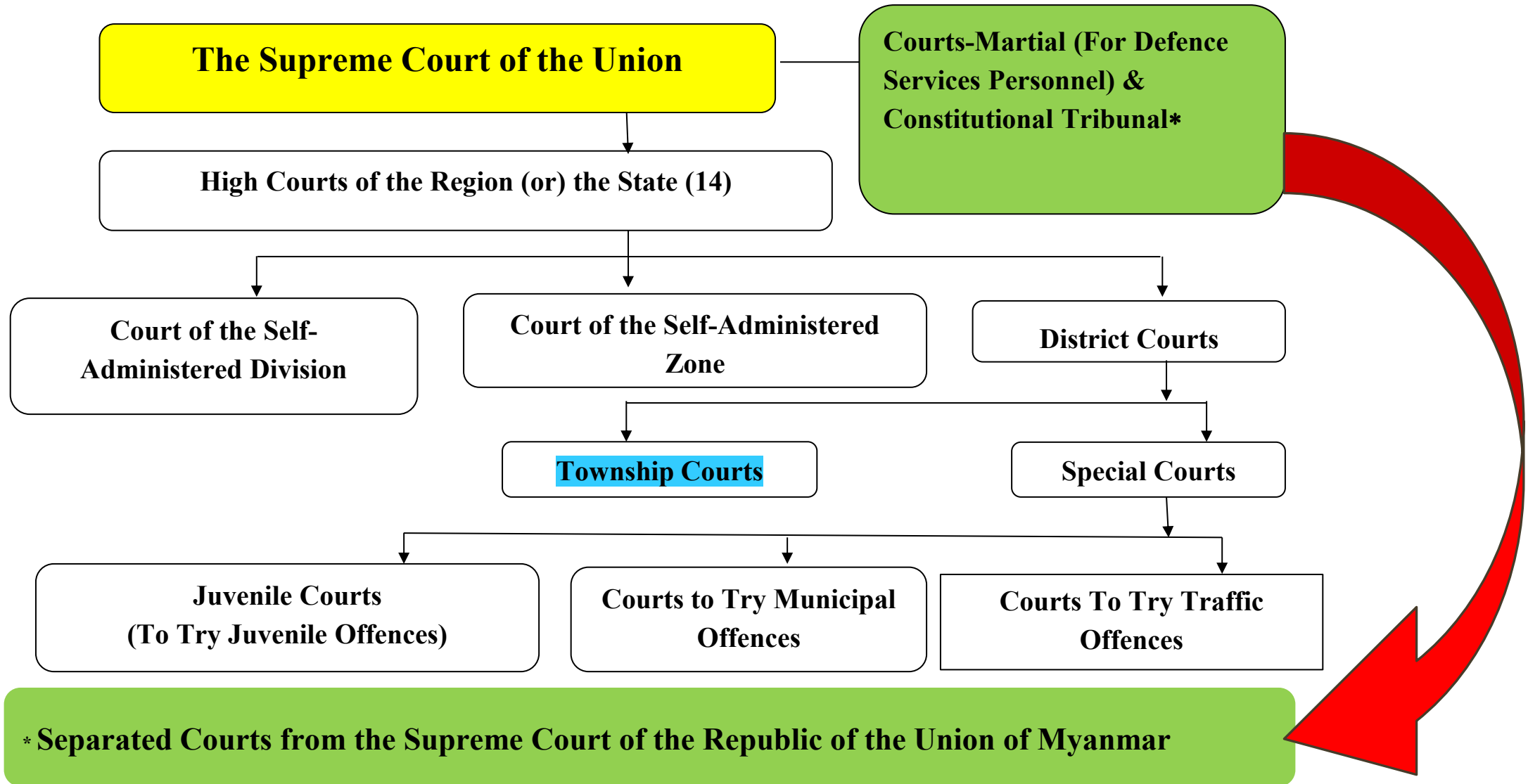
The highest court overseeing lower courts

E.g. – Austria, Switzerland, Myanmar etc.

Hierarchy of Courts in Myanmar (Judicial Structure)



Hierarchy of Courts in Myanmar (Judicial Structure)



**Dual Court
System
(Strong state
autonomy)**

There are two parallel systems of courts

One at the national (or federal) level and another at the regional or state level

Each system has its own jurisdiction and authority over different types of legal matters

E.g - United States, Malaysia, Australia etc.

