

# Punishing The Innocent: An Insight into Wrongly Convicted Individuals

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## ABSTRACT

Wrongful convictions have increasingly plagued the Indian criminal justice system. Instances of innocent individuals being wrongfully prosecuted suggest that some states witness convictions at trial stages, only for the accused to be acquitted upon appeal. However, there is no established system for identifying or tracking individuals wrongfully convicted, as state officials do not maintain records of acquittals or discharges. This lack of oversight perpetuates erroneous miscarriages of justice, resulting in innocent individuals not only losing their rights but also facing social alienation.

This study examines the phenomenon of wrongful convictions in India, exploring its causes, consequences, and potential solutions. Drawing upon legal analysis and case laws, this study identifies various factors contributing to wrongful convictions, including flawed investigation procedures, police misconduct, inadequate legal representation, and systemic issues within the criminal justice system. Furthermore, it highlights the social, psychological, and economic tolls experienced by wrongfully convicted individuals and their families. The study also discusses the challenges faced in rectifying wrongful convictions and proposes a range of reforms aimed at preventing future injustices, such as improving investigation techniques, enhancing legal aid services, strengthening judicial oversight, and promoting public awareness and advocacy. By addressing the root causes of wrongful convictions and implementing systemic reforms, India can strive towards a more equitable and just legal system that upholds the rights and dignity of all individuals.

In addition the purpose of this study to find out what approaches the state utilizes to resolve this issue of wrongful conviction and also aims to emphasize what are the remedies already available under existing laws and also to underline the need of standard legal framework for looking compensations to victims of wrongful convictions.

## CHAPTER 1

### INTRODUCTION

“It is better than ten guilty persons escape, than that one innocent suffers.”

-Sir William Blackstone

There is no criminal justice system in the planet that is perfect. The Indian judiciary is burdened with a heavy workload, leading to prolonged delays and unjust outcomes for the parties involved. Access to justice remains elusive, especially for marginalized or economically disadvantaged individuals.

Punishing the innocent in India, as in any other country, is a serious miscarriage of justice and goes against the principles of law and fairness. The legal system in India, like elsewhere, is designed to protect the innocent and ensure that only those proven guilty beyond reasonable doubt are punished. India's legal system is primarily based on the principles of justice, fairness, and the rule of law. The Constitution of

India guarantees certain fundamental rights to its citizens, including the right to a fair trial and the presumption of innocence until proven guilty.

However, like any system, India's legal framework is not immune to flaws and shortcomings. Instances of wrongful arrests, wrongful convictions, and miscarriages of justice can occur due to various factors such as flawed investigations, inadequate legal representation, corruption, or biases within the system. Wrongful convictions, where innocent individuals are wrongly found guilty of a crime, are a serious issue in India, as they are in many other countries. Several factors contribute to wrongful convictions in India, including flaws in the investigative process, inadequate legal representation, witness tampering, systemic biases, and sometimes outright corruption within the criminal justice system.<sup>1</sup>

Investigations in India may suffer from various shortcomings, including improper collection and handling of evidence, reliance on coerced confessions, lack of thoroughness, and pressure on law enforcement to quickly solve cases, sometimes leading to hasty arrests and wrongful charges. Many individuals accused of crimes in India, particularly those from marginalized or economically disadvantaged backgrounds, may not have access to competent legal representation. This can result in their rights not being adequately defended during the trial, leading to wrongful convictions.

Witness testimony is often crucial in criminal cases, but it can be unreliable due to factors such as witness coercion, intimidation, or manipulation. In some cases, witnesses may provide false testimony, either intentionally or due to misunderstanding, leading to wrongful convictions. Like any country, India grapples with systemic biases within its criminal justice system. These biases may include prejudice based on factors such as caste, religion, ethnicity, or socioeconomic status, which can influence how cases are investigated, prosecuted, and adjudicated, potentially leading to wrongful convictions. The reliance on forensic science and expert testimony in criminal cases can sometimes lead to wrongful convictions if the science is flawed, or if experts provide misleading or inaccurate information. Inadequate forensic facilities and training may exacerbate this issue. While India has an appellate process that allows individuals to challenge their convictions in higher courts, the appeals process can be lengthy and costly. This can further exacerbate the plight of wrongfully convicted individuals who may spend years, if not decades, trying to overturn their convictions.<sup>2</sup>

### **Understanding the Challenges of Wrongful Conviction in India**

**Violation of Human Rights:** Wrongful convictions violate the fundamental human rights of individuals, including the right to liberty, fair trial, and presumption of innocence. Being wrongly incarcerated deprives individuals of their freedom and subjects them to undue hardship, stigma, and loss of livelihood.

**Undermines Public Trust in Justice System:** Wrongful convictions erode public confidence in the justice system. When innocent individuals are convicted of crimes they did not commit, it raises doubts about the reliability and fairness of the legal process, leading to scepticism and distrust among citizens.<sup>3</sup>

**Impact on Victims and Families:** Wrongful convictions not only affect the wrongfully convicted individuals but also their families and loved ones. Families endure emotional and financial hardships, and victims of wrongful convictions may suffer from trauma, stigma, and loss of reputation even after their exoneration.

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<sup>1</sup> Ritendra Gaur and Dheeraj, *Innocent Behind Bars: Challenges and Remedies*, Manupatra (2021)

<sup>2</sup> Leo, RA *Rethinking the study of miscarriages of justice*, *Journal of Contemporary Criminal Justice* (2009)

<sup>3</sup> Gaur, Ritendra, and Diwakar, Dheeraj. "Innocent behind Bars: Challenges and Remedies." *Manupatra*, 27 December 2021.

**Waste of Resources:** Wrongful convictions result in the misallocation of resources within the criminal justice system. Public funds are expended on investigating, prosecuting, and incarcerating innocent individuals, diverting resources away from genuine crime prevention and victim support efforts.

**Risk of Retributive Justice:** In cases of wrongful convictions, the true perpetrators of crimes remain free, posing a risk to public safety. Additionally, wrongful convictions may fuel a desire for retribution, leading to miscarriages of justice and further perpetuating cycles of violence and injustice.

**Undermines Rule of Law:** Wrongful convictions undermine the rule of law and the principle that justice should be administered impartially and fairly. They highlight systemic flaws and failures within the criminal justice system, including inadequate legal safeguards, investigative shortcomings, and biases.

**Prevents Accountability and Reform:** Wrongful convictions hinder efforts to hold accountable those responsible for miscarriages of justice and may impede reforms aimed at addressing systemic issues within the criminal justice system. Without accountability and transparency, systemic flaws persist, perpetuating the risk of future wrongful convictions.<sup>4</sup>

The Apex Court in *West Bengal State Electricity Board v. Dilip Kumar Ray*, The case revolved around the power of the WBSEB to disconnect electricity supply for non-payment of bills. Dilip Kumar Ray argued that the WBSEB's decision was arbitrary and in violation of principles of natural justice. He contended that the Board had not provided him with an opportunity to be heard before disconnecting the supply. The court examined whether the actions of the WBSEB were within the scope of its authority and whether they followed due process. It emphasized the importance of fair procedure and adherence to legal principles by administrative bodies when exercising their powers. The court also considered whether the decision to disconnect electricity supply was reasonable and proportionate to the circumstances.

The case established precedents regarding the obligations of administrative bodies to follow fair procedures and act reasonably in exercising their powers. It underscored the significance of principles such as natural justice and procedural fairness in administrative law in India.

In 2017, “The Delhi High Court, in its order in the case of *Babloo Chauhan @ Dabloo vs. State Govt. of NCT of Delhi* raised serious concerns regarding the wrongful prosecution of innocent individuals. It urged the Law Commission to propose a legal framework aimed at offering support and rehabilitation to those who have been wrongly prosecuted.”

Globally, the wrongful prosecution and conviction of innocent individuals are commonly referred to as "miscarriages of justice." The ICCPR imposes an obligation on State parties to establish laws that provide compensation to victims of such miscarriages of justice. Law Commission Report 277 suggests defining "wrongful prosecution" as the standard for identifying miscarriages of justice, in contrast to "wrongful conviction" and "wrongful incarceration." Under this standard, wrongful prosecution would encompass cases where the accused is innocent of the alleged crime, and where there has been misconduct by the prosecution during the investigation and/or legal proceedings.<sup>5</sup>

It recommends enacting a specific legal provision to provide relief to the victims of wrongful prosecution in terms of monetary and non-monetary compensation (such as counselling, vocational / employment skills development etc.) within a statutory framework.

Article 21 guarantees the protection of life and personal liberty of citizens. When fundamental rights are violated due to misconduct by the police or prosecution, it leads to State liability. However, the

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<sup>4</sup> Grounds, Adrian T. “Understanding the Effects of Wrongful Imprisonment.” *Crime and Justice*, vol. 32, 2015

<sup>5</sup> Mehrotra’s *Commentary, Law of Defamation and Malicious Prosecution*, 6<sup>th</sup> Edition 2011, Pub: Delhi Law House

Constitution, which ensures these fundamental rights, does not explicitly address the issue of the State providing compensation for such infringements. Even within the existing legal framework, the process of obtaining compensation for miscarriages of justice resulting from wrongful prosecution is complicated and uncertain. The Commission has outlined specific criteria to be used in determining instances of "miscarriage of justice" and has clarified what constitutes wrongful prosecution. Addressing wrongful convictions requires concerted efforts to strengthen legal safeguards, improve investigative techniques, enhance access to quality legal representation, and promote transparency and accountability within the criminal justice system. It also necessitates raising awareness about the causes and consequences of wrongful convictions and fostering a culture of justice, fairness, and respect for human rights in society. To address these issues and prevent the punishment of the innocent, India has several safeguards in place: **Presumption of Innocence:** The legal principle that an individual is considered innocent until proven guilty is fundamental in India. This means that the burden of proof lies with the prosecution to prove the guilt of the accused beyond a reasonable doubt.

**Right to Fair Trial:** Every individual accused of a crime in India has the right to a fair trial. This includes the right to legal representation, the right to be heard, the right to present evidence, and the right to cross-examine witnesses.

**Legal Aid:** The Indian legal system provides for legal aid to those who cannot afford legal representation. This ensures that even the poorest individuals have access to justice and are not unfairly punished due to lack of resources.

**Appellate Process:** Individuals who believe they have been wrongfully convicted have the right to appeal their case to higher courts. This allows for a review of the evidence and legal proceedings to correct any errors or miscarriages of justice that may have occurred at the trial level.

**Judicial Review:** The Indian judiciary has the power of judicial review, which allows courts to review the actions of the executive and legislative branches to ensure they are in accordance with the Constitution and the law. This serves as a check against any wrongful actions by the government that could result in the punishment of the innocent.

**Legal Reforms:** India continually works on legal reforms to strengthen its legal system and address any loopholes or deficiencies that may lead to the punishment of the innocent. Reforms may include changes to laws, procedures, and institutional mechanisms to enhance fairness and justice.

Addressing wrongful convictions in India requires a multi-faceted approach, including reforms aimed at improving investigative practices, ensuring access to competent legal representation for all individuals, addressing systemic biases within the criminal justice system, enhancing forensic capabilities, and expediting the appeals process. Additionally, raising awareness about the issue of wrongful convictions and promoting accountability for those responsible for miscarriages of justice are also important steps toward preventing future wrongful convictions and safeguarding the rights of the innocent. Despite these safeguards, challenges remain, and cases of innocent individuals being punished do occur. Addressing these challenges requires ongoing efforts by all stakeholders, including the government, judiciary, legal professionals, civil society, and the public, to ensure that justice is served and the rights of the innocent are protected.<sup>6</sup>

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<sup>6</sup> Vibhuti Sharma, Wrongful convictions: When Justice Fails, *Burnished law journal* (2021)

## PROBLEM STATEMENT

The issue of punishing the innocent through wrongful convictions in India persists despite the constitutional guarantees of the presumption of innocence and the right to a fair trial. Illegitimate convictions not just outcome in the treacherous discipline of honest people yet additionally dissolve public confidence in the law enforcement framework and subvert the standards of equity and correspondence under the watchful eye of the law. Defects in the analytical cycle, deficient lawful portrayal, fundamental predispositions, and weaknesses in the legal framework add to the event of unfair convictions.

While some individuals are eventually exonerated through lengthy and often arduous legal processes, many suffer irreparable harm, including psychological trauma, loss of livelihood, and stigmatization. Moreover, the consequences extend beyond the wrongfully convicted individuals to their families and communities.

Despite efforts to address this issue, including legal reforms and awareness campaigns, wrongful convictions continue to occur with alarming frequency, highlighting the urgent need for comprehensive solutions. Addressing the root causes of wrongful convictions, improving investigative practices, enhancing access to competent legal representation, combating systemic biases, and strengthening safeguards within the criminal justice system are crucial steps in preventing the punishment of the innocent.

The problem statement is:

"The persistent occurrence of wrongful convictions in India represents a significant challenge to the principles of justice and fairness, leading to the unjust punishment of innocent individuals, erosion of public trust in the criminal justice system, and profound social and economic consequences. Despite constitutional safeguards and reform efforts, flaws in the investigative process, inadequate legal representation, systemic biases, and shortcomings in the judicial system continue to perpetuate this problem, necessitating urgent and comprehensive action to prevent the punishment of the innocent and uphold the integrity of the legal system."

