

PLS 140
Introduction to
Comparative Politics

Week 8:
Constitutions and judiciaries

Recap

- The state, state capacity, and state-making
- Political regimes

Part IV

- Formal organization of the state:
 - Constitutions
 - Judiciaries
 - Legislatures, elections, and electoral systems
 - Executives, coalitions, and coalition-formation

Plan for this week

- Constitutions
- Judiciaries
- Focus on India as well as previous country cases

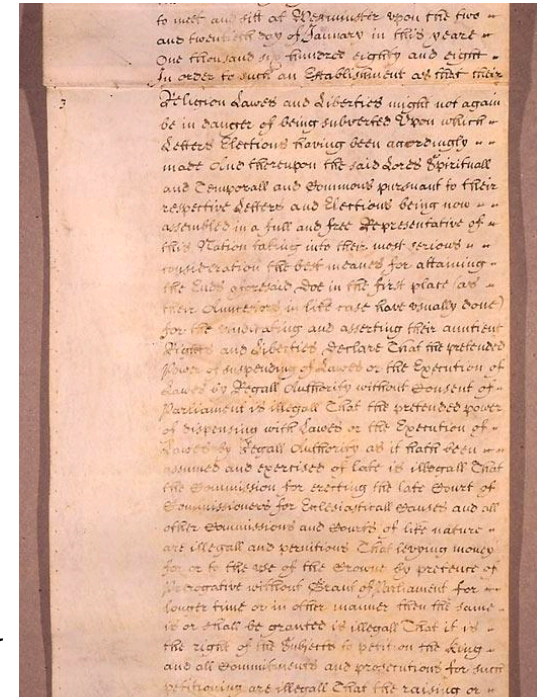
Constitutions and constitutionalism

- Constitutions:
 - Foundational charters and fundamental laws of modern states
- Constitutionalism:
 - Limitation of government through constitution



British constitutionalism

- State-making in 17th-century Britain:
 - The divine right of kings and political absolutism of the Stuart kings
 - English Civil War —> no governance without Parliament's consent
 - Restoration —> Glorious Revolution —> Bill of Rights and parliamentary sovereignty

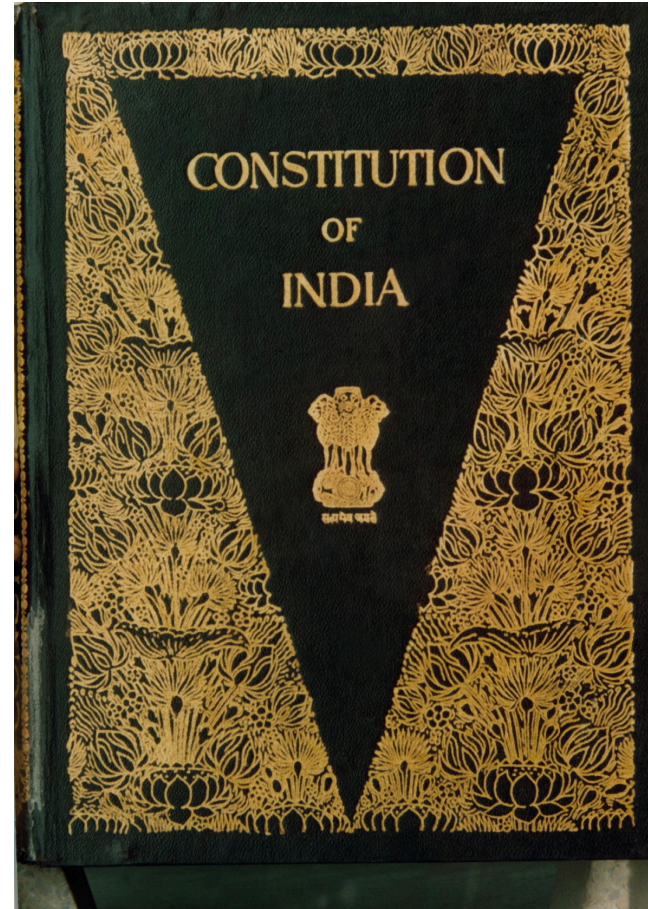


Constitutional design

- Constitutional documents
- Flexible and rigid constitutions
- Relationship between branches of government
- Federalism and unitarism

