

Separation of Powers and Organs of the State according to the Constitution of the Republic of Indonesia

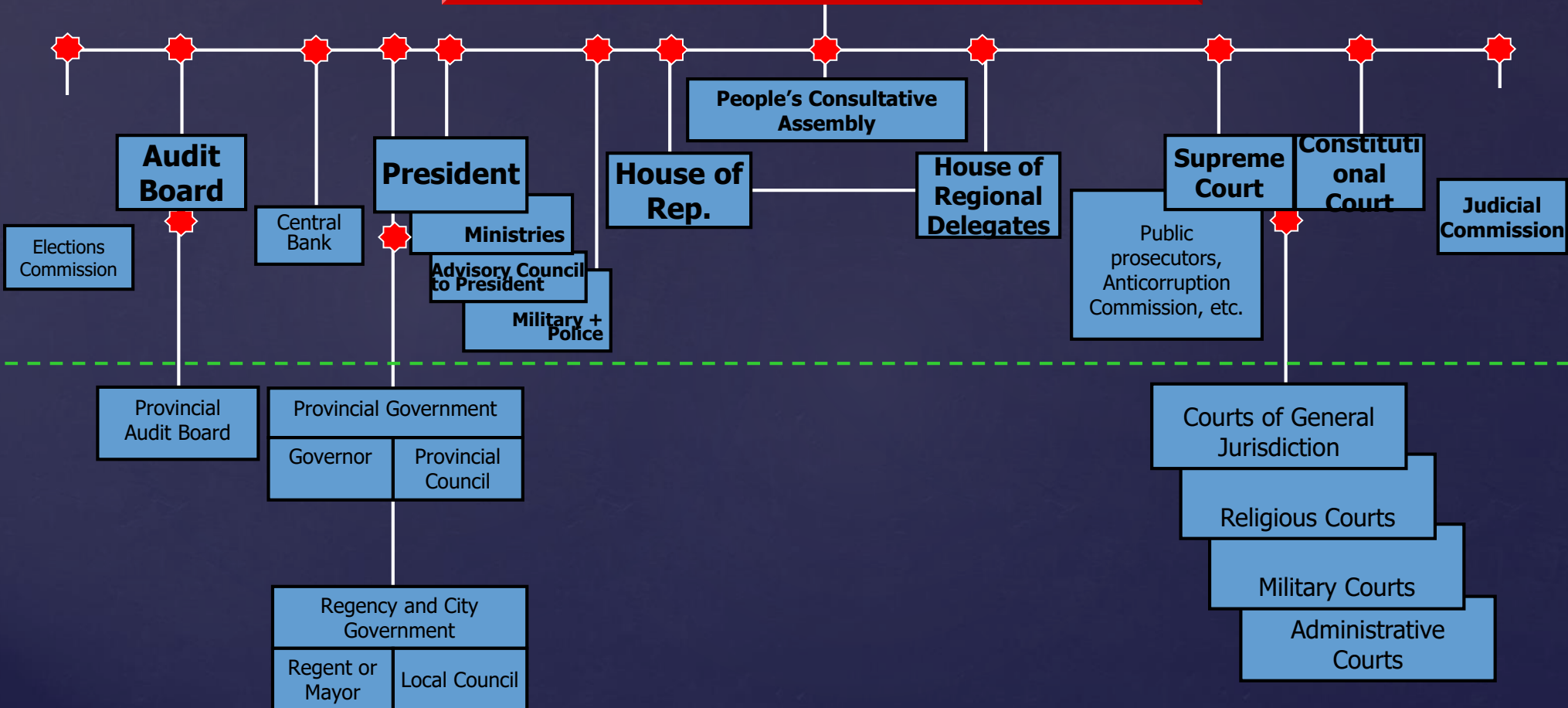
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Organs of the State in the Current Constitution