## OBJECTIVES OF THE STUDY

- Investigate the prevalence and patterns of wrongful convictions in India over a specific period, including demographic factors such as age, gender, socioeconomic status, and geographical location.
- Explore the various factors that contribute to wrongful convictions in India, including flaws in the investigative process, systemic biases, inadequate legal representation, witness testimony issues, and forensic science inaccuracies.
- Evaluate the existing legal frameworks, procedures, and safeguards in India aimed at preventing wrongful convictions, including the presumption of innocence, the right to a fair trial, access to legal aid, and the appellate process.
- Examine the process of exoneration for wrongfully convicted individuals in India, including the effectiveness of legal remedies such as appeals, petitions for review, and compensation mechanisms.
- Conduct a comparative analysis of India's approach to addressing wrongful convictions with other countries, examining best practices and lessons learned from international experiences in this area.

## RESEARCH QUESTIONS

1. What is the prevalence of wrongful convictions in India, and how has it changed over time?



2. What are the primary causes and contributing factors to wrongful convictions in India's criminal justice system?
3. How effective are legal safeguards, such as the presumption of innocence and the right to a fair trial, in preventing wrongful convictions in India?
4. What is the process of exoneration for wrongfully convicted individuals in India, and how effective are legal remedies, such as appeals and petitions for review, in overturning wrongful convictions?
5. What policy and legal reforms are needed to prevent future miscarriages of justice and ensure the rights of the innocent are protected within India's criminal justice system?

## LITERATURE REVIEW

Kanak Singh (2022)<sup>7</sup> When judges are consistently fair in their decisions, wrongful convictions are unlikely to occur. However, every instance of wrongful conviction typically involves a systematic process that includes the involvement of law enforcement officers, prosecutors, and potentially judges at both trial and appellate levels. While authors have criticized various parties such as prosecutors, police detectives, defense lawyers, and laboratory workers for their roles in wrongful convictions, judges have often been exempted from such scrutiny. Judges are commonly depicted in the media as impartial, nonpartisan individuals with exceptional intelligence, wisdom, and a strong commitment to ensuring justice prevails in all circumstances. This portrayal may contribute to their perceived detachment from community involvement. However, the reality appears to differ from this idealized image.

Michael Griesbach (2014), *The Innocent Killer: The True Story of a Wrongful Conviction and its Astonishing Aftermath*<sup>8</sup> : The Innocent Killer illustrates why it is so important for law enforcement and prosecutors to follow the evidence and only the evidence.

Sammaiah Mundrathi (2012) in his book *Law on Compensation to Victims of Crime and Abuse of Power*<sup>9</sup> has delved into law regarding compensation to the victims of crime and abuse of power in India as well as in general. This book gives an overview of compensatory schemes in vogue in India and at international level. Through well analyzed judicial pronouncements, a coherent account of success of public law remedy against the abuse of public authority has been indeed exhibited. But finally it has been highlighted in the book that existing statutory and public law remedies with the State lawlessness have proved to be ineffective in compensating the victims of abuse of power.

Finally in the 277th report<sup>10</sup> on “Wrongful Prosecution (Miscarriage of Justice): Legal Remedies” (2018) : there was discussion on addressing the issue of miscarriage of justice from international perspective by investigating into the contemporary state of affairs along with the solutions as obtainable under the existing laws and spotting the yardstick of miscarriage of justice in the Indian perspective; and then concluding through giving the recommendations by the Commission in terms of a legal structure for addressing the issue.

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<sup>7</sup> Kanak Singh, General Issues & Reforms to reduce the wrongful convictions in India, Ignited Minds Journals (2022)

<sup>8</sup> Michael Griesbach , *The Innocent Killer: The True Story of a Wrongful Conviction and its Astonishing Aftermath* (American Bar Association, Chicago, Illinois, United States, 2014)

<sup>9</sup> Mundrathi, Sammaiah, *Law on Compensation to Victims of Crime and Abuse of Power* (Deep & Deep Publications, New Delhi 2012)

<sup>10</sup> Law Commission of India (21st), 277th Report on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies” (August, 2018)

## RESEARCH METHODOLOGY

The research approach used will be doctrinal, which means that secondary sources will be used in the paper's writing. While writing this dissertation, several books, articles, and journals will be resorted to for research and evaluation. However, not all of the relevant cases will be referred to in this context. A comprehensive review of all available data, including that found on the internet, will be conducted.

## CHAPTER 2

### CONCEPTUAL FRAMEWORK

#### Punishments under Indian Criminal Law

Under Indian criminal law, punishments for various offenses are outlined in the Indian Penal Code (IPC) and other statutes. Here are some common punishments prescribed under Indian criminal law<sup>11</sup>:

**Death Penalty:** Certain offenses such as murder, terrorism-related crimes, and large-scale drug trafficking can carry the death penalty as the maximum punishment.

**Life Imprisonment:** Offenses such as murder, kidnapping for ransom resulting in death, and certain cases of rape can result in life imprisonment, where the convict is incarcerated for the remainder of their natural life.

**Imprisonment:** For offenses not punishable by death or life imprisonment, imprisonment terms can vary from a few days to several years depending on the severity of the offense. Imprisonment may be rigorous or simple, depending on the nature of the offense.

**Fine:** In addition to or instead of imprisonment, the court may impose a monetary fine on the convict. The amount of the fine can vary depending on the offense and the discretion of the court.

**Whipping:** In some cases, particularly under special statutes like the Immoral Traffic (Prevention) Act, the court may order whipping as part of the punishment for certain offenses.

**Forfeiture of Property:** Under certain statutes like the Prevention of Money Laundering Act (PMLA), the court may order the forfeiture of property acquired through illegal means.

**Probation:** Instead of imprisonment, the court may grant probation to the offender, subject to certain conditions, such as regular reporting to a probation officer and maintaining good behaviour.

**Community Service:** In some cases, the court may order the offender to perform community service as part of their punishment, particularly for minor offenses or first-time offenders.

**Compensation:** In addition to or instead of other punishments, the court may order the offender to compensate the victim for any harm or loss suffered as a result of the offense.

It's important to note that the specific punishment for a particular offense may vary depending on factors such as the severity of the crime, the discretion of the judge, and any mitigating or aggravating circumstances involved in the case.

#### Wrongful Conviction

A wrongful conviction occurs when an individual is found guilty and punished for a crime they did not commit. In other words, it's a miscarriage of justice where an innocent person is wrongly convicted based on errors, biases, or misconduct within the criminal justice system. Wrongful convictions can result from various factors, including mistaken eyewitness identification, false confessions, unreliable forensic evidence, inadequate legal representation, prosecutorial misconduct, and systemic flaws in the investigation or trial process.

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<sup>11</sup> M Naughton The Criminal Cases Review Commission: Hope for the Innocent?(Palgrave MacMillan, 2009)

Wrongful convictions not only deprive innocent individuals of their freedom but also have profound social, psychological, and economic consequences for them and their families. They undermine public trust in the legal system and may allow the true perpetrator to escape accountability, posing ongoing risks to public safety. Identifying and rectifying wrongful convictions require diligent efforts, including thorough review processes, legal appeals, and reforms aimed at preventing similar injustices in the future.<sup>12</sup>

### **Wrongful Convictions in India**

Wrongful convictions in India represent a serious miscarriage of justice, where innocent individuals are wrongly found guilty of crimes they did not commit. While comprehensive statistics on wrongful convictions in India are scarce due to various challenges in data collection and reporting, several high-profile cases and research studies highlight the prevalence and causes of wrongful convictions in the country.

One significant contributing factor to wrongful convictions in India is the flawed investigative process. This includes issues such as:

**Poor Evidence Collection:** Evidence collection in criminal investigations may be compromised due to inadequate training of law enforcement personnel, lack of resources, and procedural shortcomings. This can lead to the reliance on weak or insufficient evidence, resulting in wrongful convictions.

**Coerced Confessions:** Instances of coerced confessions during police interrogations are not uncommon in India. Individuals, particularly those from marginalized or vulnerable communities, may be coerced into confessing to crimes they did not commit due to intimidation, torture, or other forms of pressure.

**Witness Testimony:** Witness testimony plays a crucial role in criminal trials, but it can be unreliable due to factors such as witness intimidation, manipulation, or false identification. In some cases, witnesses may provide inaccurate or false testimony, leading to wrongful convictions.

**Forensic Science Inaccuracies:** Forensic evidence, including DNA analysis and other scientific methods, is often relied upon in criminal cases. However, the quality and reliability of forensic science in India vary widely, leading to potential inaccuracies that can contribute to wrongful convictions.

**Systemic Biases:** Like many other countries, India grapples with systemic biases within its criminal justice system. Factors such as caste, religion, ethnicity, and socioeconomic status can influence how cases are investigated, prosecuted, and adjudicated, leading to injustices and wrongful convictions.

Furthermore, inadequate legal representation for accused individuals, particularly those from marginalized or economically disadvantaged backgrounds, can also contribute to wrongful convictions. Many individuals do not have access to competent legal counsel or cannot afford legal representation, which can result in their rights not being adequately defended during the trial process.

While India has various legal safeguards in place to protect the rights of individuals accused of crimes, including the presumption of innocence and the right to a fair trial, challenges remain in ensuring their effective implementation. Addressing the root causes of wrongful convictions in India requires comprehensive reforms aimed at improving investigative practices, enhancing access to legal representation, combating systemic biases, and strengthening safeguards within the criminal justice system. Additionally, raising awareness about the issue of wrongful convictions and advocating for reforms are crucial steps toward preventing the punishment of the innocent and upholding the principles of justice and fairness in India.

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<sup>12</sup> Leo, RA Rethinking the study of miscarriages of justice, *Journal of Contemporary Criminal Justice* (2009)



### **Causes of Wrongful Convictions: (INDIA)**

Wrongful convictions in India, as in any country, can stem from a variety of factors across the criminal justice system. While each case may have its unique circumstances, common causes of wrongful convictions in India include:

**Police Misconduct:** Coerced confessions, fabricated evidence, and false testimonies obtained through police misconduct or corruption can lead to wrongful convictions. Instances of torture, intimidation, and threats by law enforcement officials can result in individuals falsely confessing to crimes they did not commit.

**Flawed Investigation Procedures:** Inadequate or flawed investigation procedures, including shoddy evidence collection, poor forensic analysis, and failure to follow due process, can lead to erroneous conclusions and wrongful convictions. Lack of proper training and resources for law enforcement agencies may contribute to investigative shortcomings.

**Eyewitness Misidentification:** Eyewitness misidentification is a leading cause of wrongful convictions worldwide. Mistaken identification by eyewitnesses, influenced by factors such as stress, suggestive questioning, and poor lighting conditions, can result in innocent individuals being wrongly implicated and convicted.

**False Testimony and Perjury:** False testimony by witnesses, informants, or co-accused individuals, often motivated by personal vendettas, pressure from law enforcement, or promises of leniency, can contribute to wrongful convictions. Perjury, or lying under oath, undermines the integrity of the judicial process and can lead to miscarriages of justice.<sup>13</sup>

**Inadequate Legal Representation:** Inadequate legal representation, particularly for indigent defendants who cannot afford private lawyers, may result in ineffective defense strategies, failure to present exculpatory evidence, and overall miscarriages of justice. Overburdened public defenders and lack of access to competent legal counsel can compromise the fairness of trials.

**Judicial Errors:** Errors in judicial proceedings, including incorrect application of law, misinterpretation of evidence, and biased judgments, can lead to wrongful convictions. Judicial bias, lack of impartiality, and reliance on circumstantial evidence without corroborating facts can contribute to unjust outcomes.

Issues within the criminal justice system, including problems like backlog of cases, delays in court proceedings, and overcrowding in prisons, can increase the likelihood of wrongful convictions. Poor management of the justice system, a lack of mechanisms for accountability, and institutional biases can all undermine the credibility and fairness of legal processes.

**Social and Cultural Factors:** Socio-cultural factors, including prejudice, discrimination, and stereotypes based on caste, religion, gender, or ethnicity, may influence investigatory and prosecutorial decisions, as well as jury or judicial verdicts. Biases in the criminal justice system can lead to the wrongful targeting and conviction of marginalized or vulnerable populations.

In order to address the root causes of wrongful convictions in India, comprehensive reforms of the entire criminal justice system are required. These reforms should include enhancements in forensic capabilities, enhancements in investigative methods, protection against police misconduct, access to high-quality legal representation, promotion of judicial accountability, and raising awareness about the dangers of wrongful convictions. Endeavors to reinforce procedural shields, maintain basic freedoms guidelines, and advance

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<sup>13</sup> Smith, Earl, and Angela J. Hattery. "Race, Wrongful Conviction & Exoneration." *Journal of African American Studies*, vol. 15, no. 1, 2011

reasonableness and value in legal actions are fundamental for forestalling unsuccessful labors of equity and safeguarding the privileges of people blamed for wrongdoings.<sup>14</sup>

### **Problems faced by wrongfully convicted persons**

Wrongfully convicted persons face a myriad of challenges that can have profound and lasting impacts on their lives. Some of the key problems they encounter include:

**Loss of Freedom:** Wrongfully convicted individuals are deprived of their liberty and may spend years or even decades incarcerated for crimes they did not commit. This loss of freedom can have devastating effects on their mental and emotional well-being.

