

ABSTRACT

Thesis Title : The Government Legal Aid Organization
and the Right to Counsel of the Alleged
Offender or the Accused in Criminal Cases

Student's Name : Mrs.Nitaya Simmakhun

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Advisory Committee :

1. Mr. Pornpetch Wichitcholchai Chairperson
2. Assoc. Prof. Jaral Lengvittaya
3. Mr. Chartchai Kritchanhai

The right of the alleged offender or accused to legal aid in the form of state provided counsel is a fundamental, constitutional, human and natural right. The state is under a legal duty to provide legal aid and civil rights to the alleged offender or accused, *ab initio* from the time the state legal proceedings begin in the form of detention, arrest or interrogation. The right to counsel in criminal cases accrues to the alleged offender or accused according to the constitutional presumption of innocence.

This thesis examines the origin, history, contents and evolution of the alleged offender or accused right to counsel in criminal cases as a fundamental, constitutional, human and procedurally guaranteed right. The study further examines the necessity of a lawyer's assistance in criminal cases in Thailand and foreign nations in public and private law, in order to discover the most efficient manner to amend present legislation and the attorney search technique of legal aid organizations

for the alleged offender or accused and thus, improve the social condition in Thailand.

The author has concluded that the problem relates to legislation, in that the right *ex lege* to counsel must be given at the stage of interrogation or the that the alleged offender or accused is not provided with legal aid from the state in securing his own legal representation. The accused's right to counsel *ex lege* arises from Section 242 of the Constitution B.E. 2540, which guarantees counsel to indigents. The alleged offender's right to counsel, however is not perfected, because it is not offered before interrogation. The problem of right to counsel for the accused is often a lack of awareness on the part of the accused. For example, the right to counsel *ex lege* in the Criminal Procedure Code Section 8, offered to the accused is clearer than that offered to the alleged offender, who is notified by the controlling judge that the he is entitled to equal protection of the law. In addition, both the accused and the alleged offender encounter problems when seeking government legal aid in public and private law. The apparent authority in providing legal counsel, budgetary personnel, do not have a legal duty of care to provide competent searching for a qualified lawyer for the alleged offender or accused in a criminal case.

These problems can be solved through a revision of the statutes, which will afford presentation of the right *ex lege* to counsel to the accused or alleged offender in a criminal case, as well as establish a government legal aid organization providing the right *ex lege* to counsel for the accused or alleged offender in criminal cases. These improvements will provide the alleged offender or accused state protection, a legal identity and guarantee the principle of equality under the law.