Hierarchy of Courts in the United States

* The 12 regional Courts of Appeal also receive cases from a number of federal agencies.

Supreme Court of the US

Federal Questions
from the State
Courts

United States Court of
Appeal (12 Circuits)*

United States Court
of Appeal (for the
Federal Circuit)**

United States Court
of Appeal (for the
Armed Forces)

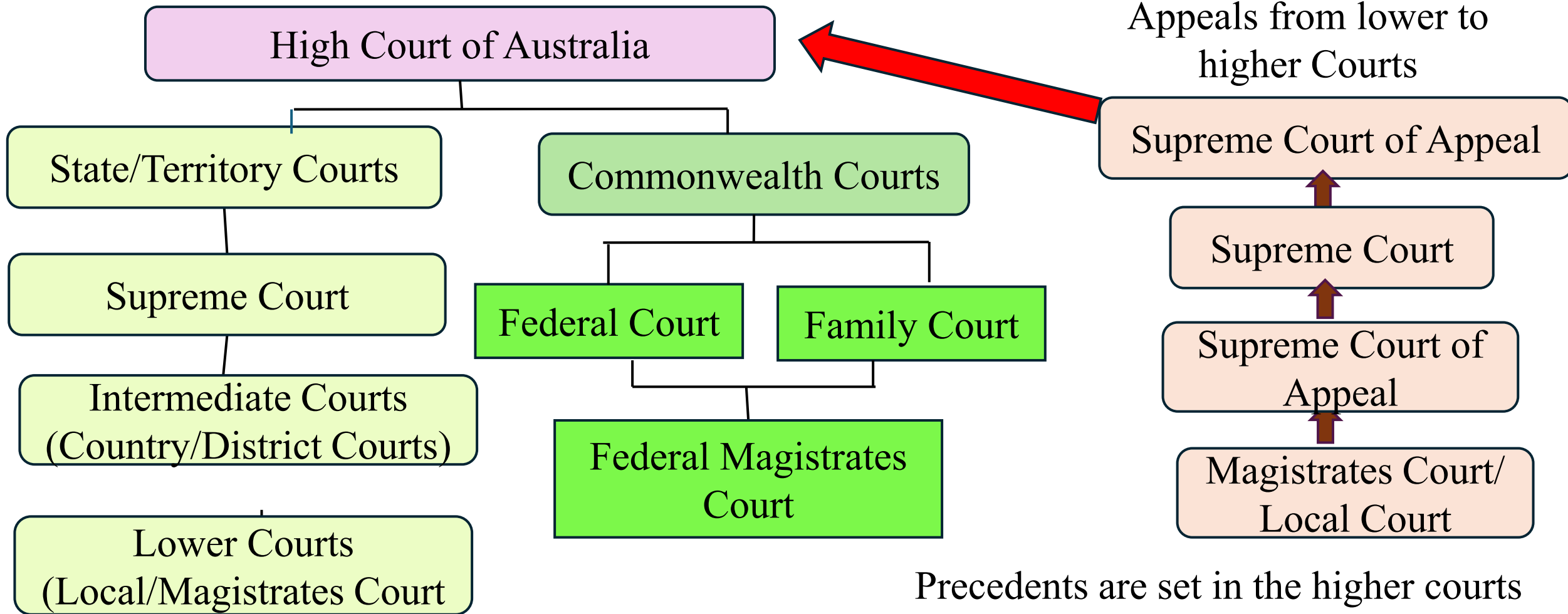
** The Court of Appeals for the Federal Circuit also receives cases from the international Trade Commission, the Merit Systems Protection Board, the Patent and Trademark Office, and the Board of Contract Appeals