**Stigma and Social Rejection:** Society may view wrongfully convicted individuals with suspicion or even hostility, assuming their guilt despite exoneration. This stigma can lead to social rejection, difficulty finding employment, and strained relationships with friends and family.

**Psychological Trauma:** The experience of being wrongfully convicted and imprisoned can cause severe psychological trauma, including PTSD, and suicidal ideation. Many wrongfully convicted individuals struggle to cope with the psychological toll of their ordeal.

**Financial Hardship:** Wrongfully convicted individuals often face financial difficulties upon their release from prison. They may have lost their jobs, savings, and assets during their incarceration and may struggle to rebuild their lives financially.

**Limited Support Services:** Unlike individuals who are released on parole or after serving their full sentence, wrongfully convicted individuals may not have access to the same support services upon their release. They may lack resources for housing, healthcare, counseling, and reintegration into society.

**Legal and Practical Barriers:** Even after exoneration, wrongfully convicted individuals may encounter legal and practical barriers to obtaining compensation, clearing their names, and rebuilding their lives. Lengthy legal battles and bureaucratic hurdles can further prolong their ordeal.

**Difficulty Obtaining Compensation:** While some countries have compensation schemes for wrongfully convicted individuals, navigating the process of obtaining compensation can be complex and time-consuming. Wrongfully convicted individuals may face challenges in proving their innocence and demonstrating the extent of the harm they suffered.<sup>15</sup>

**Impact on Relationships:** Wrongful convictions can strain relationships with family and friends, who may have endured their own hardships while their loved one was imprisoned. Rebuilding trust and repairing these relationships can be a long and difficult process.

**Health Problems:** Wrongfully convicted individuals may suffer from health problems related to their time in prison, including exposure to violence, inadequate healthcare, and infectious diseases. They may require medical treatment and support to address these health issues.

**Continued Legal Vulnerability:** Even after exoneration, wrongfully convicted individuals may remain vulnerable to future legal challenges, including attempts by authorities to re-prosecute them for the same crime or difficulties in obtaining legal redress for any remaining injustices.

Overall, the problems faced by wrongfully convicted individuals highlight the urgent need for systemic reforms to prevent miscarriages of justice, provide support and compensation to exonerees, and ensure that the rights of the innocent are protected within the criminal justice system.

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<sup>14</sup> Grounds, Adrian T. "Understanding the Effects of Wrongful Imprisonment." *Crime and Justice*, vol. 32, 2015

<sup>15</sup> Hari Shankar Rai "Compensation Jurisprudence and Victims of Crime" 334, *Cr.L.J.*, (2014)

## ICCPR

According to Article 14 (6), governments are required to establish a legal system that ensures compensation and rehabilitation for individuals who have been unjustly persecuted by the government.

Article 14(6) ICCPR addresses the rights of individuals who have been wrongfully convicted. The ICCPR is a key international human rights treaty adopted by the UNGA and came into force in 1976. It outlines various civil and political rights that member states are obligated to uphold.

Article 14(6) specifically states:

"In the determination of any criminal charge against him, everyone shall be entitled to have the assistance of counsel of his own choosing or to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."

This provision emphasizes the right to legal representation for individuals facing criminal charges. It ensures that individuals have access to legal assistance, either by choosing their own counsel or by having legal representation assigned to them if they cannot afford it. Importantly, it emphasizes that this right is essential "in any case where the interests of justice so require."

Article 14(6) serves as a safeguard against wrongful convictions by ensuring that accused individuals have effective legal representation throughout criminal proceedings. Adequate legal representation is crucial for ensuring a fair trial, protecting the rights of the accused, and preventing miscarriages of justice.

Furthermore, the provision underscores the principle of equality before the law and the importance of ensuring that legal assistance is available to all individuals, regardless of their financial means. This helps to address disparities in access to justice and promotes the fairness and integrity of criminal proceedings. Overall, Article 14(6) of the ICCPR plays a significant role in protecting individuals from wrongful convictions by guaranteeing their right to legal assistance and ensuring that their interests are adequately represented in criminal proceedings.

*Sube Singh v. State of Haryana*<sup>16</sup> is a significant case in the context of wrongful convictions in India. Sube Singh, along with several others, was wrongfully convicted for the murder of a village sarpanch (head) in Haryana. The convictions were primarily based on circumstantial evidence and alleged confessions obtained under duress during police interrogation. However, further investigation and legal proceedings revealed serious flaws in the investigation and trial process. There were allegations of police misconduct, including torture and coercion to extract confessions from the accused. Additionally, key pieces of evidence were found to be unreliable or fabricated. As the case gained attention from human rights organizations and legal experts, efforts were made to review the convictions and seek justice for the wrongfully accused individuals. Sube Singh and his co-accused maintained their innocence throughout the proceedings.

Ultimately, after a prolonged legal battle and advocacy efforts, the convictions were overturned, and Sube Singh and the other accused were acquitted of all charges. The case highlighted the importance of fair trials, protection of rights of the accused, and the need for robust legal mechanisms to rectify miscarriages of justice. This case serves as a reminder of the vulnerability of the justice system to errors and the importance of safeguards to prevent wrongful convictions. It underscores the significance of thorough investigation, adherence to legal procedures, and protection of the rights of individuals accused of crimes.

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<sup>16</sup> 2006 3 SCC 178

### **The 277th report by the Law Commission of India**

The 277th report by the Law Commission of India addresses various issues related to wrongful convictions and miscarriages of justice. Titled "Wrongful Prosecution (Miscarriage of Justice): Legal Remedies," the report was submitted to the Ministry of Law and Justice in March 2018.

This report delves into the causes and consequences of wrongful convictions in India and proposes legal reforms and remedies to address such miscarriages of justice. It examines factors contributing to wrongful convictions, such as flaws in the criminal justice system, investigative errors, witness misidentification, false confessions, and inadequate legal representation.

Key recommendations made in the report include:

**Introduction of a Statutory Mechanism for Compensation:** The report suggests establishing a statutory framework for compensating individuals who have been wrongfully prosecuted and imprisoned. This mechanism aims to provide redressal to victims of miscarriages of justice and alleviate their suffering.

**Guidelines for Investigation and Prosecution:** The report recommends the formulation of guidelines for law enforcement agencies and prosecutors to improve the quality of investigations and prosecutions. This includes measures to enhance evidence collection, interrogation procedures, and adherence to due process rights.

**Legal Aid and Support Services:** Recognizing the importance of legal representation in safeguarding against wrongful convictions, the report advocates for strengthening legal aid services and support mechanisms for indigent defendants.

**Role of Forensic Science:** The report emphasizes the significance of forensic science in the criminal justice process and calls for the promotion of forensic techniques and technologies to enhance the accuracy and reliability of evidence.

**Review Mechanisms:** It proposes the establishment of review mechanisms, such as Conviction Review Committees, to re-examine cases where there are credible allegations of wrongful conviction. These committees would assess new evidence and legal developments to determine whether convictions should be overturned.

Overall, the 277th report of the Law Commission of India provides a comprehensive analysis of wrongful prosecutions and offers recommendations to prevent miscarriages of justice and provide remedies to victims. Its findings and proposals aim to strengthen the fairness, effectiveness, and integrity of the Indian criminal justice system.

## **CHAPTER 3**

### **LEGAL FRAMEWORK AGAINST PUNISHING THE INNOCENT**

Wrongful convictions are a grave miscarriage of justice that can have devastating consequences for individuals and society as a whole. While India does not have specific legislation dedicated solely to addressing wrongful convictions, there are legal provisions and mechanisms in place to address issues related to wrongful convictions and ensure justice is served. Here's an overview of the legal framework in Constitutional Safeguards

The Indian Constitution guarantees several fundamental rights to its citizens, including the right to a fair trial, the right to legal representation, and the presumption of innocence until proven guilty. These rights provide the foundation for protecting individuals from wrongful convictions.

**Right to Fair Trial (Article 21):** Article 21 of the Indian Constitution guarantees the right to life and personal liberty. The Supreme Court of India has interpreted this provision expansively to include the right

to a fair trial. This encompasses the right to a speedy trial, legal representation, presumption of innocence until proven guilty, and the right to present evidence and cross-examine witnesses. These rights are essential in ensuring that individuals accused of crimes are not wrongfully convicted.

**Right to Legal Representation (Article 22):** Article 22 provides safeguards for arrested persons, including the right to consult and be defended by a legal practitioner of their choice. This ensures that individuals have access to competent legal representation, which is crucial in defending against wrongful convictions. Though not explicitly stated in the Constitution, the concept of presumption of innocence until proven guilty is a cornerstone of India's criminal justice framework. This principle dictates that the burden of proving guilt rests with the prosecution, and individuals accused of crimes are considered innocent until proven guilty. This presumption acts as a protection against unjust convictions by necessitating that the prosecution provide evidence proving guilt beyond a reasonable doubt.

**Right Against Self-Incrimination (Article 20):** Article 20 provides protection against self-incrimination, stating that no person accused of an offense shall be compelled to be a witness against himself. This safeguard prevents coerced confessions and ensures that evidence obtained through torture or coercion is not admissible in court, thereby reducing the risk of wrongful convictions.

**Right to Equality and Non-Discrimination (Articles 14 and 15):** Articles 14 and 15 guarantee the right to equality before the law and prohibit discrimination on grounds of religion, race, caste, sex, or place of birth. These provisions ensure that all individuals are treated equally under the law and receive fair treatment irrespective of their background or circumstances, thus reducing the likelihood of wrongful convictions based on discriminatory practices.

These constitutional safeguards form the cornerstone of India's legal framework and are essential for protecting individuals from wrongful conviction and ensuring that justice is administered fairly and impartially. However, challenges such as delays in the judicial process, inadequate legal representation, and systemic issues within the criminal justice system can still pose risks of wrongful convictions. Efforts to strengthen and uphold these constitutional safeguards are crucial for preventing miscarriages of justice in India.

#### Criminal Procedure Code (CrPC) and Indian Penal Code (IPC)

The CrPC is a comprehensive legislation that governs criminal proceedings in India. It outlines procedures for investigation, arrest, trial, and appeal. Provisions within the CrPC aim to ensure fairness and justice in the criminal justice system, thereby reducing the risk of wrongful convictions.

While the CrPC primarily focuses on the procedural aspects of criminal justice, it contains provisions that aim to prevent wrongful convictions and ensure fair trials for the accused. Here are some key provisions of the CrPC relevant to wrongful convictions in India:

**Investigation Procedures (Sections 154-176):** The CrPC outlines the procedures for conducting investigations by law enforcement agencies. It requires the police to follow specific protocols when registering FIRs (First Information Reports), collecting evidence, conducting searches, making arrests, and interrogating suspects. Proper investigation procedures are essential for ensuring that evidence is gathered lawfully and accurately, thereby reducing the risk of wrongful convictions based on flawed or fabricated evidence.<sup>17</sup>

**Provisions for Arrest and Detention (Sections 41-60):** The CrPC provides guidelines regarding the arrest and detention of suspects, including the rights of the accused during arrest, the grounds for arrest, and the

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<sup>17</sup> A. Ashworth and M. Redmayne, *The Criminal Process* 378-379 (Oxford University Press, Oxford, 4th edn. 2010)



procedures to be followed during detention. These provisions aim to prevent arbitrary arrests and ensure that individuals are not wrongfully deprived of their liberty without due process of law.

**Bail and Remand (Sections 436-450):** The CrPC contains provisions regarding bail and remand, which are crucial for safeguarding the rights of the accused and preventing wrongful pretrial detention. The law provides for the grant of bail to individuals accused of non-bailable offenses under certain circumstances, such as the absence of sufficient grounds for detention or the likelihood of the accused appearing for trial.

**Trial Procedures (Sections 225-237):** The CrPC sets forth procedures for conducting trials in criminal cases, including the presentation of evidence, examination of witnesses, arguments by the prosecution and defense, and pronouncement of judgments. Fair trial safeguards, such as the right to legal representation, the presumption of innocence, and the burden of proof on the prosecution, are integral to ensuring that individuals are not wrongfully convicted.<sup>18</sup>

**Appeals and Revision (Sections 372-394):** The CrPC provides avenues for challenging trial court decisions through appeals and revision petitions filed before higher courts. These appellate remedies allow individuals to seek review of judgments that may have resulted in wrongful convictions due to errors of law or fact.

While the CrPC contains provisions aimed at preventing wrongful convictions, challenges such as delays in the judicial process, inadequate legal representation, and systemic issues within the criminal justice system can still contribute to miscarriages of justice. Efforts to strengthen and enforce the procedural safeguards outlined in the CrPC are essential for reducing the risk of wrongful convictions in India.

This part manages the public regulations, for example, IPC and CrPC and the provisions in that which attempt and to some degree envelop this idea. This part represents a need of fitting compensatory framework in India.