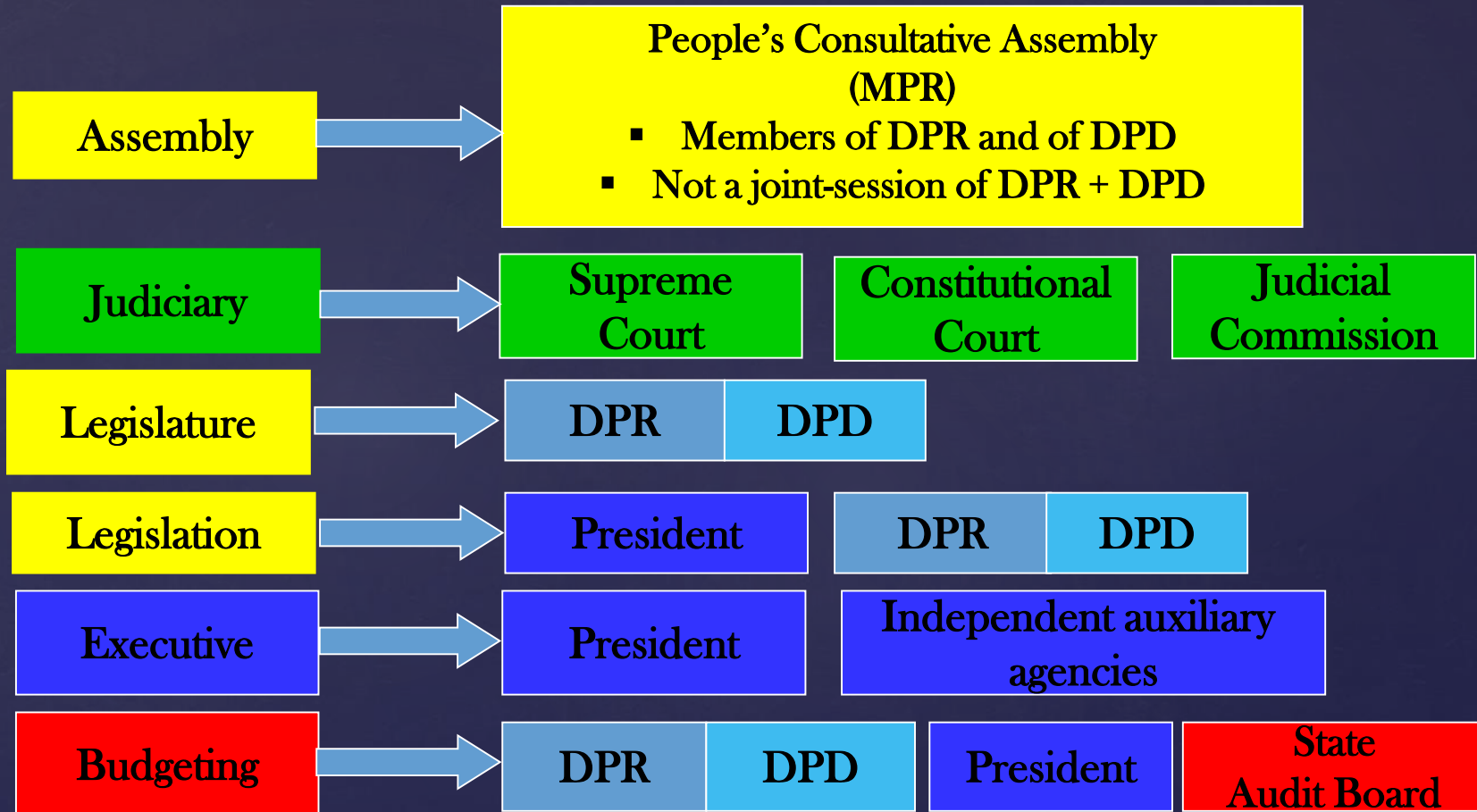
National

The Constitution of RI



Local

Separation of Powers



People's Consultative Assembly (MPR)

- ❑ Sovereignty belongs to the people and it is implemented in accordance with the Constitution.
- ❑ MPR (People's Consultative Assembly) is an assembly consisting of fully-elected members of the House of Representatives (DPR, *Dewan Perwakilan Rakyat*) and Senate or House of Regional Representatives (DPD, *Dewan Perwakilan Daerah*).
- ❑ MPR is a separate assembly and (super-) parliament with specific (ad-hoc) functions: (1). As a constituent assembly, to amend the constitution; (2). Removing President and Vice-President based on well grounded impeachment charge(s) initiated by DPR; (3). Swearing in the elected President and Vice-President.