94 the US Courts
and United States
Tax Court

The US Court of International
Trade
The US Court of Federal Claims

Army, Navy-Marine
Corps, Air Force, and
Coast Guard Courts of
Criminal Appeals

Hierarchy of Courts in Australia



Appeals from lower to higher Courts

Precedents are set in the higher courts and must be followed in the lower courts

**Integrated
Court System
(Uniformity and
efficiency)**

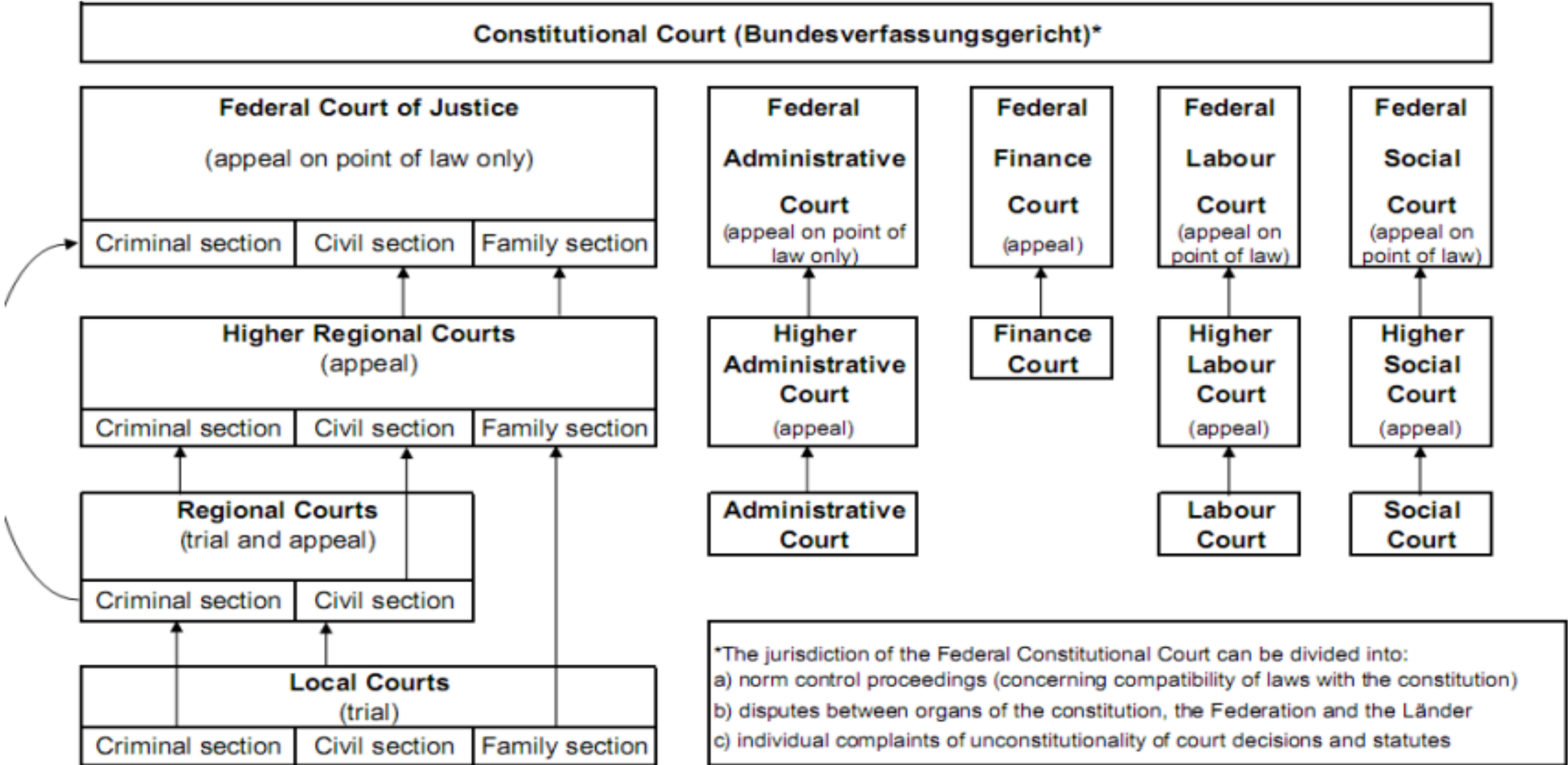
Blends features of both dual and single court systems