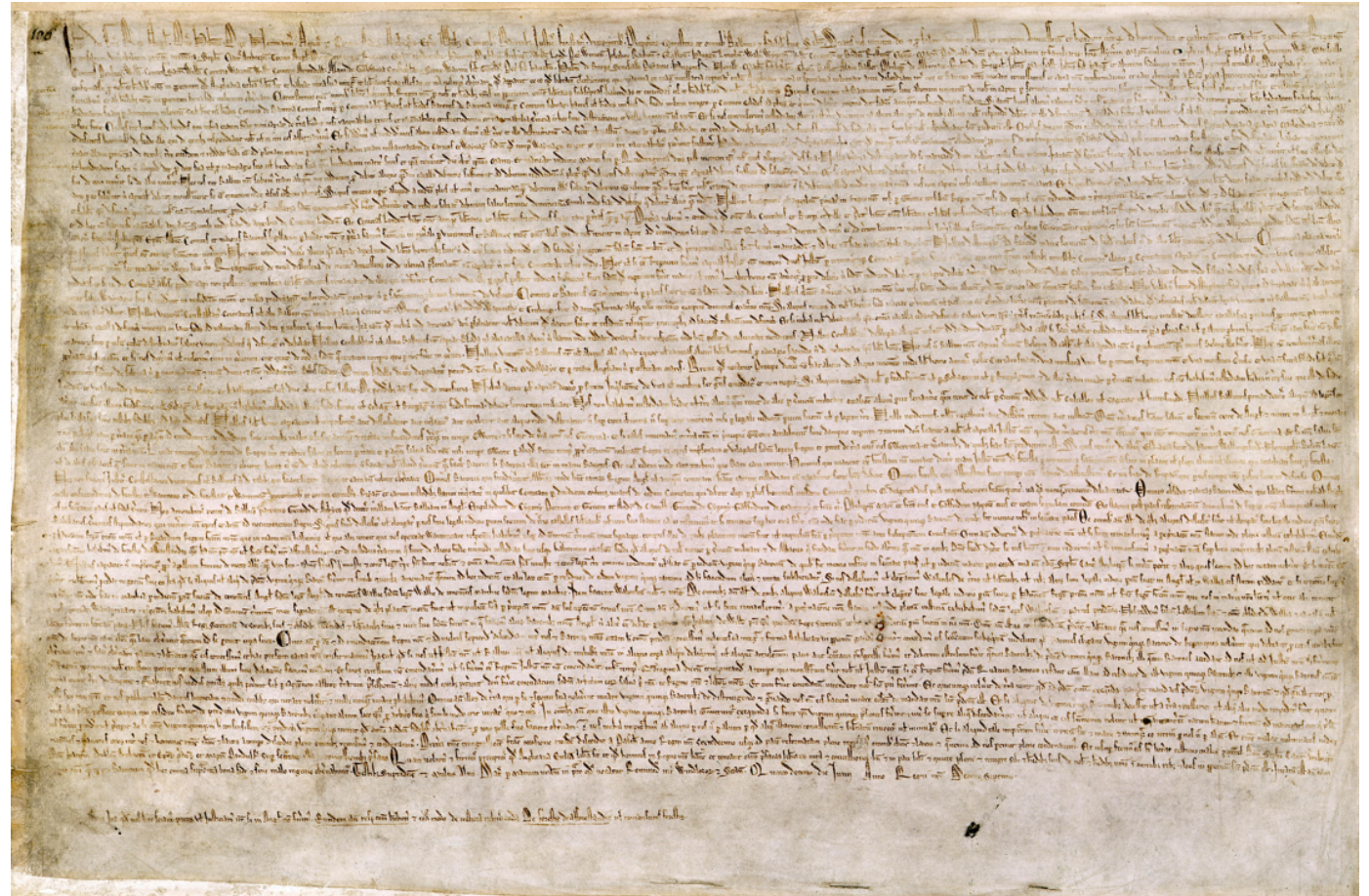


American, Indian, and other constitutions



British constitution

- Magna Carta, 1215
- Bill of Rights, 1689
- Devolution acts (Scotland Act, Government of Wales Act, and Northern Ireland Act, 1998)
- Acts of Parliament
- Court cases



