

**STATE OBLIGATION TO PROVIDE LEGAL
REPRESENTATION FOR AN UNREPRESENTED
DETAINEE OR ACCUSED.**

BY

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DECLARATION

I declare that the dissertation submitted by me to the University of Limpopo for the degree of Master in Development and Management Law has not been previously submitted by me for degree purposes at this or any other University. This is my own work in design and in execution, and all material contained herein has been duly acknowledged.

Signed

Date

PREFACE

The Constitution of the Republic of South Africa Act of 1996 provides the legal framework which guarantees the right of legal representation to unrepresented detainee or accused at State expense, if substantial injustice would otherwise result. Prior to this, legal representation at state expense, although provided, was restricted to cases which were justiciable in the High Courts of the land *e.g* high treason, murder and rape etc.

The majority of people who appeared in lower courts and who in most instances it was their first encounter with the legal process were denied this right and yet were required to face the challenges lying before them for instance cross examination of witnesses, addressing the court on the merits and on sentence - to name but a few. They were usually sentenced to crippling fines or lengthy periods of imprisonment. By and large those people were Blacks.

The advent of democracy and the adoption of the Bill of Rights brought hope to those who are arrested, detained and charged with crimes.

This presentation seeks to explore the question whether the constitutional imperatives are being adequately given effect to, the extent to which the Legal Aid Board established in terms of the Legal Aid Act 22 of 1969 succeeds in providing legal representation to unrepresented detainees or accused persons and the challenges that are being experienced. In doing so attention will be given to two different periods, namely pre-constitutional and post-constitutional era and thereafter a review of international law will be undertaken.

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