Jurisdiction - civil, criminal, or constitutional matters

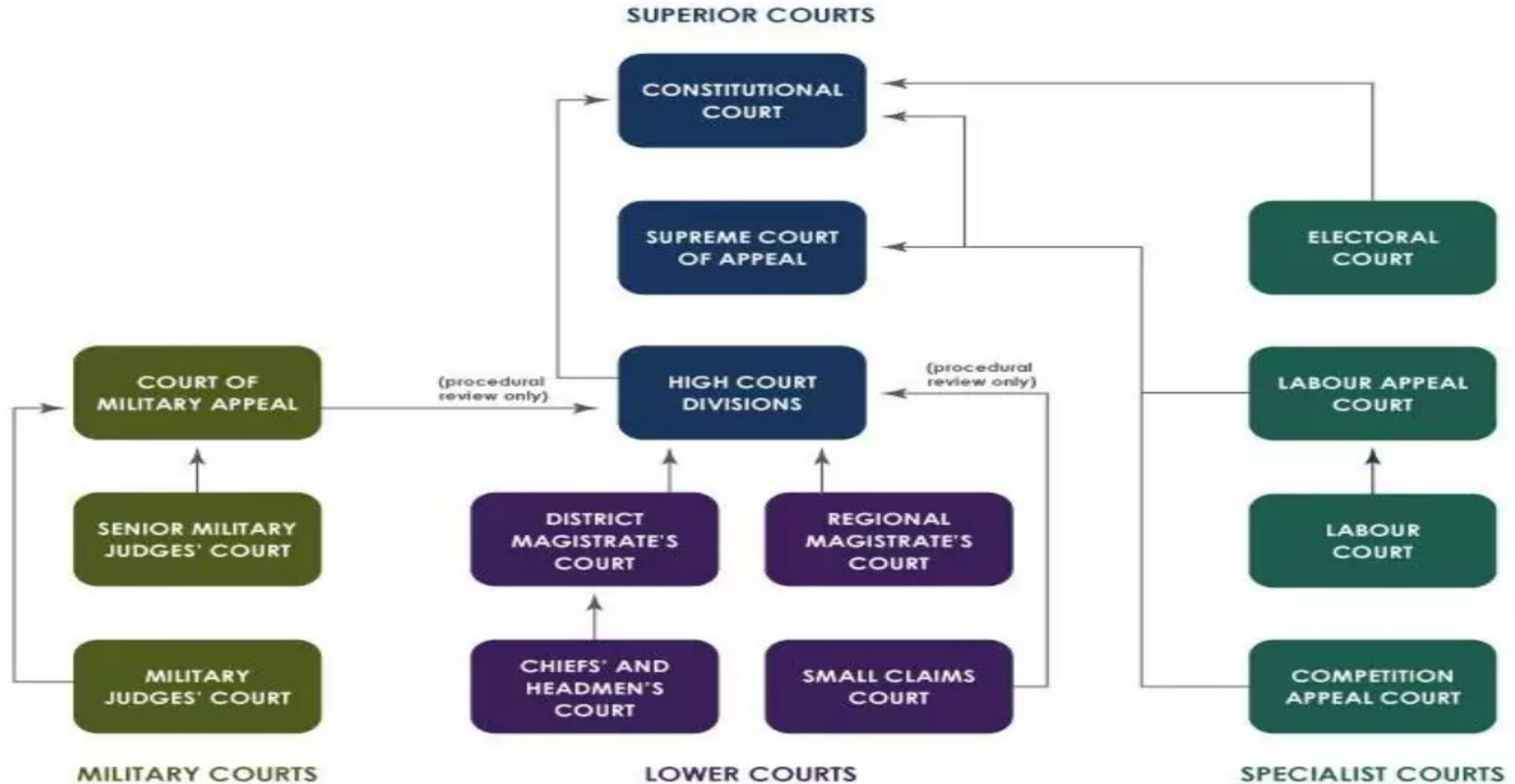
There is a high level of coordination between different courts, often under a common hierarchy