Constitutional changes

- Flexibility
- Rigidity

11 February 2022



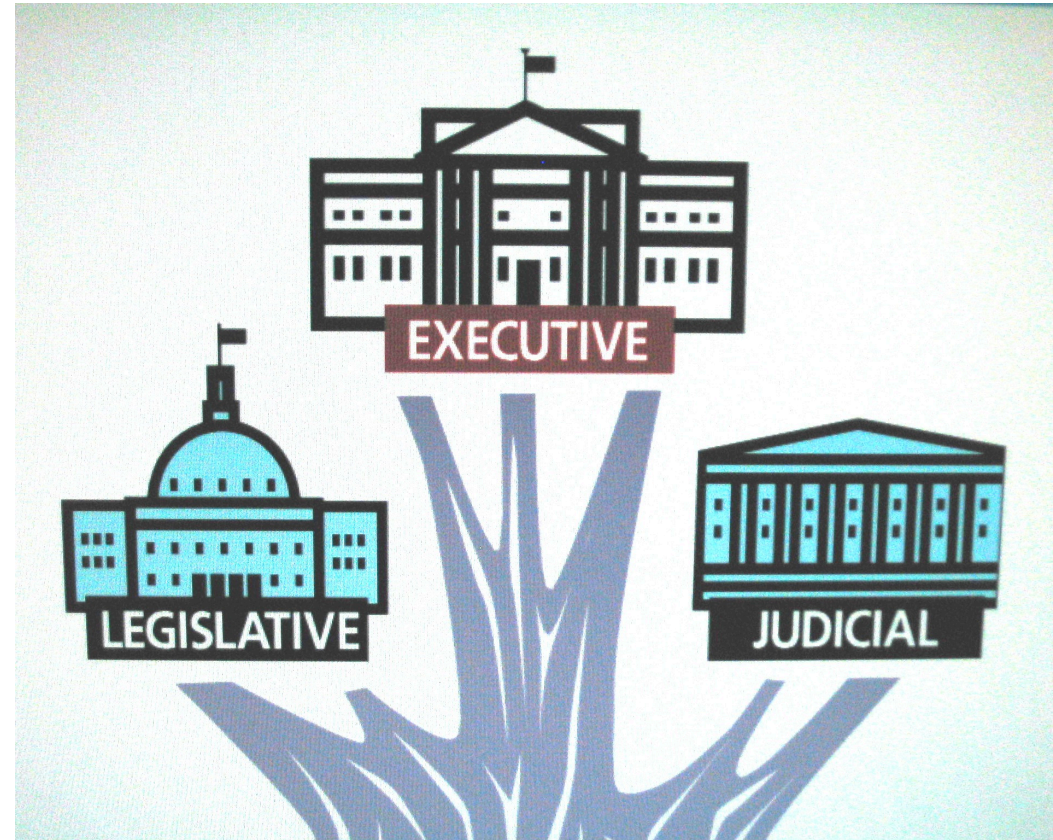
Brazil: Congress enacts constitutional amendment for protection of personal data as fundamental right

Legal Reform

The President of the National Congress, Senator Rodrigo Pacheco, promulgated, on 10 February 2022, the [Constitutional Amendment No. 115 of 2022](#) ('EC 115'), which includes the protection of personal data as a fundamental right and guarantee in the Brazilian Constitution. Furthermore, EC 115 grants the Union exclusive competence to legislate, organise, and supervise the protection and processing of personal data, through the creation of Article 5 (LXXIX) in the Brazilian Constitution.