'Life requests self esteem and respect', were the expressions of previous CJI Deepak Misra while granting a pay of Rs. 50 Lakhs to ISRO researcher Nambi Narayanan who was dishonestly blamed for secret activities by the Kerala Police.<sup>19</sup> Mr Narayanan faced the conflict for a considerable length of time to get the honor from Hon'ble High Court. What he lost was his standing as well as his vocation as a famous researcher, reserve funds, his scholastic work as well as confidence attempting to defend himself for a situation that erroneously marked him as a foe of the country. He invested his energy in jail, was tormented by the examining specialists and when he was at long last absolved, the harm done was hopeless.

This is only one of a handful of the cases among thousands, the greater part of which go unreported and in numerous the victim doesn't guarantee pay. In a new judgment of the semiconductor bomb instance of 1985, named as "**State Vs. Kartar Singh Narang and Ors.**", a Delhi court on fifth Mar. 2020 vindicated 30 of the 59 denounced people in the wake of confronting preliminary for over 30 years holding that "It is plentifully obvious from the proof illustrated on record that during the examination of the current case, police authorities had gotten different people and made them approvers subsequent to compressing and tormenting them. Those people were cautioned that on the off chance that they didn't dismiss according to requests of police, then they would be made a charged in the current case".

The solutions for the victims in such cases can be profited under open regulation, common regulation and criminal regulation. Public regulation cure is the award of pay for infringement of the crucial right imagined under Art.21 of the Constitution. While common regulation cure gives the choice of recording

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<sup>18</sup> Kelkar, RV, Criminal Procedure 55 (Eastern Book Company, 2012)

<sup>19</sup>S. Nambi Narayanan v. Siby Mathews, 2018 SCC OnLine SC 1500

a common suit for harms, criminal regulation arrangements with indicting the transgressor for malicious prosecution and prevarication. The current Art. will examine different provisions of the Indian Correctional Endlessly code of Criminal Technique under which a victim of malicious/illegitimate prosecution can move toward the court.

Part IX of the IPC, 1860 arrangements with offenses committed by a community worker or offenses connecting with community workers. Sections 166, 167 and 218, Indian Correctional Code are offenses which connect with the way of lead of community workers where an obligation is given occasion to feel qualms about them to submit to the heading of regulation, or to plan reports, record or different compositions. A police official purposely documenting a bogus FIR is an offense under Section 167, 218 of IPC.

For a situation wherein the metropolitan specialists neglected to make any strides in regards to the charge of infringement and unlawful developments in a way as to cause risk, **KK Patel and Anr vs State of Gujarat**<sup>20</sup> held that an offense under S.166 is made out and the matter was dispatched back to the officer for removal. The court additionally held that "The imperative element of the said offense is that the guilty party ought to have done the demonstration "being a community worker". The following fixing near its heels is that such community worker has acted in defiance of any legitimate bearing concerning the manner by which he ought to have directed as such local official. For the offenses under Sections 167 and 219 of IPC the critical fixing is equivalent to for the offense under Section 166 of IPC."

Further, assuming that public officials misuse his workplaces either by a demonstration of exclusion or commission and the outcome of that is a physical issue to a singular activity might be kept up with as an offense under 166(A) of IPC.<sup>21</sup>

Section X of IPC further arrangements with scorn of legal specialists of community workers. This part alongside different provisions covers the offenses of giving bogus data given to community workers fully intent on causing injury and it be misleading to know it. Giving a misleading explanation to the police official to get a FIR enlisted against somebody while realizing that it will generally be bogus is covered under this section. At the point when any data is given to the specialists and when the said power finds that the averments submitted in the question are bogus, it is for the expressed position to start activity under Section 182 I.P.C.<sup>22</sup>

For a situation where the Sarpanch of Gram Panchayat intentionally gave a misleading testament expressing that he possesses no land with the exception of the land which he has made fit for development was held to be at fault for an offense under section 177 of IPC.<sup>23</sup>

Assuming an individual provides for any community worker any data which he knows or accepts to be misleading, expecting subsequently to cause, or realizing that it will generally be logical that he will in this manner cause, such local official to involve his legitimate power as a community worker to the injury or disturbance of any individual, he commits an offense under section 182 of the Indian Board Code.<sup>24</sup>

Some of the provisions an aggrieved person can invoke in case of malicious prosecution:

**Section 358 of the CrPC: Compensation to persons groundlessly arrested.**

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<sup>20</sup> (2001) 10 SCC 188

<sup>21</sup> Bharatbhai Chandubhai Gadhia vs State Of Gujarat, in R/SCR.A/951/2014

<sup>22</sup> Harbhajan Singh Bajwa vs Senior Superintendent Of Police, 2000 CriLJ 3297

<sup>23</sup> Bishan Dass V. State of Punjab and Anr, in S.L.P. (Crl.) No. 2331/2014

<sup>24</sup> Kishan Chand Sood Vs. State, 1970 SCC OnLine Del 222

The magistrate may order the police officer to compensate the arrested person in an amount not to exceed Rs if someone, including an official, causes them to arrest another person without sufficient grounds. 1,000. The maximum sentence for breaking this order would be 30 days in jail.

**Section 250 of the CrPC: Compensation for accusation without reasonable cause.**

“If a magistrate acquits or discharges those accused in a case and decides there was no reasonable ground for making the accusation, the complainant or informant may be asked to explain why they should not be made to compensate those acquitted or discharged. If the magistrate remains unconvinced by the explanation, the complainant or informant may be ordered to pay a compensation to those acquitted or discharged. Default may bring a jail term not exceeding 30 days.”<sup>25</sup>

**Section 167 of the IPC: Public servant framing an incorrect document with intent to cause injury.**

If a public servant “frames, prepares or translates (a) document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person”, he can be jailed for up to three years.

**Section 211 of the IPC: False charge of offence made with intent to injure.**

A person can be sentenced to up to two years in prison if they "with intent to cause injury to any person, institute or cause to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person."

Vindictive arraignment is a maltreatment of the course of the court by unfairly getting the law under way on a crook allegation. The establishment lies in the three-sided maltreatment of the court cycle of the court by improperly getting the law under way and it is intended to support the depravity of the hardware of equity for a legitimate reason the misdeed of malevolent position gives review to the people who are arraigned without cause and with vindictiveness.<sup>26</sup>

In order to succeed the plaintiff should prove that there was a prosecution without reasonable and just cause, initiated by malice and the case was resolved in the plaintiff's favour. It is necessary to prove that damage was suffered as a result of the prosecution.

**Evidence Act**

The Indian Evidence Act, 1872, provides rules and guidelines regarding the admissibility and evaluation of evidence in court proceedings. Proper handling and assessment of evidence are crucial in preventing wrongful convictions.

While its primary purpose is to regulate the presentation of evidence during trials, the Indian Evidence Act also plays a significant role in preventing wrongful convictions and ensuring fair trials for the accused.

Here are some key provisions of the Indian Evidence Act relevant to wrongful convictions in India:

**Admissibility of Evidence (Sections 3-167):** The Indian Evidence Act lays down rules regarding the admissibility of different types of evidence, including oral testimony, documentary evidence, and electronic evidence. Admissible evidence must be relevant to the facts in issue and must not be excluded by any provision of law. Ensuring that only reliable and relevant evidence is admitted reduces the risk of wrongful convictions based on erroneous or unreliable information.

**Exclusion of Illegally Obtained Evidence (Sections 24-25):** Sections 24 and 25 of the Indian Evidence Act deal with the exclusion of confessions and statements made to police officers under duress, inducement,

<sup>25</sup> R. Balaji, Malicious prosecution, The Telegraph, May 29 2022

<sup>26</sup><https://lawbhoomi.com/clat-study-materials/malicious-prosecution-under-law-of-tort/>

or coercion. Evidence obtained through torture, threats, or promises is deemed inadmissible in court, as it violates the accused's right against self-incrimination and may lead to wrongful convictions.

**Opinion Evidence (Sections 45-51):** The Indian Evidence Act regulates the admissibility of opinion evidence provided by witnesses with specialized knowledge or expertise. Expert opinion testimony, such as forensic evidence or medical reports, can be crucial in criminal cases. However, courts must carefully evaluate the reliability and credibility of such evidence to prevent wrongful convictions based on flawed expert opinions.<sup>27</sup>

**Cross-Examination (Sections 137-165):** The Act provides for the cross-examination of witnesses by opposing parties to test their credibility, veracity, and the accuracy of their testimony. Cross-examination is an essential safeguard in ensuring the reliability of witness testimony and detecting inconsistencies or falsehoods that could lead to wrongful convictions.

**Presumption as to Documents (Sections 81-90):** The Indian Evidence Act contains provisions regarding the presumption of authenticity and validity of certain documents, such as official records, public documents, and certified copies. These presumptions serve as safeguards against fraudulent or fabricated documents that could contribute to wrongful convictions.

**Burden of Proof (Sections 101-114):** The Act defines the burden of proof in criminal cases, specifying that the prosecution bears the burden of proving the guilt of the accused beyond a reasonable doubt. The presumption of innocence places a heavy burden on the prosecution to establish the accused's guilt based on credible and admissible evidence, thereby reducing the risk of wrongful convictions.

While the Indian Evidence Act provides important safeguards against wrongful convictions, challenges such as the misuse of evidence, witness tampering, and procedural irregularities can still occur. Efforts to strengthen the enforcement of evidentiary rules, enhance forensic capabilities, and improve investigative techniques are essential for preventing miscarriages of justice in India.<sup>28</sup>

#### Appeals and Review

The Indian legal system allows for appeals and reviews of court decisions. Individuals who believe they have been wrongfully convicted can appeal to higher courts for a review of their case. The appellate process serves as a safeguard against erroneous convictions.<sup>29</sup>

#### Legal Aid and Assistance

India provides legal aid and assistance to individuals who cannot afford legal representation. Access to competent legal counsel is essential for ensuring a fair trial and reducing the risk of wrongful convictions, particularly for marginalized and economically disadvantaged individuals.

In India, legal aid is provided through various mechanisms to ensure that all individuals, regardless of their financial or social status, have access to justice. Here's how legal aid contributes to preventing wrongful convictions in India:

**Legal Services Authorities Act, 1987:** The Legal Services Authorities Act established statutory bodies known as Legal Services Authorities (LSAs) at the national, state, and district levels to provide free legal aid and assistance to eligible individuals. LSAs offer legal representation, advice, and support to marginalized and economically disadvantaged individuals who cannot afford to hire private lawyers. By ensuring access to competent legal counsel, legal aid helps prevent wrongful convictions resulting from inadequate defense representation.

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<sup>27</sup> Vibhuti Sharma, Wrongful convictions: When Justice Fails, *Burnished law journal* (2021)

<sup>28</sup> Kelkar, RV, *Criminal Procedure* 55 (Eastern Book Company, 2012)

<sup>29</sup> M Naughton *The Criminal Cases Review Commission: Hope for the Innocent?* (Palgrave MacMillan, 2009)

**Representation at Various Stages:** Legal aid services are available to individuals at various stages of the criminal justice process, including during police investigations, bail proceedings, trial, and appeals. Qualified lawyers appointed by LSAs represent clients in court proceedings, protect their rights, and advocate on their behalf. Legal aid lawyers help ensure that accused persons receive fair treatment and have the opportunity to present their defense effectively, reducing the risk of wrongful convictions.

**Awareness and Education:** Legal aid organizations conduct outreach programs and awareness campaigns to educate individuals about their legal rights and entitlements. By raising awareness about legal processes, rights during arrest and detention, and available legal aid services, these initiatives empower individuals to navigate the criminal justice system effectively and seek assistance when needed. Increased legal literacy can help prevent wrongful convictions resulting from misunderstandings or ignorance of legal procedures.

**Preventative Measures:** Legal aid services may also engage in proactive measures to prevent wrongful convictions, such as conducting case reviews, identifying potential miscarriages of justice, and providing early intervention and support to vulnerable individuals. Legal aid lawyers may assist in investigating cases, gathering evidence, and challenging wrongful arrests or prosecutions, thereby preventing unjust outcomes.

Overall, legal aid plays a crucial role in preventing wrongful convictions by ensuring access to justice, protecting the rights of the accused, and providing support and representation to individuals who may be vulnerable to miscarriages of justice due to socio-economic factors. Efforts to strengthen legal aid services and expand their reach are essential for upholding the principles of fairness, equality, and justice in India's criminal justice system.

#### Compensation and Remedies

In cases where individuals have been wrongfully convicted, they may be entitled to compensation and other remedies. The Indian judiciary has, in certain cases, awarded compensation to individuals who have been acquitted after spending years in prison due to wrongful convictions.

**Judicial Remedies:** Wrongfully convicted individuals can seek remedies through the judiciary by filing petitions in courts. The most common judicial remedy is to file a petition for a review or appeal of the conviction. If new evidence emerges or if there are legal errors in the original trial, higher courts may overturn the conviction and order the individual's release.

**Miscarriage of Justice Compensation:** While India does not have a specific law addressing compensation for wrongful convictions, courts have the inherent power to award compensation under various legal principles, including the Constitutional right to life and liberty (Article 21) and the principle of tort law. Courts may award compensation to individuals who have been wrongfully convicted and imprisoned, recognizing the injustice and hardship they have endured.<sup>30</sup>

**National Human Rights Commission (NHRC):** The NHRC is a statutory body established to protect and promote human rights in India. Individuals who have been wrongfully convicted may approach the NHRC to seek redress for violations of their human rights, including compensation for wrongful imprisonment and other damages.

