

**WRONGFUL CONVICTIONS: HOW CAN THE STATE UNDO THE
HARM**- Jahnvi Sharma & Swaranjali Kapoor¹**ABSTRACT**

Wrongful conviction is defined as the conviction of an innocent for a crime that they never committed. Wrongful convictions are a direct violation of a person's fundamental right to life. Article 21 of the Indian Constitution guarantees each citizen of India, the right to life and personal liberty. This right to life does not mean mere animal existence. It means to live a life with dignity, to live freely in a society free from all the atrocities of the state. Wrongful conviction completely snatches away this right from the innocent convicts which leads to the infringement of their most important fundamental right. Wrongful convictions also known as a miscarriage of justice takes place when a person is convicted and punished for a crime that he or she didn't commit. There is an old saying that a hundred murderers should be let out but not one innocent should suffer. Wrongful convictions in India have been taking place since the British raj, and to date, it has only gone uphill. India does not have any legislation or scheme in cases of wrongful convictions that is why the innocent victim is only left with the option of knocking on the court's doors to seek redressal. Once a wrongful conviction is done it can surprisingly be a hard turn-on to prove your innocence. The matter gets worse when the defense lawyer is under pressure, incompetent, and ineffective. False confession plays an important role as an innocent person accepts the crime they have never committed or were never a part of due to the pressure of the interrogation process and harsh means used by the team. Some people have also been known to be admitted guilty for a crime they never even committed. In a layman language if you want to understand the depth of wrongful conviction it can rightly be said as a MISCARRIAGE OF JUSTICE where a person is convicted for a crime they never got engaged in. wrongful

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conviction is not only a mere part of a system but slowly it is turning into a black hole theory for the system because of the lack of justice aka miscarriage of justice in the system and it is not only a part of our system but according to the statistics it is also playing a major role in the international system as well with quite a rapid gear. A wrongful conviction occurs when an innocent gets hanged to death or imprisonment for life for a crime they never did. And few lucky ones get exonerated due to new shreds of evidence after so many years which also serves them no benefit after that as the miscarriage of justice already took place and they have already lost the faith in justice system. This will focus on examining wrongful convictions that have resulted in a judicial officer reversing the conviction. When a person is exonerated, this is often due to new evidence that arises, which leaves it physically impossible for the individual convicted to have committed the crime. Many sources of error are the possible cause of wrongful conviction but eyewitness has to be suggested a leading fall in this. The sources of error are eyewitness testimony, interrogation techniques, false confession, insufficient defense, official misconduct. Being wrongfully convicted for a crime one never committed not only demolish their societal image but also plays a major role in degrading their mental health. Not only there, but also the accused's family. Concern about cases of wrongful conviction is rapidly increasing everywhere. Some wrongfully convicted people have already spent half of their life in conviction and were released after many years but what about the mental torture they have been through. The psychological results of wrongful accusations appear to affect the lives of those accused seriously, even after exoneration or overturning of convictions. The plan of action for improving public perception of wrongful convictions should be explored, and specific mental-health systems should be established to support those who are wrongfully accused. There is an abundance of literary work dealing with the psychological impacts on criminals' post-conviction. Nonetheless, there are a few handfuls of theories dealing with the psychological trauma of a wrongfully convicted person who was later shown to be innocent most probably because finding truly innocent individuals' post-conviction is burdensome. Not to mention, it is not unreasonable to assume there is a supernumerary layer of resentment, frustration, confusion, anger, and dissonance involved when the individual knows they were wrongfully accused. There are these agitated feelings for all those sufferings that later on work as a seed of mental illness. It is very much clear that wrongful conviction is hazardous for innocent people as well as it is a big challenge for the judicial system as well. Now what is more important is to right the wrongful of

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these mistakes and to think of ways how to prevent these mistakes in the future to sustain the faith of people in the judicial system

INTRODUCTION

Wrongful convictions are also known as “miscarriage of justice” take place when a person is convicted and punished for a crime that he or she didn’t commit. Once a wrongful conviction is done it can surprisingly be a hard turn-on to prove your innocence. There is an old saying that, “A hundred murderers should be let out but not one innocent should suffer.”

Wrongful convictions in India have been taking place since the British raj, and to date, it has only gone uphill. India does not have any legislation or scheme in cases of wrongful convictions that is why the innocent victim is only left with the option of knocking on the court’s doors to seek redressal.

A conviction is stated wrongful for merely two reasons:

- A. There were procedural errors.
- B. The person convicted is factually blameless about the charges.

Wrongful convictions not only destroy an individual physically but it affects him mentally too. It also impacts society at large and people start losing their faith in the justice system.