Horizontal distribution of power

- Branches of government:
 - Executive
 - Legislative
 - Judicial
- Parliamentary sovereignty vs. constitutional supremacy, separation of powers, and judicial review



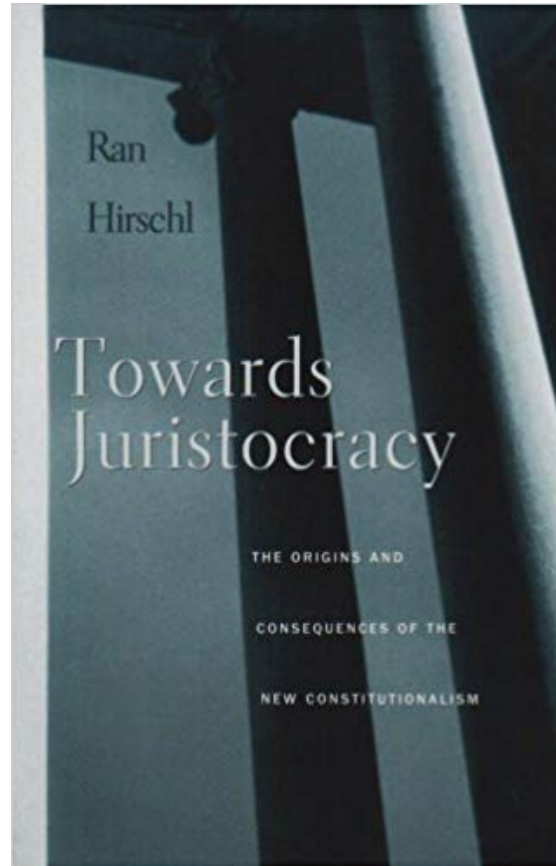
Judicial review

- Through regular courts or specialized constitutional courts
- Courts responsible for judicial review:
 - United States and India: Supreme Courts
 - Brazil: Federal Supreme Court
 - Russia: Constitutional Court
 - Kazakhstan: Constitutional Council



Judicialization and juristocracy

- Elite strategic calculations —>
- Insulation of policy-making from democratic politics —>
- Protection of elite political dominance