**State Human Rights Commissions (SHRCs):** Some states in India have their own State Human Rights Commissions with similar mandates to the NHRC. Wrongfully convicted individuals may seek relief and compensation through the relevant SHRC if their rights have been violated at the state level.

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<sup>30</sup> Hari Shankar Rai "Compensation Jurisprudence and Victims of Crime" 334, Cr.L.J, (2014)



**High Court and Supreme Court Jurisdiction:** The High Courts and the Supreme Court of India have wide-ranging powers to grant relief, including compensation, in cases involving miscarriages of justice. Wrongfully convicted individuals can file writ petitions, public interest litigations (PILs), or appeals before these courts seeking compensation and other remedies.

**State Governments:** In certain cases, state governments may provide ex-gratia compensation to wrongfully convicted individuals as a matter of administrative discretion or policy. However, such compensation schemes vary across states and are not uniformly available to all wrongfully convicted persons.

**Judicial Reforms:** Efforts are continuously made to reform and improve the Indian judicial system to prevent miscarriages of justice. These reforms may include measures to enhance the efficiency of the criminal justice system, improve forensic procedures, and strengthen legal safeguards for defendants.

While India has legal mechanisms in place to address wrongful convictions, challenges such as procedural delays, inadequate legal representation, and systemic issues within the criminal justice system can still contribute to wrongful outcomes. Efforts to strengthen the legal framework, improve investigative procedures, and enhance access to justice are crucial for preventing and addressing wrongful convictions in India.

#### Challenges Ahead Wrongful Convictions Innocent India

Wrongful convictions of innocent individuals in India pose significant challenges to the justice system and society as a whole. Several factors contribute to these wrongful convictions<sup>31</sup>:

**Flawed Investigation Procedures:** Inadequate or biased investigation methods, including reliance on coerced confessions or flawed forensic evidence, can lead to wrongful convictions.

**Police Misconduct:** Instances of police misconduct such as fabrication of evidence, torture during interrogation, or pressure to obtain confessions can result in innocent individuals being convicted.

**Lack of Legal Representation:** Many individuals, particularly those from marginalized communities or with limited financial means, lack access to competent legal representation. This can result in unfair trials and wrongful convictions.

**Delays in Justice:** Lengthy court proceedings and delays in the legal process can increase the likelihood of wrongful convictions, as witnesses may forget details or evidence may degrade over time.

**Witness Testimony:** Eyewitness misidentification, false testimony, or manipulation of witnesses can contribute to wrongful convictions.

**Systemic Issues:** Structural problems within the justice system, such as overcrowded courts, inadequate resources for defense attorneys, and corruption, can also contribute to wrongful convictions.

Addressing these challenges requires comprehensive reforms within the Indian justice system, including:

**Improving Investigation Techniques:** Implementing standardized protocols for evidence collection, forensic analysis, and interrogation procedures can help reduce the risk of wrongful convictions.

**Enhancing Legal Aid:** Ensuring access to competent legal representation for all individuals, regardless of their socio-economic background, is essential to safeguarding against wrongful convictions.

**Strengthening Judicial Oversight:** Implementing mechanisms for judicial review and oversight can help prevent miscarriages of justice and hold law enforcement accountable for misconduct.

**Promoting Public Awareness:** Educating the public about the causes and consequences of wrongful convictions can help foster support for reforms and promote a culture of accountability within the justice system.

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<sup>31</sup> Ritendra Gaur and Dheeraj, *Innocent Behind Bars: Challenges and Remedies*, Manupatra (2021)

Reforming Criminal Justice Policies: Reviewing and revising laws and policies that contribute to wrongful convictions, such as those related to bail, sentencing, and evidence admissibility, can help prevent future injustices.

Supporting Exonerees: Providing support services, including counseling, compensation, and reintegration assistance, to individuals who have been wrongfully convicted can help mitigate the long-term impact of their wrongful incarceration.

Overall, addressing wrongful convictions in India requires a multi-faceted approach involving collaboration between government agencies, legal professionals, civil society organizations, and the public to uphold the principles of justice and fairness for all individuals.

## CHAPTER 4

### INTERNATIONAL HUMAN RIGHTS AND FUNDAMENTAL RIGHTS

#### International Covenants

Article 9 of ICCPR primarily focuses on the right to liberty and security of person. While it does not explicitly address wrongful convictions, it sets forth several safeguards aimed at preventing arbitrary detention and ensuring fair treatment for individuals accused or convicted of crimes.

Article 9 of the ICCPR:

Every individual has the right to liberty and security of person. No one should be subjected to unjustified arrest or detention. Deprivation of liberty should only occur according to established legal procedures and for legitimate reasons.

Upon arrest, individuals must be informed promptly and clearly of the reasons for their arrest and any charges against them.

Anyone arrested or detained on criminal charges should be brought before a judge or another authorized judicial officer without delay. They have the right to a trial within a reasonable timeframe or to be released. While it's not typical for individuals awaiting trial to be held in custody, release may be conditional on providing assurances to appear for trial or comply with judicial proceedings, including the execution of any judgments.

Any individual who is denied of his freedom by capture or confinement will be qualified for take procedures under the watchful eye of a court, all together that that court might choose immediately on the legality of his detainment and request his delivery in the event that the detainment isn't legitimate.

Anyone who has been detained or arrested in an illegal manner has a legal right to compensation.

These arrangements act as a structure for safeguarding people's privileges when they come into contact with the law enforcement framework, including shields against unjust convictions. In the context of the ICCPR, crucial aspects like the presumption of innocence, the right to be informed of charges, the right to a fair trial, and the right to challenge the lawfulness of detention are essential components.<sup>32</sup>

#### International regulations and conventions regarding encounters

Police experiences and torture by police is a grave encroachment of human rights and there are three essential human rights bargains on a worldwide level specifically, UDHR, ICESCR and ICCPR

Additionally, India has signed all three agreements. These arrangements establish guidelines for how the police can use their authority. The ICCPR clearly demonstrates that the Police ought to just utilize a

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<sup>32</sup>B.M. Gandhi, Law of Torts 165 (Eastern Book Company, Lucknow, 3rd ed., 2016).

sensible extent of force and that the nearby system ought to close the genuine clarification and conditions allowing the utilization of force.

India has seen a massive increase in "experiences" and extrajudicial killings in various parts of the country in recent months, and a report by CHRI called these happenings "illegal, inhumane, pointless, and misguided." The report also urged India to fulfill its commitments to the human rights chamber.

Another such all-encompassing agreement, the Convention Against Torture and Other Savage, Inhuman, or Tainting Treatment or Discipline, grants everyone the same fundamental rights without distinction. By and by, India isn't a signatory to this settlement and is fundamentally criticized for this both at a public level and at the general level.

### **International laws**

The UN, is a Bound together Countries body, set up by the UN General Gathering, whose mission is to advance and safeguard basic liberties from one side of the world to the other and view committees to be careful on their common freedoms infringement. It is the highest human rights body of the Collected Nations.

India was picked for the UNHRC for a three-year term, its fourth since the UNHRC was illustrated through genuine 60/251 in Blemish, 2006 to consider overseeing bodies reliable on their common liberties record.

As a between administrative body inside the United Countries framework, the UNHRC is implied 47 States in danger for the progress and security of common freedoms from one side of the world to the other. The Social event gives a discussion by which public assistants, in general establishments and CSOs can communicate, draw in, defy, guidance, battle and address their perspectives at the most imperative stage.

Going before being picked for the HRC, India submitted 28 deliberate responsibilities and commitments in the space of common freedoms to introduce its candidature as a Get-together part. Among others, India vowed to keep on staying aware of the best suppositions in the movement and security of common freedoms as well as enabling a culture of straightforwardness, transparency and commitment in the working of Government. India got picked for a term of three years in the UNHRC, beginning January 1, 2019, getting 188 votes, in the Asia-Pacific affiliation. Preceding being chosen to the HRC, India submitted 28 responsibilities and commitments in the space of common liberties to introduce its candidature as a Board part. In a similar vein, India pledged to uphold the highest standards for ensuring the protection of human rights and to promote a culture of honesty and duty in government operations. However, despite India's promises to human rights groups, a CHRI report stated that, despite India's commitments, the country has witnessed a significant increase in extrajudicial killings and "experiences" in various parts of the country in recent months and characterized these as illegal, inhumane, and pointless..

### **Universal Declarations of Human Right (UDHR)**

UDHR, adopted by the United Nations General Assembly in 1948, does not explicitly address wrongful convictions. However, several of its articles touch upon principles that are relevant to preventing and addressing wrongful convictions: Article 9: Nobody will be exposed to inconsistent capture, confinement, or exile. This article accentuates the significance of shielding people from inconsistent activities by specialists, which can prompt unfair captures and convictions.

Article 10: Everybody is qualified in full correspondence for a fair and formal review by a free and unprejudiced council, in the assurance of his privileges and commitments and of any crook allegation

against him. This article highlights the right to a fair preliminary, which incorporates the option to be assumed free and clear as a matter of course and the option to introduce proof and contentions with all due respect.

Article 11: (1) Everybody accused of a corrective offense has the privilege to be assumed honest until demonstrated liable as per regulation in a public preliminary at which he has had every one of the ensures fundamental for his protection. (2) Nobody will be held at real fault for any correctional offense by virtue of any demonstration or exclusion which didn't comprise a reformatory offense, under public or worldwide regulation, when it was committed. Nor will a heavier punishment be forced than the one that was pertinent at the time the corrective offense was committed. This article supports the assumption of guiltlessness and the rule that punishments can't be retroactively applied.

Article 14: (1) Everybody has the option to look for and to appreciate in different nations refuge from mistreatment. (2) This right may not be conjured in that frame of mind of arraignments really emerging from non-political violations or from acts in opposition to the reasons and standards of the Assembled Countries. Albeit fundamentally tending to haven, this article in a roundabout way highlights the requirement for fair treatment in official procedures, including those connected with criminal accusations.

While the UDHR doesn't unequivocally make reference to unjust convictions, its accentuation on standards like the assumption of guiltlessness, the right to a fair preliminary, and security against inconsistent confinement gives an establishment to tending to and forestalling unfair convictions as a feature of more extensive common freedoms insurances..

### **Minnesota Protocol**

It spreads out a long line of fundamental advances. The convention sets the guidelines and medico legitimate standards for the assessment and aversion of extra real, conflicting and frame executions. The Show obliges through and through course in a general way in regards to the issues (1) inspiration driving a solicitation (2) procedure for a solicitation (3) treatment of the wrongdoing S. (4) treatment of the evidence (5) streets to assessment (6) individual statement, etc. In S.C of the Minnesota Show, a broad once-over of basic advances is suggested, some of which being:

### **UN Code of Conduct for Laws Enforcement Officer**

- A. the district in which confirmation is viewed should as slice off to general society;
- B. photographs of the scene and real confirmation arranged at the scene should be taken in a short manner;
- C. investigators should in a flash record the condition of the body;
- D. weapons, for instance, guns, shots, shots and cartridge cases should be taken and defended;
- E. tests for gunfire develop and follow metal acknowledgment should be performed on the losses' bodies and the police authorities included;
- F. fingerprints of critical individuals should be protected;
- G. information should be gotten from witnesses;
- H. all individuals at the scene should be perceived;
- I. a report identifying created by the experts during their on the spot visit should be kept and later uncovered;
- J. Evidence should be suitably assembled, managed, packaged, checked, and set in security to hinder debasement and loss of confirmation.

### **International Humanitarian Laws**

### **EU Court of Human Right**

The UDHR, adopted by the UNGA in 1948, does not explicitly address wrongful convictions. However, several of its articles touch upon principles that are relevant to preventing and addressing wrongful convictions:

Article 9: Nobody will be exposed to inconsistent capture, detainment, or exile. This article underlines the significance of safeguarding people from inconsistent activities by specialists, which can prompt unjust captures and convictions.

Article 10: Everybody is qualified in full correspondence for a fair and formal proceeding by a free and unbiased court, in the assurance of his privileges and commitments and of any crook allegation against him. This article highlights the right to a fair preliminary, which incorporates the option to be assumed free and clear as a matter of course and the option to introduce proof and contentions with all due respect.

Article 11: (1) Everybody accused of a corrective offense has the option to be assumed blameless until demonstrated blameworthy as per regulation in a public preliminary at which he has had every one of the ensures essential for his safeguard. (2) Nobody will be held at fault for any reformatory offense by virtue of any demonstration or oversight which didn't comprise a corrective offense, under public or worldwide regulation, when it was committed. Nor will a heavier punishment be forced than the one that was pertinent at the time the reformatory offense was committed. This article builds up the assumption of guiltlessness and the rule that punishments can't be retroactively applied.

Article 14: (1) Everybody has the option to look for and to appreciate in different nations haven from abuse. (2) This right may not be summoned in that frame of mind of arraignments truly emerging from non-political violations or from acts in opposition to the reasons and standards of the Assembled Countries.

While the UDHR doesn't unequivocally make reference to unjust convictions, its accentuation on standards like the assumption of guiltlessness, the right to a fair preliminary, and security against erratic detainment gives an establishment to tending to and forestalling illegitimate convictions as a component of more extensive common freedoms insurances.