Wrongful convictions are a direct violation of a person’s fundamental right to life. Article 21 of the Indian Constitution guarantees each citizen of India, the right to life and personal liberty. This right to life does not mean mere animal existence. It means to live a life with dignity, to live freely in a society free from all the atrocities of the state. Wrongful conviction completely snatches away this right from the innocent convicts which leads to the infringement of their most important fundamental right.

Wrongful conviction is not only a mere part of a system but slowly it is turning into a black hole theory for the system because of the lack of justice aka miscarriage of justice in the system and it is not only a part of our system but according to the statistics it is also playing a major role in the international system as well with quite a rapid gear.

Several people who have been wrongfully admitted guilty of their criminal actions in Columbia do believe in their system and have faith that they will be served rightly and their system will always save the innocent but the scenario is not always the same with everyone.

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Unfortunately, national data shows that this isn't always the case. "The total number of wrongfully convicted individuals in the U.S. is unknown, but the National Registry of Exonerations state that 1,793 people have been exonerated to date. Troublingly, even more, wrongful convictions may go unrecognized."

The primary reasons for most of the wrongful convictions are:

- A. Eyewitness testimony
- B. Flawed forensic evidence.
- C. False confessions
- D. Insufficient defense

LAW COMMISSION REPORT

The Delhi high court in 2017, in its case of Babloo Chauhan@ Dabloo v. State Government of NCT² of Delhi, conveyed its concern about the condition of people who were being wrongfully prosecuted and convicted. It asked the Law Commission to examine and review this issue and make appropriate recommendations to the Government of India.

Internationally, this matter of wrongful conviction and prosecution of an innocent person is recognized as a miscarriage of justice. The International Covenant on civil and political rights which is approved by India creates an obligation on the State to make a law that compensates the victims of wrongful imprisonment.

The law commission very carefully reviewed and examined the Delhi high court's request and made the following recommendations:³

- The report considered wrongful prosecutions unfair but not wrongful conviction and wrongful incarceration.
- It recommended the enactment of specific legal provisions which will help seek redressal for cases of miscarriage of justice in wrongful prosecution.
- It suggested the appointment of special courts in every district for deciding upon claims of compensation for wrongful prosecution.

²247 (2018) DLT 31

³Law Commission of India, 277th Report on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (August, 2018).

- The compensation claim can be brought by the aggrieved party or by any agent duly authorized by the aggrieved party or where the aggrieved party died after the termination of the wrongful prosecution by all or any of the heirs or legal representatives of the deceased.

The legal provision should include the guiding principles or factors that a special court will be required to consider while determining the compensation including the amount of monetary compensation.

Compensation under this framework will include both pecuniary and non-pecuniary assistance forms of service such as counseling mental health services, vocational/employment skills development, and other similar services.

PRISON STATISTICS

The concept of prisons is very illusory. The actual condition and state of the jails are not known to all. They are in terrible shape and do not even have the necessities of life like a place to rest or even a proper sanitation space. Living in such conditions as a convict is miserable and shatters that individual's faith in the judicial system.

According to Prison Statistics India (PSI-2015), the annual statistics report of the National Crime Records Bureau, "out of the total prisoner in India 67.2% of them were under trial." A prisoner under trial means people who are in judicial custody pending trial or investigation by a competent authority. This percentage is significantly higher than the population of convicted prisoners which is 32%.

"The data showed that 25.1% of the total under trial prisoners spend more than 1 year in prison, 17.8% spent up to 1 year as under trial prisoners, 21.9% of the under trials were in prison for 5-6 months and the remaining 35.2% under trial prisoners spent up to 3 months in prison."

The number of under-trial prisoners being more than the number of actual convicts showed that the under trials spent a significant amount of time just awaiting trials or judicial determination of their ease.

Understanding wrongful prosecutions are very important to further understand the problem of a wrongful conviction because a wrongfully convicted person at some point underwent a wrongful prosecution to reach where he is now. Wrongful convictions begin with wrongful arrests and wrongful prosecutions.

The delay and wait that under trial prisoners go through turns into a graver miscarriage of justice. The person is wrongfully accused in the first place and then he is made to wait for long periods which generally means several years when he/she shouldn't have been in that place, to begin with.

In India, we follow the principle of innocent until proven guilty which has now turned into guilty until proven innocent at the price of wrongful prosecution because that is how every person in custody is treated, like a guilty criminal.

Following are some instances of people who have been wrongfully convicted and prosecuted.

