This chapter will provide a background of the Federal Government of Malaysia. This will include a brief history of the State Constitutions and their Governments and how they evolved and merged with the Federal system and the Federal Constitution. Important salient features of the relationship between the Governments will be identified to assist in the understanding of the Constitutional principles that regulate the State and Federal Governments. One fundamental feature to be addressed is the role of the Rulers of the States, a feature which has governed the relationship and status of the State governments. This, plus several peculiar factors that impose a strong influence on the way the Federal and State Governments in Malaysia function will be looked at such as communal politics and Islam, without which a study of constitutionalism in Malaysia would be misunderstood.

1. History of the State Constitutions

The beginnings of the State Constitutions were founded on the needs of the Malay Rulers and on their relationship with their subjects. Gullick describes the situation as follows:

“They [the heterogeneous villages of Malay states] were conscious of themselves as people of a state whose welfare depended on the good or bad genius of their Sultans. They shared a common relation of subjection to their chief. They were bound to him by ties of loyalty and yet were sagely cynical about the risks and misfortunes which came to them at his hands. In the worship of their God and in the magical procedures for obtaining supernatural help and blessing they were aware of what they shared. On this foundation of partial cohesion the political system was built”.¹

As an example the first formal written constitution, the Johore State Constitution of 1895, was very much concerned with the Ruler’s own interest. It was drafted by Sultan Abu Bakar’s British legal advisers and promulgated by him shortly before his death in 1895 with several objects in view: i.e. to strengthen the position of his son and heir by presenting him as a constitutional monarch; to limit the giving away of the state independence without consulting the State Council; to establish the succession for the benefit of his own family; to clarify the position of the Council

¹ Gullick, M. [1956] Indigenous Political Systems of Western Malaya (London), 143.
² Allen, J de V, et al (eds), [1981] A Collection of Treaties and Other Documents Affecting the States of Malaysia 1761-1963, vol I (New York), 75-76. This early Constitution although preserved in the present Constitution did not influence the relevant portions pertaining to present day government.