Legislature: Asymmetric bicameralism

- ❑ There is a two-chamber legislature: DPR (House) and DPD (Senate)
- ❑ DPR: House of Representatives with membership entirely elected by the people from party-list nomination according to PR system of election (PR: proportional representation).
- ❑ DPR is a full legislature holding many powerful functions: legislation, budgeting, and oversight; It also holds power to give consideration on the appointment of ambassadors, to select all justices of the Supreme Court and 3-justice of the Constitutional Court.
- ❑ DPD: Council of Regional Representatives with membership entirely elected by the people from multi-member district (i.e. provincial) electoral system.
- ❑ DPD has powers to, e.g.: (1). Initiate bills on center-region relationship; (2). Provide consideration to DPR on national budget items of taxation, education and religion; (3). Send consideration in overseeing the executive, especially with regard to the policy implementation on center-region relation, administration of economic resources, state budget, taxation, education and religion.
- ❑ DPD has no decision making power: Asymmetric and soft bicameralism.

Presidential executive

- ❑ President is both chief executive and head of state;
- ❑ Presidency is a single chief executive: President and Vice President are elected in a single election ticket;
- ❑ President and VP are directly elected by the people through two-round FPTP election system; presidential candidates are nominated by party or coalition of parties;
- ❑ President holds his office for a fixed term of 5-year, and can be re-elected for another term. This helps stabilize his/her administration;
- ❑ President and VP may only be removed from office by MPR, based on impeachment articles and procedure initiated by the DPR. It involves the Constitutional Court to decide the validity of the charge. Parliamentary vote of no-confidence no longer becomes constitutional ground for presidential removal;

Elections

- ❑ **Several systems apply;**
- ❑ **TRS-FPTP for presidential election; candidates are nominated by political parties –no ‘independent’ candidacy (law on presidential elections is being review by CC);**
- ❑ **FPTP for provincial and district executives; individual, non-party candidacy are permitted;**
- ❑ **Proportional representation (party list) for national and local houses of representatives (DPR and DPRD). There are 38 parties at national level, and 6 local parties in Aceh, eligible to run in the 2009 elections;**
- ❑ **Multimember district (i.e. 4 from each province) for the upper chamber parliament (DPD).**

Judiciary

- ❑ There is independent judiciary with dual-structure, consisting of a Supreme Court (*Mahkamah Agung*) and a Constitutional Court (*Mahkamah Konstitusi*);
- ❑ Supreme Court is the court of justice with four jurisdictions (i.e. general, administrative, religious, and military jurisdictions). Supreme Court has power to review legislations below statutes;
- ❑ Constitutional Court is the court of constitutional law with final and binding decision, having powers of judicial review of legislation, resolving constitutional disputes between state organs, deciding electoral disputes, hearing the claim of the government for the dissolution of political parties, and to issue a ruling on presidential impeachment charge brought by DPR;

Judiciary

- ❑ A Judicial Commission (*Komisi Yudisial*) is established to conduct partial recruitment of the SC judges. It selects and nominates candidates to be decided by DPR.
- ❑ However, 9 judges of the Constitutional Court are selected by President, DPR and MA (three from each organ);
- ❑ Members of Judicial Commission are appointed by President with the approval of the DPR.
- ❑ Judicial Commission is also mandated to maintain and implement the honor, dignity and conduct of judges. Judicial Commission deals with ethical issues. It should become an institutional checks on the judiciary.

Human rights protection

- ❑ **Duties of state (28I(4) RI Constitution): to protect, respect, enforce and fulfill human rights.**
- ❑ **Main ideas of right: dignity, freedom, equality, solidarity.**
- ❑ **28I(1) RI Constitution: *non-derogable rights*.**
- ❑ **28J(2) RI Constitution: limitation of rights.**
- ❑ **28J(1) RI Constitution: reciprocal principle to respect the rights of others;**