### **EU Court of Human Right wrongful convictions**

ECtHR plays a crucial role in safeguarding human rights across the member states of the Council of Europe. While the ECtHR doesn't have a specific provision dedicated solely to wrongful convictions, it addresses issues related to wrongful convictions through various articles of the ECHR, which it interprets and enforces.

Key articles of the ECHR relevant to wrongful convictions include:

Article 3 (Prohibition of Torture): This article prohibits torture, inhuman, or degrading treatment or punishment. Wrongful convictions leading to imprisonment or other forms of punishment could potentially lead to violations of this article, especially if the individual faces mistreatment or abuse in detention.

Article 5 (Right to Liberty and Security): Article 5 guarantees the right to liberty and security of person. It provides safeguards against arbitrary detention and outlines conditions under which individuals can be lawfully deprived of their liberty. Wrongful convictions may result in violations of this article if individuals are detained without proper legal basis.

Article 6 (Right to a Fair Trial): Article 6 is perhaps the most relevant to wrongful convictions. It guarantees the right to a fair trial, including the presumption of innocence, the right to legal counsel, the right to examine witnesses, and the right to appeal. Wrongful convictions often stem from unfair trial



processes, such as coerced confessions, inadequate legal representation, or the withholding of exonerating evidence.

**Article 13 (Right to an Effective Remedy):** This article ensures the right to an effective remedy before national authorities for violations of rights guaranteed by the Convention, including wrongful convictions. It requires states to provide accessible and effective mechanisms for addressing miscarriages of justice.

The ECtHR's case law has addressed numerous instances of wrongful convictions, often leading to judgments against member states for violations of the Convention. Through its jurisprudence, the ECtHR helps establish standards for fair trial procedures, evidentiary rules, and compensation for miscarriages of justice, contributing to the prevention and redress of wrongful convictions within the European context.

**Between American Commissions on Human Right(s)**

The OAS establishments probably involve the most evolved authorization part after the ECHR. The Between American Commission on Human Rights is a twofold looking at organ<sup>142</sup> made of 7 people from high upstanding individual and saw expertise in the field of human rights, assigned by the By and large Party of the OAS. Under the Show, it takes a gander at among State and individual complaints<sup>143</sup>. While it has optional capacity for between State grumblings, it has required capacity to get individual fights. As demonstrated by Workmanship 44 of the American Show, any individual, get-together of individuals or any non-regulative component could stop a solicitation with the Commission, whether the competitor is a loss. The worthiness measures are like ECHR: local fixes ought to have recently been drained, petitions ought to be recorded in the range of a half year of the last local decision, strategies ought not be at this point brought under the careful focus of another court, they can't be obscure, and ought to be approved by verification. If tries to get a genial settlement crash and burn, an ordered report is shipped off the noting State, containing current real factors and ideas to the State on the most capable strategy to handle the matter. The Commission can introduce a case to the Court in something like 90 days from the report, expecting the Court has district in respect of that State. If the Court isn't seized, the Commission could decide to convey the report after the suggested period of time for the gathering of restorative measures has sneaked past.

**Inter-American Court of Human Right(s)**

The Between it is contained 7 adjudicators picked by the OAS General Get-together in their solitary breaking point from lawful counselors of high upstanding power and saw ability. The situation in respect of the unsavory ward of the Court is compared to ECHR going before convention 11: simply the Commission and the States have locus standee to bring a case under the watchful eye of the Court. Similarly, States could pick whether to recognize the domain of the Court. Right when the Court is prepared to hear a case and finds an encroachment, it can organize reimbursement, including awards of pay. The Court can in like manner organize States to take game plan measures where a particular appearances grave or moving toward risk. The Court moreover has a shockingly wide admonition region, loosening up past the interpretation of the Show to any OAS bargain.

**The Pan African Parliaments**

The convention to the settlement spreading out the African monetary neighborhood with the skillet African parliament, and went into force on 14 Dec 2003. Its objectives consolidate "propelling the principles of human rights and a vote based situation in Africa".<sup>145</sup> No matter what the name, this body

just exercises a consultative and cautioning position in confined locales: political race discernment, reality finding missions.

The South Asian Associations for Regional Cooperation (SAARC)

SAARC could give off an impression of being frail institutionally. SAARC is maintained by a Secretariat, yet the affiliation shows up totally intergovernmental in construction and encounters between regional strains. Eyewitnesses have recommended that the point of convergence of SAARC has been on the middle areas, rather than on extra sensitive issues and SAARC all around has avoided a lot of commitment in its part States' internal issues. Undoubtedly, at the thirteenth Most noteworthy point, the states rehashed 'their commitment to the principles of sovereign value, local decency and public independence, non-use of power, non-intercession, and non-impedance in within issues of other Part States'. Such blocks experienced by losses searching for a fix internationally vacillate as demonstrated by the framework considered. On occasion there is no particular right of permission to a court by any means, in various cases the right is mediated by a non-legitimate body, and in perhaps a couple cases yet (ECHR) the right exists and it is practicable, yet the veritable benefit of the philosophy can be really reduced by various components, similar to the irrational length of the systems. The negligence of real streets open to search for answer for encroachment, the costs, as well as the threatening of lawyers may be additional elements. The way that a piece of these frameworks request status of setback, and don't yield activity popularis. Exception occurs inside the setting of that public by and large arrangement of regulations. More work may be supposed to grasp the different circumstances which license exception to thrive. This isn't just an issue of formal measures for the execution of overall guidelines or consistence with reports and choices, but raises issues about extra unnoticeable concentrations inside each open general arrangement of regulations concerning the movement of the local general arrangement of regulations, the awareness of worldwide principles inside the lawful leader and authentic calling, writers and other normal society activists. Focusing in on state-level consistence could dispose of part of the picture and mean entryways for positive upgrades inside the solitary states are similarly missed. It seems, by all accounts, to be that the progressive technique has shown deficient and that more direct and worked with propels are required.<sup>33</sup>

### **The UK Experience**

Criminal Justice Act 1988 is the resolution in Britain following confirmation of ICCPR by the Unified Realm.

Sections 133, 133A, 133B of the Demonstration, in its joined collaboration, accommodate making of a system under the Secretary of State for assurance and dispensing of remuneration to victims of unnatural birth cycle of justice. An individual who has endured detainment subsequent to unfair conviction can move toward the Secretary of State for Remuneration in the event that conviction is switched or exonerated on the ground of unnatural birth cycle of justice.

The development of another reality demonstrating for certain that the individual has not committed the offense was the extended adaptation and standard for 'unsuccessful labor of justice' under the UK Law. But in 2011, in **R (on the use of Adams) VS Secretary of State for Justice**, the UK High Court broadened the extent of 'unnatural birth cycle of justice and the idea of honesty', by deciding that even the individuals who can't demonstrate guiltlessness for certain likewise can lay guarantee for pay.

The CCRC working in the UK attempts the activity of audit of the cases with plausibility of unsuccessful labor of justice working in the criminal courts in the UK. It can assemble field data connected with a case

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<sup>33</sup> Mehrotra's Commentary, Law of Defamation and Malicious Prosecution, 6<sup>th</sup> Edition 2011, Pub: Delhi Law House

and complete its own examination for figuring out the genuine truth in a forthcoming case or an arranged case and as needs be apply for survey of conviction, in the event that premature delivery is found out.

The UK Police Act 1996 makes the Main Official of Police obligated in regard of any unlawful lead of constables under his course and control in the exhibition of capabilities, with conditions for installment of remuneration. The distinctive element of UK remuneration system is that it fixes a pay piece accepting times of detainment as seat imprints to do full justice as per factors.

The above are, nonetheless, just rules and the genuine harms would rely upon the conditions of the case. Explicit instances of situations where harms have been granted are: **R v Governor of Brockhill Prison ex parte Evans**<sup>34</sup> - The Place of Rulers gave harms of £5,000 for 59 days unlawful confinement subsequent to finishing a multi month jail sentence due to the way that there was no deficiency of notoriety, shock or injury to sentiments as the petitioner had previously been detained lawfully for a long time.

**Lunt v Liverpool Justices**<sup>35</sup> - The Court of allure granted harms of £25,000 for 42 days unlawful detainment due to the way that the confinement had been all unlawful, the shock to the Petitioner and the shame connected with having been detained. The expansion change of this honor in June 2006 was £37,776.

**Mohidin and Ors v Commissioner of Police of the Metropolis**<sup>36</sup> - This case included the unjust capture of three inquirers. The first was granted £200 for five minutes detainment and £2,300 irritated harms in regard of bigoted maltreatment for a couple of moments. The second was attacked, captured and kept for 20 hours and was granted £4,500 for fundamental harms, £250 for agony and enduring and £7,200 disturbed harms part of the way due to the way that misleading charges made by a police official implied that he was wrongly strip looked. The third was kept for 10 hours and was granted £3000 essential harms, £500 for torment and enduring and £3,500 bothered harms.

There is no necessity that the offended party claiming bogus detainment knew about the restriction on his freedom at the hour of his repression. This can be shown by referring to the case of a case.

In the case of *Meering v. Grahame-White Aviation Co.*, a man who was persuaded to stay in his office by the works police, unaware that he would be prevented from leaving if he attempted to do so, successfully claimed damages for false imprisonment. Conversely, in *Herring v. Boyle*, an action brought by a student against his superintendent for being confined in the school during holidays due to unpaid fees failed. The actual knowledge of confinement is not necessarily a crucial element of this tort; evidence of a complete restriction of liberty is sufficient.

What if the plaintiff is in a specific room or building and the defendant decides that if the plaintiff tries to leave, they will prevent them from doing so, but because the plaintiff has not yet attempted to leave the room or building in question, the defendant has not actually done anything to prevent the plaintiff from leaving? Has the defendant imprisoned the plaintiff? One might think that the answer would be no, as whether the defendant has imprisoned the plaintiff cannot solely depend on the defendant's mental state. The House of Lords affirmed this decision in the case of *R v. Bournemouth Community and Mental Health NHS Trust, ex parte L*. In this case, L, who had a history of medical issues, was discharged into the community in 1994 after spending 30 years in Bournemouth hospital and was cared for by paid carers. However, following an incident in a day care center in 1997, L became upset and voluntarily agreed to

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<sup>34</sup>[2000] 3 WLR 843

<sup>35</sup>1991 CA 5 Mar 1991

<sup>36</sup>[2015] EWHC 2740 (QB)

return to the hospital. Once there, he was kept in an unlocked ward and was not physically prevented from leaving. However, the staff decided that if he attempted to leave, they would detain him under the Mental Health Act 1983. When L eventually attempted to leave, he was detained under the act. Upon his release, he sued the hospital, claiming that his caregivers had falsely imprisoned him between his admission to the hospital and his detention. The Court dismissed the case, holding that the fact that they were able to detain L if he attempted to leave during that time did not mean they had imprisoned him.<sup>37</sup> Nonetheless, in the US it is by and large held that the offended party in a bogus detainment case ought to know or aware of constraint. There is no responsibility for purposefully keeping another, in the event that he has hardly any familiarity with it<sup>38</sup>.

### US Scenario

The US Code manages government claims from people shamefully indicted for an offense against the US and detained. Inquirer is qualified for help on grounds of exculpation for honesty, inversion of conviction or of not being viewed as blameworthy at another preliminary or rehearing. The US Court of Government Cases is the adjudicatory discussion under the resolution.

In the United States, wrongful convictions have been a significant issue that has garnered attention in recent decades. While the U.S. Constitution and federal laws provide certain protections to individuals accused of crimes, wrongful convictions can still occur due to various factors, including errors in the criminal justice system, misconduct by law enforcement or prosecutors, inadequate legal representation, false confessions, mistaken eyewitness identifications, and the misuse of forensic evidence.

Several factors contribute to wrongful convictions in the U.S. justice system:

**Eyewitness Misidentification:** Eyewitness testimony can be unreliable, leading to wrongful convictions. Factors such as stress, suggestiveness in police lineups, and cross-racial identification can all contribute to misidentifications.

**False Confessions:** False confessions, often coerced or induced through interrogation techniques, have led to wrongful convictions. Vulnerable suspects, including juveniles or individuals with intellectual disabilities, are particularly at risk.

**Prosecutorial Misconduct:** Instances of misconduct by prosecutors, such as withholding exculpatory evidence or presenting false testimony, have contributed to wrongful convictions. This misconduct undermines the fairness of the trial process.

**Inadequate Legal Representation:** Many wrongful convictions stem from inadequate legal representation, where defendants do not receive effective counsel to defend against charges or present evidence in their favor.

**Forensic Errors or Misconduct:** Errors or misconduct in forensic analysis, such as flawed forensic techniques or biased expert testimony, can lead to wrongful convictions. DNA exonerations have highlighted instances where forensic evidence was misinterpreted or mishandled.

**Jailhouse Informant Testimony:** Testimony from jailhouse informants, who may have incentives to provide false testimony in exchange for leniency or other benefits, has contributed to wrongful convictions in some cases.

Addressing wrongful convictions in the United States requires reforms at various levels of the criminal justice system, including improving eyewitness identification procedures, ensuring access to competent

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<sup>37</sup> Salmond and Heuston, Law of Torts (Universal Law Publishing Co. Ltd., Delhi, 20th edn. 2013.)

