

**THE RIGHT TO LEGAL REPRESENTATION OF AN ACCUSED PERSON;
EXISTENCE, APPLICATION AND LIMITATION: A COMPARISON STUDY
BETWEEN MALAYSIA AND THE UNITED STATES**

By

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The students/authors confirm that the work submitted is their own and the appropriate credit has been given where reference has been made to the work of others.

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Abstract

This research is carried out to discover the reality of the practice of the right to legal representation of an accused person in Malaysia and to compare with the United States of America. The main objective is to know in reality whether this right is given absolutely and is there any limitation by the authority in any cases. The accused person has the right under Article 5 of the Federal Constitution. The problem here is that when the accused person being detain without the aid of counsel. The detainee often being humiliated and abuse by the police so that the accused will confess or plead guilty thus, there is no use to proceed to the court as statement had been made and the accused had plead guilty. In contrast, this right must be subject to certain necessary limitations in order to prevent any undue interference with the course of investigation. The police must support and prove that their action is in good faith.

The United States government provides the right to counsel in most cases and to deny it will make the court to loss its right and jurisdiction to proceed with the case. The right to legal representation will remain unless the accused himself waived the rights.

As a conclusion, the application in Malaysia and the United States is diverse although the law is quite same. One similarity is that this right will be given subject to the court and the police discretion.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iv
Contents	v
List of cases	vii

CHAPTER ONE: INTRODUCTION

1.0 Introduction	1
1.1 Research Question	3
1.2 Research Objective	4
1.3 Literature Review	4
1.4 Research Scope	7
1.5 Significance of the Research	7
1.6 Limitations of the Research	8
1.7 Research Methodology	8
1.8 Conclusions	9

CHAPTER TWO: THE RIGHT TO LEGAL REPRESENTATION TO AN ACCUSED PERSON: A COMPARISON BETWEEN MALAYSIA AND THE UNITED STATES OF AMERICA

2.0 Introduction	10
2.1 Freedom and Rights of Malaysian Citizens	12
2.2 Conceptual/Research Framework	
2.2.0 Definition of the Right to Legal Representation	14
2.2.1 Existence of the Right to Legal Representation	15
2.2.2 The Application of the Right to Legal Representation	19
2.2.3 The Limitations of the Right to Legal Representation	21
2.3 Conclusion	24

CHAPTER THREE: THE RIGHT TO LEGAL REPRESENTATION IN MALAYSIA

3.0 Introduction	25
3.1 The Application of the Right to Legal Representation in Malaysia	26
3.2 The Limitations of the Right to Legal Representation in Malaysia	30
3.3 Conclusion	35

CHAPTER FOUR: THE RIGHT TO LEGAL REPRESENTATION IN UNITED STATES

4.0	Introduction	37
4.1	The Application of the Right to Legal Representation in the United States of America	38
4.2	The Limitations of the Right to Legal Representation in the United States of America	41
4.3	Conclusions	43

CHAPTER FIVE: COMPARISON BETWEEN MALAYSIA AND THE UNITED STATES

5.0	Malaysian Cases	
5.0.1	<i>Ooi Ah Phua v Officer in Charge Criminal Investigation Kedah/Perlis Perlis</i> [1975] 2 MLJ 198	45
5.0.2	<i>Hashim bin Saud v Yahaya bin Hashim & Anor</i> [1977] 1 MLJ 259	49
5.1	American Cases	
5.1.1	<i>Gideon v Wainwright</i> [1963]372 U.S. 335	50
5.1.2	<i>Betts v Brady</i> [1942] 316 U.S.455	53
5.2	The Comparison between the Situation in Malaysian and the United States	55

CHAPTER SIX: RECOMMENDATIONS AND CONCLUSIONS

6.0	Recommendations	60
6.1	Conclusions	64
	Bibliography	67
	Appendices	71
	Appendix 1: Interview Questions	
	Appendix 2: Interview	