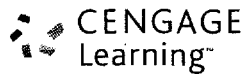

GOVERNMENT AND POLITICS IN MALAYSIA



Edited by
ABDUL RASHID MOTEN

Government and Politics in Malaysia

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Abdul Rashid Moten



Australia • Brazil • Japan • Korea • Mexico • Singapore • Spain • United Kingdom • United States



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Government and Politics in Malaysia

Edited by Abdul Rashid Moten

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ISBN-13: 978-981-4239-27-1

ISBN-10: 981-4239-27-5

Cengage Learning Asia Pte Ltd
5 Shenton Way
#01-01 UIC Building
Singapore 068808
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Fax: (65) 6410 1208

Cengage Learning products are represented in Canada by
Nelson Education, Ltd.

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Printed in Malaysia by Art Printing Works Sdn Bhd
1 2 3 4 5 6 7 11 10 09 08 07

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Constitution and Constitutionalism

A constitution is a body of formal and effective rules and regulations that govern the relationship between people and formal institutions of a state. It is a body of fundamental rules which determines the organisation or structure of the government, and determines the relations among the organs of the government. It also contains a statement of the rights and duties of the citizens of the country. In democratic systems, the constitution is considered a fundamental social contract among citizens, where government receives its powers from the people and is bound by an express set of human rights. The constitution is thus considered a statute superior to “ordinary” statutes, which it can overrule, and is usually protected by special courts. This chapter analyses the nature and features of the Constitution of Malaysia and examines the way the Constitution produces a government limited by law.

Nature and Types of Constitution

The term “constitution” derives from the imperial Latin *constitutio*, meaning “establishment”, or ordinance, of the Emperor. Some scholars use the Greek word *politeia* for constitution, which means basically any form of government. A *politeia* differs from the modern understanding of written constitutions in two respects: first, not all Greek states had their laws in writing; more importantly, the Greeks did not normally distinguish between ordinary and constitutional legislation.

The most common usage of “constitution” is to describe a fundamental law that defines how a government actually operates and how its power and authority are limited. According to Strong, a constitution “is a collection of principles according to which the powers of the government,