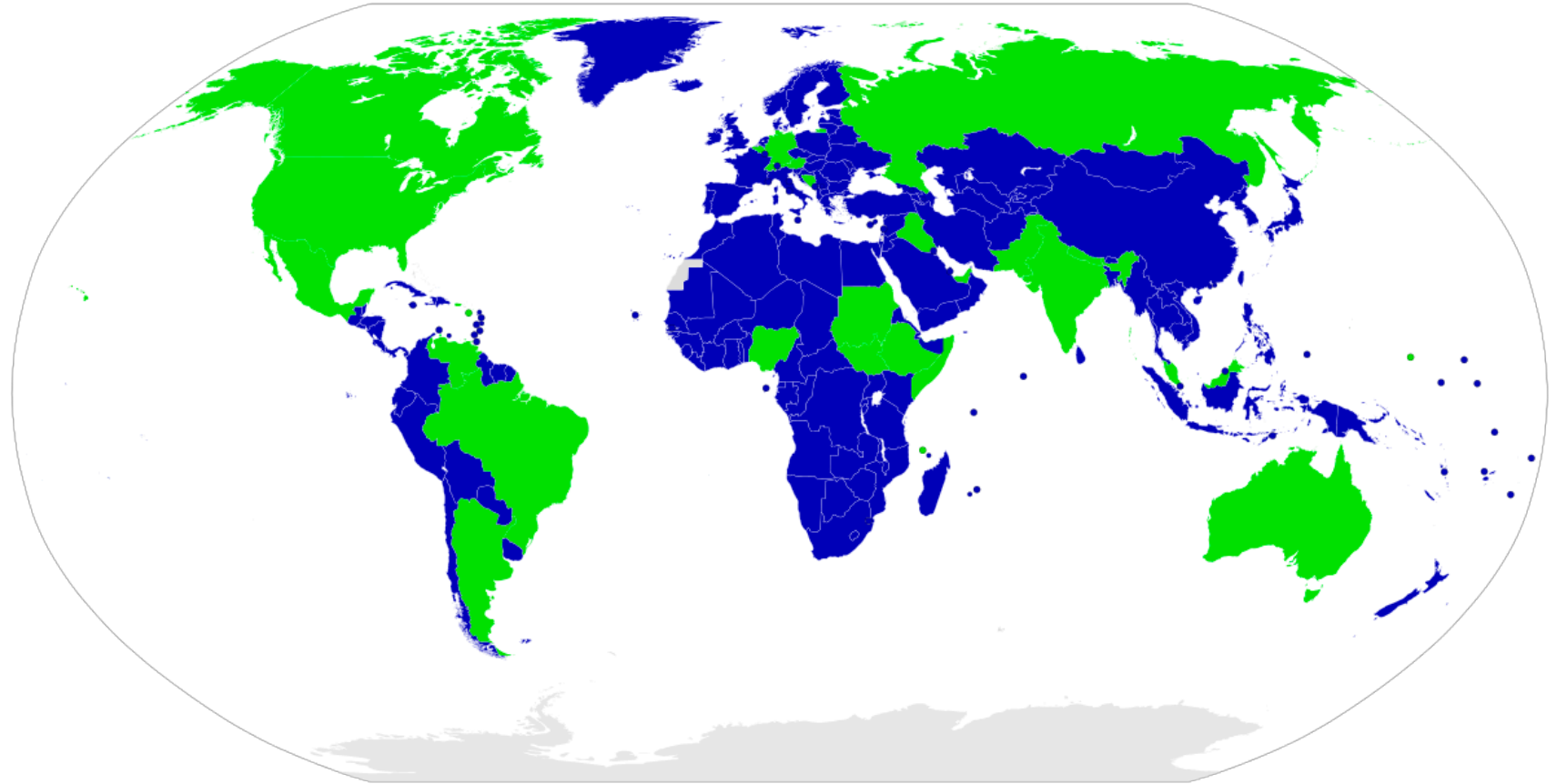
Judicialization and juristocracy

- Expansion of the political role of courts:
 - Policy outcomes
 - Administrative decisions
 - ‘Mega-politics’