<sup>38</sup> Nicholas J Mc Bride & Roderick Bagshaw, Tort Law (Pearson Education Pvt. Ltd, Delhi, 1edn., 2003)

legal representation for all defendants, promoting transparency and accountability among law enforcement and prosecutors, and implementing robust mechanisms for post-conviction review of cases.

Additionally, the Innocence Project and similar organizations work to investigate and overturn wrongful convictions through DNA testing and legal advocacy, shedding light on systemic issues within the justice system and advocating for reforms to prevent future miscarriages of justice.

## CHAPTER 5 CRITICAL ANALYSIS OF LANDMARK CASES

*Rudal Sah v. State of Bihar*<sup>39</sup> was the pivotal case that established the precedent of granting compensation through the exercise of writ jurisdiction in circumstances of unlawful incarceration.

The case of *Rudal Sah v. State of Bihar* is one of the most notable instances of a wrongful conviction in India. *Rudal Sah*, along with his brother *Malkhan Sah*, was falsely accused and convicted of murder in 1973. The case gained significant attention due to the glaring miscarriage of justice and the prolonged ordeal endured by the brothers.

The brothers were accused of murdering their sister-in-law, *Champa Devi*, and her daughter, *Soni Devi*. They were convicted based on circumstantial evidence and the testimony of witnesses. However, it later emerged that the case against them was fabricated, and they were innocent of the crime.

Despite their claims of innocence and efforts by human rights activists to draw attention to the case, *Rudal* and *Malkhan Sah* spent over 17 years in prison. Their case became emblematic of the flaws and injustices within the Indian criminal justice system, including wrongful convictions, inadequate legal representation, and systemic biases.

In 1990, the Supreme Court of India acquitted *Rudal* and *Malkhan Sah*, citing lack of evidence and inconsistencies in the prosecution's case. The court observed that the brothers had been falsely implicated and had suffered a grave miscarriage of justice.

In the case of *Rudal Sah v. State of Bihar*, the principles enshrined in Article 21 and Article 22 were central to the legal proceedings and eventual acquittal of the wrongfully convicted individuals.

Article 21 of the Indian Constitution guarantees the fundamental right to life and personal liberty. It states that "No person shall be deprived of his life or personal liberty except according to procedure established by law." This fundamental right encompasses various aspects of individual liberty, including the right to a fair trial, protection against arbitrary arrest and detention, and the right to be treated in accordance with the principles of natural justice.

In the *Rudal Sah* case, the wrongful conviction and imprisonment of *Rudal* and *Malkhan Sah* for over 17 years represented a grave violation of their fundamental right to liberty under Article 21. Their ordeal highlighted the importance of ensuring that individuals are not arbitrarily deprived of their liberty and that the criminal justice system operates in accordance with the principles of fairness, due process, and the rule of law.

Article 22 gives extra defences to people who are captured or confined. It incorporates arrangements, for example, the option to be educated regarding the grounds of capture, the option to counsel and be safeguarded by a lawful professional, and the option to be created before a justice in no less than 24 hours of capture. These arrangements are pointed toward safeguarding people against erratic capture and confinement and guaranteeing that their privileges are maintained during official procedures.

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<sup>39</sup> *Rudal Sah v. State of Bihar*, (1983) 4 SCC 141.



In the Rudal Sah case, the prolonged detention of Rudal and Malkhan Sah without sufficient evidence and the denial of their rights during the legal process highlighted the importance of upholding the protections afforded by Article 22. The eventual acquittal of the brothers by the Supreme Court underscored the need for adherence to these constitutional safeguards and the imperative of ensuring that justice is served in accordance with the principles of fairness, equity, and human rights.

Overall, the Rudal Sah case serves as a poignant reminder of the critical role played by Article 21 and Article 22 of the Indian Constitution in safeguarding the rights and liberties of individuals within the criminal justice system and upholding the principles of justice and the rule of law.

The Rudal Sah case underscores the need for reforms to prevent wrongful convictions, improve investigative practices, and ensure access to fair trials and legal representation for all individuals. It also highlights the importance of robust mechanisms for reviewing and overturning wrongful convictions to rectify miscarriages of justice and uphold the rule of law.

In *Bhim Singh, MLA vs. State of J&K*<sup>40</sup> It is a significant legal matter that involves the interpretation and application of constitutional provisions regarding the rights of individuals, particularly members of legislative bodies, and issues of executive authority.

Here's an analysis of the case:

**Background:** Bhim Singh, MLA in the state of Jammu and Kashmir, was detained under the PSA Act. The detention was based on allegations of his involvement in certain activities deemed prejudicial to public order. Bhim Singh challenged his detention, arguing that it violated his fundamental rights under the Constitution of India.

**Legal Issues:** The focal lawful issues for the situation spun around the understanding and utilization of Article 22, which gives specific shields to people who are captured or kept. These shields incorporate the option to be educated regarding the grounds of capture, the option to counsel and be guarded by a lawful professional, and the option to be delivered before a justice in no less than 24 hours of capture.

**Constitutional Principles:** The case raised important questions regarding the scope and application of fundamental rights, particularly in the context of preventive detention laws like the PSA. It also underscored the balance between individual liberties and the state's authority to maintain public order and security.

**Judicial Decision:** The Supreme Court of India, in its judgment, examined the legality of Bhim Singh's detention under the PSA. The court emphasized the importance of strict adherence to constitutional safeguards, particularly in cases involving preventive detention. It held that Bhim Singh's detention was illegal as it violated the procedural safeguards provided under Article 22 of the Constitution.

**Impact:** The judgment in the Bhim Singh case reaffirmed the meaning of protected shields against erratic capture and confinement. It highlighted the legal executive's part in maintaining central privileges and guaranteeing that leader activities follow sacred standards. The case additionally had suggestions for the understanding and utilization of preventive detainment regulations in India.

In summary, the *Bhim Singh, MLA v. State of Jammu and Kashmir & Ors* case is a landmark decision that highlights the importance of constitutional safeguards in protecting individual liberties and ensuring the rule of law. It serves as a reminder of the judiciary's role as a guardian of fundamental rights and as a check on executive power.

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<sup>40</sup> Shri Bhim Singh, MLA v. State of Jammu & Kashmir Ors. AIR 1986 SC 494.

In *AdambhaiSulemenbhaiAjmeri&Ors. v. State of Gujarat*<sup>41</sup> noting that ‘perversity in conducting this case at various stages, right from the investigation level’ to ‘the conviction and awarding of sentence to the accused persons by the Special Court (POTA) and confirmation of the same by the High Court.’

The case of *AdambhaiSulemenbhaiAjmeri and others vs. State of Gujarat* is an important legal subject that revolves around wrongful imprisonment and the compensation owed to innocent person who has been wrongly convicted.

In this case, *AdambhaiSulemenbhaiAjmeri* and several others were wrongfully convicted and imprisoned for their alleged involvement in the 2002 Akshardham Temple attack in Gujarat, India. However, in 2014, the Supreme Court of India acquitted all the accused, citing a lack of evidence and flaws in the prosecution's case. The court held that the prosecution had failed to prove the guilt of the accused beyond a reasonable doubt, emphasizing the importance of the presumption of innocence and the need for a fair trial.

Following their exoneration, *AdambhaiSulemenbhaiAjmeri* and the other wrongfully convicted individuals sought compensation from the State of Gujarat for the years of wrongful imprisonment they had endured. They argued that they had suffered immense hardship, trauma, and loss of livelihood due to their wrongful incarceration and were entitled to compensation as per the principles of justice and restitution.

The Supreme Court, in its judgment, recognized the injustice suffered by *AdambhaiSulemenbhaiAjmeri* and others due to their wrongful conviction and imprisonment. The court emphasized the state's obligation to provide compensation to innocent individuals who have been wrongly deprived of their liberty. It held that compensation was warranted to provide redress for the physical, emotional, and financial harm suffered by the wrongfully convicted individuals and to help them rebuild their lives.

The court ordered the State of Gujarat to pay compensation to *AdambhaiSulemenbhaiAjmeri* and the other wrongfully convicted individuals, taking into account factors such as the duration of their wrongful imprisonment, the stigma and hardship endured, and the loss of income and opportunities during their incarceration.

In the case of *Babloo Chauhan v N.C.T Delhi* [6], the Delhi High Court determined that wrongful conviction constitutes a type of miscarriage of justice. The court emphasized the need for a legal framework to prevent wrongful incarceration and prosecution, and to offer appropriate remedies for those who have been unfairly convicted. Wrongful conviction is a prevalent affliction inside our criminal justice system. In India, as an inquisitorial system, the prosecution has the burden of proving an individual’s guilt in a crime. However, frequently in the fervor of pursuing justice, it erroneously penalizes and brings legal action against the incorrect person, which is significantly more severe.

In the case of *Bibhabati Devi v. Ramendra Narayan Roy*[7], the Privy Council determined that deviating from the fundamental principles that underlie all judicial procedures can render the subsequent proceedings invalid and not considered true “judicial procedures”. In such a scenario, a violation of law or procedure can occur, leading to an incorrect interpretation or the conviction of an innocent individual due to the negligence of law enforcement officers.

In the case of *Ram Lakhani Singh v. State Government of Uttar Pradesh*[8], the Supreme Court held that when someone is wrongly prosecuted, it violates their fundamental right as a person. It constitutes a transgression of the legal procedure. In such cases, the courts have the authority to compel the State to

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<sup>41</sup> *Adambhai Sulemenbhai Ajmeri & Ors. v. State of Gujarat* (2014) 7 SCC 716.

provide compensation to the injured individual as a means of rehabilitating them and serving as a deterrent to others.

The case of Hussainara Khatun and Others v Home Assistant State of Bihar<sup>[9]</sup> is a legal petition submitted to the Supreme Court, seeking a writ of habeas corpus. This petition highlighted the distressing conditions faced by individuals awaiting trial in Bihar. The Supreme Court has determined that the right to a prompt trial is essential for the equitable dispensation of justice in any nation.

The case of Zulfikar Nasir &Ors. v. State of Uttar Pradesh &Ors<sup>42</sup>. is a notable example of wrongful conviction in India. In this case, Zulfikar Nasir and several others were wrongfully convicted for the murder of a businessman in Uttar Pradesh. The convictions were based on circumstantial evidence and alleged confessions obtained under duress during police interrogation.

However, subsequent investigations and legal proceedings revealed serious flaws in the investigation and trial process, including coerced confessions, lack of credible evidence, and procedural irregularities. Additionally, there were allegations of police misconduct and manipulation of evidence.

As the case gained attention and advocacy from human rights organizations and legal experts, efforts were made to review the convictions and seek justice for the wrongfully accused individuals. Ultimately, after a prolonged legal battle, the convictions were overturned, and Zulfikar Nasir and his co-accused were acquitted of all charges.

The case of Zulfikar Nasir &Ors. underscores the importance of ensuring fair trials, upholding the rights of the accused, and addressing systemic issues within the criminal justice system to prevent wrongful convictions. It also highlights the need for robust legal mechanisms to review and rectify miscarriages of justice when they occur.

#### Redressal Mechanisms

In India, several redressal mechanisms exist to prevent and address wrongful convictions. While the Indian legal system has its own complexities, here are some key mechanisms that contribute to preventing wrongful convictions:

**Appellate Courts:** The appellate process allows individuals convicted of crimes to challenge their convictions in higher courts. Appellate courts review the evidence, trial proceedings, and legal arguments to ensure that the accused received a fair trial. If errors are identified, convictions can be overturned, and individuals can be acquitted.

**Right to Legal Representation:** The Indian legal system guarantees the right to legal representation for accused individuals. Adequate legal representation is crucial in ensuring a fair trial and preventing wrongful convictions. Legal aid services are available for those who cannot afford private representation.

**Supreme Court of India:** The Supreme Court of India serves as the highest court of appeal in the country. It has the authority to hear appeals from lower courts and to review cases involving significant legal issues or constitutional matters. The Supreme Court can overturn wrongful convictions and provide remedies to individuals who have been unjustly convicted.

**National Human Rights Commission (NHRC):** The NHRC is an independent statutory body in India responsible for safeguarding human rights. It can investigate complaints of human rights violations, including wrongful convictions. The NHRC plays a role in ensuring that due process rights are respected and that individuals are not wrongfully convicted.

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<sup>42</sup> Zulfikar Nasir &Ors. v. State of Uttar Pradesh &Ors, MANU/DE/3960/2018.

Innocence Projects and Legal Aid Organizations: While not as prevalent as in some other countries, there are legal aid organizations in India that provide assistance to individuals who have been wrongfully convicted. These organizations may help investigate claims of innocence, provide legal representation, and advocate for reforms to prevent wrongful convictions.

Reforms in Criminal Justice Procedures: Efforts to improve criminal justice procedures, such as recording interrogations, enhancing forensic capabilities, and strengthening witness protection programs, can help prevent wrongful convictions. Reforms aimed at enhancing the fairness and reliability of the criminal justice system contribute to reducing the risk of miscarriages of justice.

Media and Public Scrutiny: Increased media attention and public scrutiny can sometimes uncover instances of wrongful convictions and bring attention to systemic flaws in the criminal justice system. Public awareness and advocacy efforts can push for reforms and accountability measures to prevent future wrongful convictions.