E.g. Germany, South Africa

Hierarchy of Courts in Germany



Hierarchy of Courts in South Africa



**Single-
Integrated
Court System
(Strong
constitutional
oversight)**

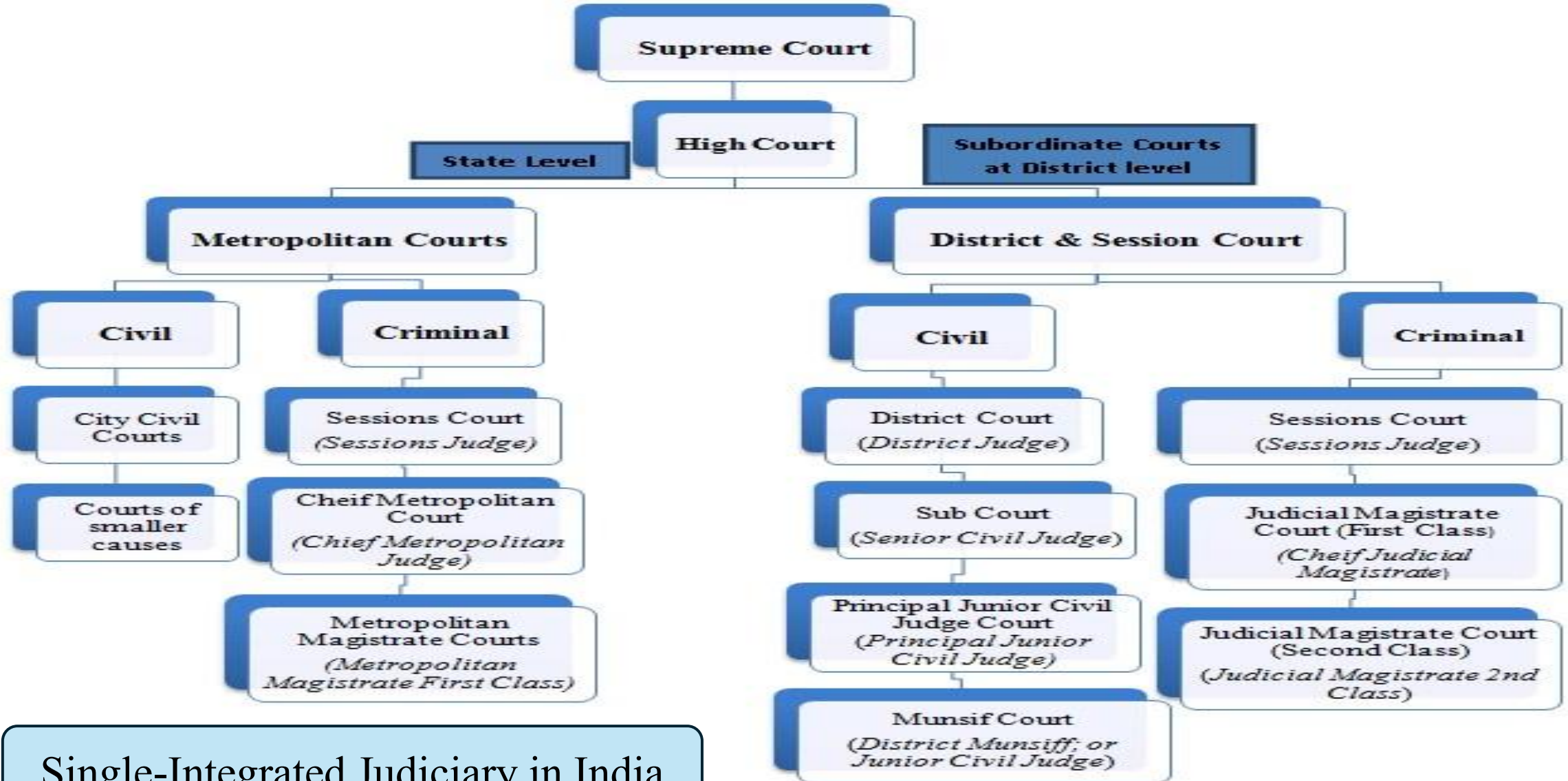
One unified judicial system

Supreme Court at apex/ High Courts in states

Same courts interpret federal and state laws

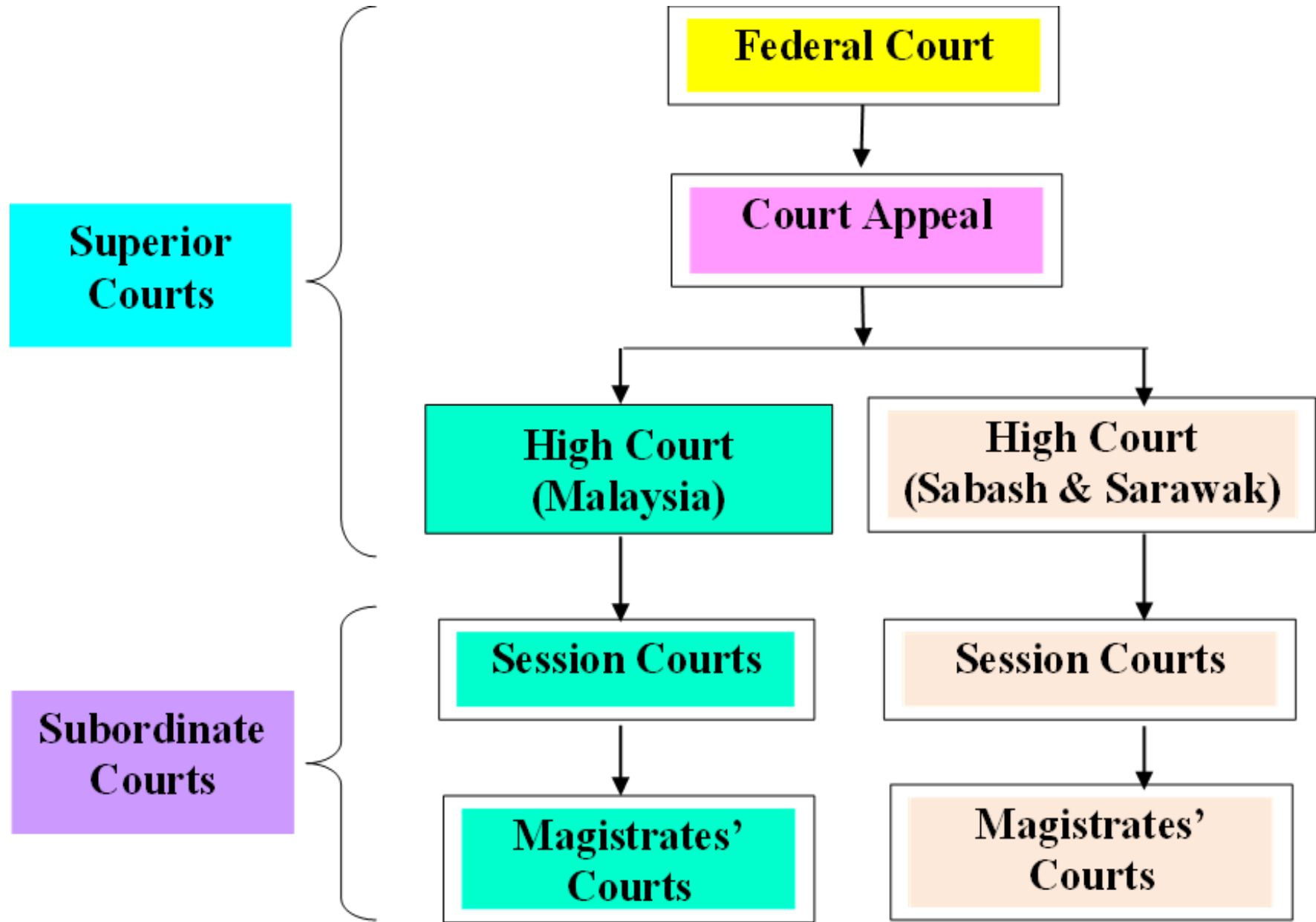
E.g – India, Indonesia etc.

Hierarchy of Courts India



Single-Integrated Judiciary in India

Hierarchy of Courts in Malaysia



Key Elements of Judicial Federalism

- ❖ Court Structure
 - Lower Courts (Trial Courts) handle cases at the initial stage
 - Appellate Courts
 - Supreme or Constitutional Courts
- ❖ Judicial Hierarchy
- ❖ Types of Jurisdiction
- ❖ Judges and Their Roles
- ❖ Criminal and Civil Proceedings
- ❖ Judicial Independence
- ❖ Balance Power

Interpretation of Laws in Judicial Federalism

Involves a multi-layered legal system

Constitutional Supremacy

- Courts must interpret laws in accordance with Constitutional Provisions
- Federal and States Laws align with Constitutional Principles

Division of Judicial Powers

- Reserved for the Federal Government
- Delegated to the States or Provinces

****Courts interpret laws ---within the jurisdiction of federal or state authorities**

**Any
questions**



Next- Discussion Time