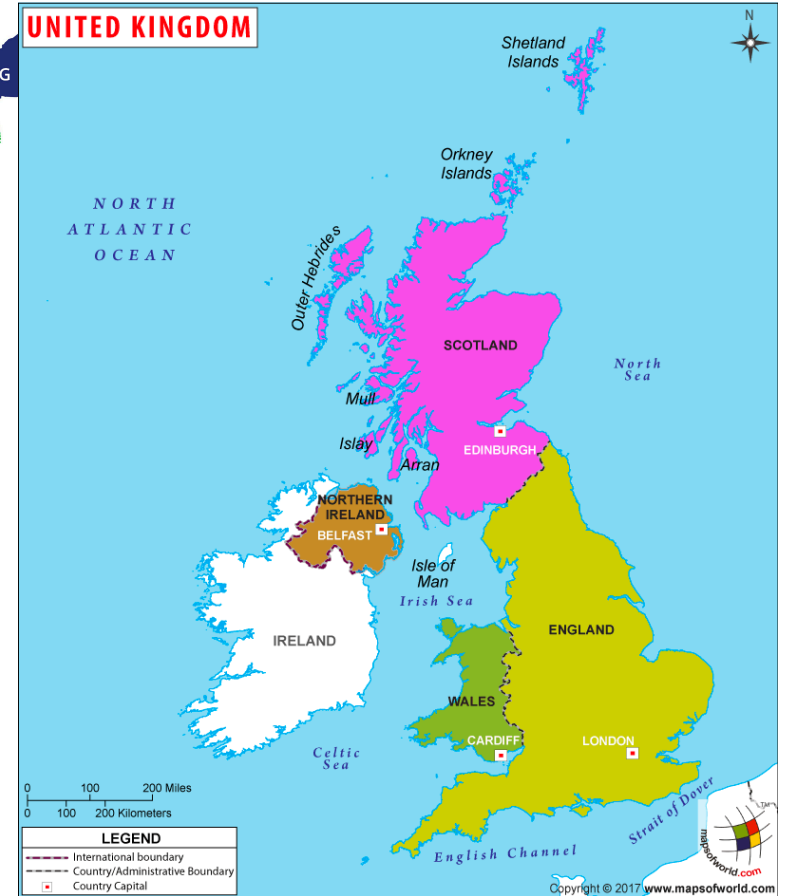


Vertical distribution of power

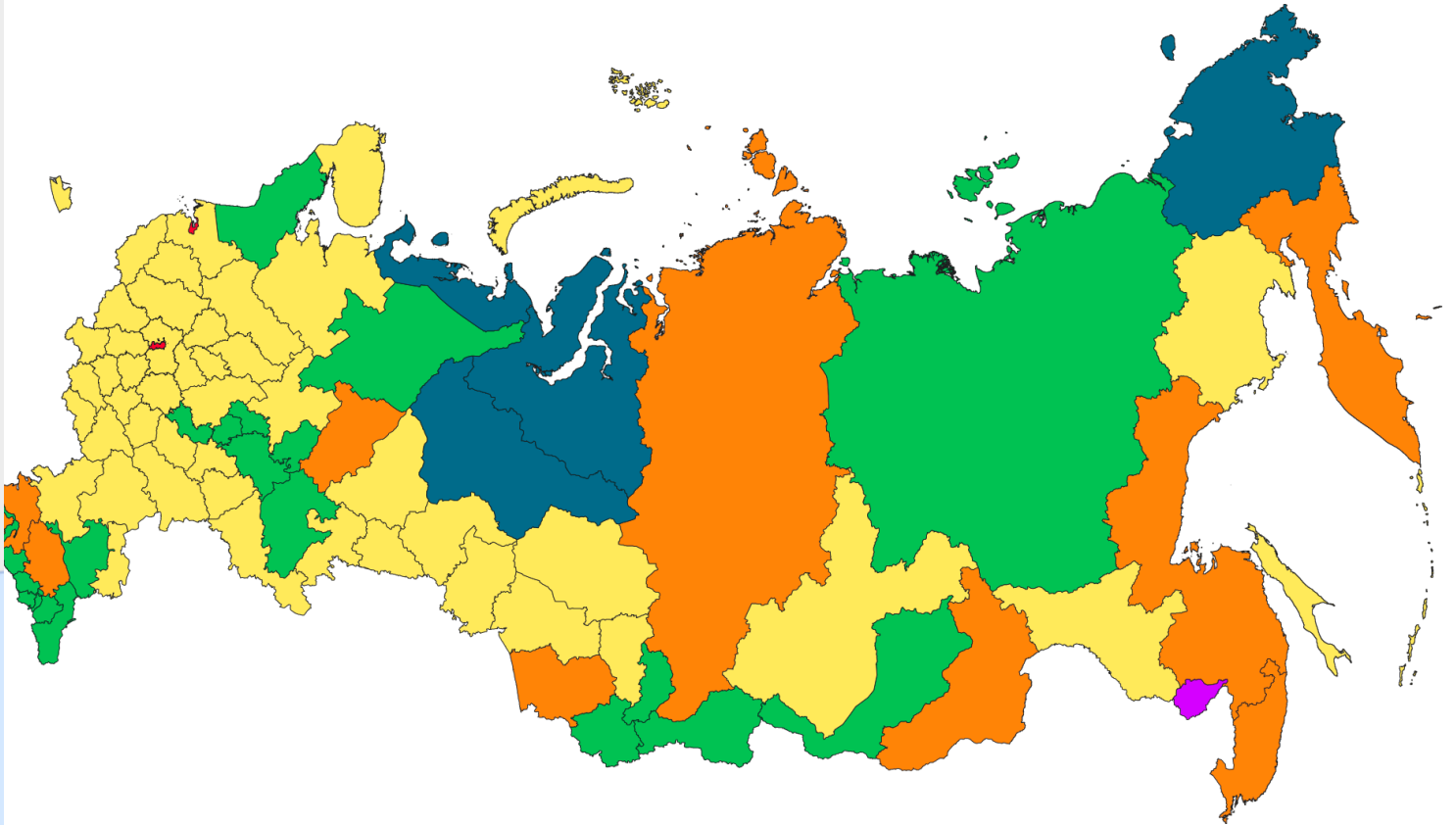
- Unitary states
- Federations:
 - Symmetric
 - Asymmetric



Unitary states



Asymmetric federations



Takeaways

- Formal setup of the state:
 - Constitutions and amendments
 - Distribution of power between:
 - National governments and subnational administrations
 - Branches of government