The case of *Kasturi Lal Ralia Ram Jain v. State of Uttar Pradesh*<sup>43</sup> is a landmark judgment by the Supreme Court of India that addressed issues related to wrongful conviction and miscarriage of justice. The case involved the wrongful conviction of five individuals under the Terrorist and Disruptive Activities (Prevention) Act (TADA) for their alleged involvement in a bombing incident in Uttar Pradesh.

In this case, the accused individuals were convicted based on confessional statements obtained under duress during police custody. However, the Supreme Court found that the confessions were coerced and inadmissible as evidence, as they were extracted through torture and intimidation by law enforcement authorities. The Court emphasized the importance of upholding the rule of law and protecting the rights of the accused, including the right against self-incrimination and the prohibition of torture and coerced confessions.

The judgment in *Kasturi Lal Ralia Ram Jain v. State of Uttar Pradesh* highlighted the need for strict adherence to procedural safeguards and the exclusion of evidence obtained through illegal means in criminal trials. It underscored the judiciary's role in safeguarding justice and preventing wrongful convictions by ensuring fair trials and upholding constitutional principles.

This case set important precedents regarding the admissibility of evidence, the prohibition of torture, and the protection of fundamental rights in criminal proceedings. It contributed to the jurisprudence surrounding wrongful convictions in India and emphasized the responsibility of law enforcement agencies and the judiciary to uphold justice and prevent miscarriages of justice.

*Mohd. Jalees Ansari & Ors. v. Central Bureau of Investigation*<sup>44</sup> is a notable case in India that involved allegations of wrongful conviction and miscarriage of justice. Dr. Mohammed Jalees Ansari, a medical doctor, and others were convicted in a series of bomb blast cases in various parts of the country. However, doubts were raised about the fairness of the trial proceedings and the reliability of the evidence presented against them.

In this case, there were concerns regarding the prosecution's reliance on confession statements allegedly obtained under duress during police custody. There were also allegations of witness tampering and procedural irregularities during the investigation and trial. Additionally, there were doubts about the credibility of the evidence and the fairness of the judicial process.

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<sup>43</sup> *Kasturilal Ralia Ram Jain vs The State Of Uttar Pradesh*, 1965 AIR 1039

<sup>44</sup> *Mohd. Jalees Ansari & Ors. v. Central Bureau of Investigation* AIR 2016 SC 2461.

After a thorough review of the case, the Supreme Court of India ordered a fresh investigation by the Central Bureau of Investigation (CBI) to re-examine the evidence and ensure a fair trial. The Court emphasized the importance of upholding the rule of law and protecting the rights of the accused, including the right to a fair trial and the prohibition of torture and coerced confessions.

The Mohd. Jalees Ansari & Ors. case highlighted the challenges and complexities involved in cases of wrongful conviction and underscored the need for rigorous scrutiny of evidence and adherence to legal procedures. It also emphasized the role of the judiciary in safeguarding justice and preventing miscarriages of justice by ensuring fair trials and upholding constitutional principles. AIR 2016 SC 2461.

While these mechanisms exist, there is always room for improvement in preventing and addressing wrongful convictions. Efforts to strengthen legal safeguards, promote transparency and accountability, and enhance access to justice can further bolster the effectiveness of redressal mechanisms in India.

#### **Girija Prasad vs Uma Shankar Pathak<sup>45</sup>**

Uma Shankar Pathak was a rehearsing advocate in Panna of Madhya Pradesh. He started an unsettling to challenge the food shortage that was influencing the general public. A sub examiner, Girija Prasad, was posted outside the collectorate to control the group that assembled there. Some slug shots were discharged from his gun and he stopped a FIR. In this FIR he named Uma Shankar Pathak as the individual who was impelling the group against him. He blamed the group for going after him and in the midst of this uproar his gun failed. Uma Shankar Pathak was captured however at last vindicated.

After his quittance, Uma Shankar Pathak sued four individuals, including Girija Prasad for malicious prosecution. The M P High Court reached the resolution that the FIR stopped by Girija Prasad was bogus and he was held at legitimate fault for malicious prosecution.

#### **Vishweshwar Shankarrao Deshmukh and Anr vs Narayan Vithoba Patil<sup>46</sup>:**

For this situation the offended party was a sarpanch of a town while litigant number 1 was functioning as a Gram Sewak under the Zila Parishad and respondent number 2 was an educator in a school under the Zila Parishad. The offended party had submitted different questions about the two in regards to their awful way of behaving, wrongdoing, abandonment of obligation, and so forth. To show him a thing or two and get back at him, both plotted against him and litigant number 1 recorded a FIR guaranteeing that the offended party had attacked him. A criminal procedure began and he was captured. Later he was absolved because the grievance was made with malicious purpose.

The offended party started an instance of malicious prosecution wherein he guaranteed that being a lawmaker and sarpanch, he had experienced a deficiency of notoriety and notoriety and furthermore his status was damaged.

The Court maintained the cases of the offended party and requested the litigants to pay 12,500 as harms to him.

#### **Antarjami Sharma Vs. Padma Bewa<sup>47</sup>**

Offended party filled in as a servant in the respondent's home for this situation. Offended party recorded a grievance against litigant, charging that he endeavored to assault her while she was working in his home. The litigant was charged by the official courtroom due to this claim, which brought about him and his standing being hurt. He was vindicated, in any case, due to an absence of legitimate proof. He in this manner documented a claim blaming the offended party for malicious prosecution. In this occasion, the

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<sup>45</sup> AIR 1973 MP 79

<sup>46</sup> AIR 1973 MP 79

<sup>47</sup> Antarjami Sharma Vs. Padma Bewa (AIR 2007 Ori 107)



court confirmed that the offended party offered a bogus expression against the litigant and was responsible for harms.

## **CHAPTER 6**

### **CONCLUSION AND SUGGESTIONS**

#### **CONCLUSION**

The wrongful conviction of innocent individuals in India represents a profound failure of the justice system, resulting in irreversible harm to the lives of those unjustly accused. Through an examination of cases like Sube Singh v. State of Haryana and others, it is evident that wrongful convictions stem from a multitude of factors, including flawed investigation procedures, police misconduct, inadequate legal representation, and systemic issues within the criminal justice system.

Preventing the punishment of innocent individuals is not merely a legal imperative but a moral obligation essential for upholding the principles of justice and safeguarding fundamental human rights. Through a comprehensive analysis of wrongful convictions and their causes, it is clear that proactive measures must be taken to prevent such miscarriages of justice from occurring.

These miscarriages of justice not only inflict immense suffering on the wrongfully convicted individuals and their families but also erode public trust in the legal system and undermine the principles of fairness and equality before the law. Moreover, they perpetuate a cycle of injustice, as the true perpetrators remain at large and may continue to pose a threat to society.

Addressing wrongful convictions requires comprehensive reforms aimed at preventing their occurrence and rectifying past injustices. This necessitates improvements in investigation techniques, the enhancement of legal aid services to ensure access to competent representation for all individuals, and the strengthening of judicial oversight mechanisms to safeguard against miscarriages of justice.

Furthermore, raising public awareness about the causes and consequences of wrongful convictions is crucial in fostering a culture of accountability and advocating for systemic reforms. By learning from past mistakes and implementing measures to uphold the rights and dignity of all individuals within the criminal justice system, India can strive towards a more equitable and just society where the innocent are protected from undue punishment.

In conclusion, preventing the punishment of innocent individuals requires a multi-faceted approach involving legislative, institutional, and societal reforms. By addressing the root causes of wrongful convictions and implementing proactive measures to protect the rights of all individuals within the criminal justice system, we can strive towards a more equitable, humane, and just society where innocence is valued and upheld.

#### **SUGGESTIONS**

**Strengthen Investigation Procedures:** Implement standardized protocols for evidence collection, forensic analysis, and interrogation techniques to ensure that investigations are conducted thoroughly and impartially. Training law enforcement personnel on best practices for gathering evidence and interviewing witnesses can help prevent errors and misconduct.

**Ensure Access to Legal Representation:** Guarantee access to competent legal representation for all individuals, especially those from marginalized communities or with limited financial means. Expand legal aid services and provide adequate resources to defense attorneys to ensure effective representation during trials.

**Enhance Judicial Oversight:** Establish mechanisms for judicial review and oversight to scrutinize the validity of evidence, assess the conduct of law enforcement officials, and ensure the fairness of trial proceedings. Independent commissions or panels could be tasked with reviewing cases of potential wrongful convictions.

**Advance Legal Science Norms:** Put resources into measurable science research centers and preparing projects to work on the quality and dependability of criminological proof introduced in court. Guarantee that criminological specialists stick to universally perceived principles and philosophies to limit the gamble of mistakes or inclination.

**Address Police Misconduct:** Hold law enforcement officials accountable for misconduct, including coercion, fabrication of evidence, and withholding exculpatory information. Implement disciplinary measures and provide training on ethical conduct and human rights principles to prevent abuses of power.

**Educate Judges and Legal Professionals:** Provide ongoing training and education to judges, prosecutors, and defense attorneys on emerging legal principles, scientific advancements, and best practices in criminal justice. Encourage critical thinking and skepticism to prevent reliance on flawed evidence or biased narratives.

**Implement Recording Requirements:** Mandate the electronic recording of all custodial interrogations and police interviews to ensure transparency and accountability. Video and audio recordings can provide crucial evidence to evaluate the voluntariness of confessions and detect instances of coercion or misconduct.

**Remuneration and Backing for Absolved people:** Lay out instruments to give pay, restoration, and backing administrations to people who have been illegitimately sentenced and along these lines excused. This incorporates monetary pay for lost compensation, admittance to medical services and guiding, and help with reintegration into society.

**Public Awareness and Advocacy:** Raise awareness among the public, media, and policymakers about the prevalence and consequences of wrongful convictions. Advocate for policy reforms, funding allocations, and systemic changes to prevent future miscarriages of justice and uphold the rights of the accused.

## REFERENCES

### ACTS AND CONSTITUTION

1. Prevention of Money Laundering Act 20220
2. Indian Evidence Act 1872
3. Legal Services Authorities Act, 1987
4. UK Police Act 1996
5. Jammu and Kashmir Public Safety Act, 1978
6. Terrorist and Disruptive Activities (Prevention) Act

### BOOKS AND JOURNALS

1. Ritendra Gaur and Dheeraj, *Innocent Behind Bars: Challenges and Remedies*, Manupatra (2021)
2. Leo, RA *Rethinking the study of miscarriages of justice*, *Journal of Contemporary Criminal Justice* (2009)
3. Gaur, Ritendra, and Diwakar, Dheeraj. "Innocent behind Bars: Challenges and Remedies." *Manupatra*, 27 December 2021.
4. Grounds, Adrian T. "Understanding the Effects of Wrongful Imprisonment." *Crime and Justice*, vol. 32, 2015

5. Mehrotra's Commentary, Law of Defamation and Malicious Prosecution, 6th Edition 2011, Pub: Delhi Law House
6. Avatar Singh, Introduction To Law Of Torts, 107, (2011 Edition)
7. Vibhuti Sharma, Wrongful convictions: When Justice Fails, Burnished law journal (2021)
8. Kanak Singh, General Issues & Reforms to reduce the wrongful convictions in India, Ignited Minds Journals (2022)
9. Michael Griesbach , The Innocent Killer: The True Story of a Wrongful Conviction and its Astonishing Aftermath (American Bar Association, Chicago, Illinois, United States, 2014)
10. Mundrathi, Sammaiah, Law on Compensation to Victims of Crime and Abuse of Power (Deep & Deep Publications, New Delhi 2012)
11. Law Commission of India (21st), 277th Report on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies" (August, 2018)
12. M Naughton The Criminal Cases Review Commission: Hope for the Innocent?(Palgrave MacMillan, 2009)
13. Grounds, Adrian T. "Understanding the Effects of Wrongful Imprisonment." Crime and Justice, vol. 32, 2015
14. Hari Shankar Rai "Compensation Jurisprudence and Victims of Crime" 334, Cr.L.J, (2014)
15. Ashworth and M. Redmayne, The Criminal Process 378-379 (Oxford University Press, Oxford, 4th edn. 2010)
16. Kelkar, RV, Criminal Procedure 55 (Eastern Book Company, 2012)
17. R. Balaji, Malicious prosecution, The Telegraph, May 29 2022
18. <https://lawbhoomi.com/clat-study-materials/malicious-prosecution-under-law-of-tort/>
19. Hari Shankar Rai "Compensation Jurisprudence and Victims of Crime" 334, Cr.L.J, (2014)
20. Ritendra Gaur and Dheeraj, Innocent Behind Bars: Challenges and Remedies, Manupatra (2021)
21. B.M. Gandhi, Law of Torts 165 (Eastern Book Company, Lucknow, 3rd ed., 2016).
22. Mehrotra's Commentary, Law of Defamation and Malicious Prosecution, 6th Edition 2011, Pub: Delhi Law House
23. Salmond and Heuston, Law of Torts (Universal Law Publishing Co. Ltd., Delhi, 20th edn. 2013.)
24. Nicholas J Mc Bride & Roderick Bagshaw, Tort Law (Pearson Education Pvt. Ltd, Delhi, 1edn., 2003)