- Lateef Ahmad Waza, a resident of Srinagar city, in India occupied Kashmir was released from jail after serving a total of 23 years of imprisonment for a crime that he did not commit. He was arrested when he was 16 from Kathmandu, Nepal by the Indian police. He has established a business there to escape the fallout of a deadly insurgency that had erupted in Kashmir.

When he got to know that he was arrested for the 1996 Delhi blasts, he was shocked. The court after 23 long years finally declared him innocent. He returned home only to find that his father had passed away awaiting his return and his mother's hearing ability was impaired.⁴

One wrongful accusation changed his whole life and turned it upside down.

- In another case, Vijay a carpenter residing in East Delhi was acquitted in 2019 over an attempt to murder charge. Throughout his trial he maintained that he was not even present at the crime scene when the incident took place, a fact which the court later on finally confirmed. But Vijay was forced to spend 6 years in prison before his innocence was proven.

⁴ Shakir Mir, "India frees Kashmiri men after 23 years of wrongful imprisonment", *TRT World*, Jul. 26, 2019.

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These 6 years in jail broke him as a person. He suffered from severe physical and emotional trauma. Prison destroyed him and he is still paying the cost of it even after his release.⁵

The list of people who were failed by the Criminal Justice system is very long and continues to this day.

FACTORS

1. EYEWITNESS TESTIMONY:

According to the innocence project, misidentification on the part of the eyewitness can be a huge blunder for the case and is the leading cause of wrongful conviction lately which has been overturned by the DNA evidence. These errors mostly occur due to the limitation of human memory and due to the measure or procedure, the authorities use to identify the perpetrators.

Worldwide, misidentification has played a major role in 72% of cases of convictions which further on proved to be wrong the DNA testing. Sometimes, the authorities as well can bias the witness to pick a suspect or inflate their confidence in a wrong manner. Hence eyewitness testimony is not a 100% liable method to identify the accused. It is the single greatest cause of wrongful conviction. Case after case, scientists have proven that eyewitness identification is frequently inaccurate and highly results in wrongful convictions.

2. INTERROGATION TECHNIQUES:

An interrogation plays an important role during an investigation. Interrogation and interview are two parts of the interrogation techniques.

An interrogation is held when there is a suspect when they know that the particular is involved in this particular crime. The investigator has specific knowledge that the person in question may be a subject of the crime and can be a great threat if held free.

It usually involves questioning with the suspect and the individual is in custody usually in this.

An interrogation is can be differentiated into two:

⁵ Karan Tripathi, "Guilty Until Proven Innocent: The 'Price' of Wrongful Prosecution", *the Quint*, Jul. 27.2021.

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- A. **ACCUSATORY INTERROGATION:** An accusatory interrogation is the one in which the investigator directly interrogates by accusing the suspect of committing the crime or being a part of that crime at that time.
- B. **NON- ACCUSATORY INVESTIGATION:** A non- accusatory interrogation is the one in which the investigator doesn't interrogate by accusing the suspect, instead they interrogate to gather more in-depth information about the crime.

There are several different techniques used by the officials to interrogate. These techniques vary from agency to agency to country to country due to different laws and procedures followed there.

Tunnel visions and confirmation bias are the psychological processes that play an influential role in a wrongful conviction. Usually, the tunnel vision method occurs when the police try to focus on a particular person only and try to focus on one point only to build a case against that person and to convict that person only. Confirmation bias occurs when the police construe evidence to support their theory that the suspect is guilty.

When there is tunnel vision and confirmation bias police can get a false confession as well.

Lengthy interrogations are a supplementary measure use to get a false confession. Some interrogators may use of the repeatedly accusing the suspect of committing the crime by mentally or physically torturing them.

An interview is used with the witnesses and victims that have the information related to the crime.

3. FALSE CONFESSIONS:

More than a quarter of wrongful convictions are a byproduct of false confession. Sometimes, witnesses, victims give false confessions due to the outside pressure or authority pressure upon them.

According to research, in 30% of DNA exoneration cases, false confession plays a major role in wrongful convictions. Innocent defendants make incriminating confessions or pled guilty. This

shows that confessions are not always arisen from internal knowledge but are sometimes serve as a result of external influence.

There are three types of false confessions:

a) **VOLUNTARY CONFESSION:**

Despite being innocent, people will voluntarily give false statement sometimes to protect their loved ones, to give someone tangible pain or if they are psychological condition is underlying.

b) **PERSUADED CONFESSION:**

Police may use different techniques which cause one to doubt their memory and believe that they did commit the crime even when they never did.

This usually happens in three cases:

- The investigator may pressurize the suspect to doubt their statement ad memory by lengthy and intense interrogations.
- The interrogator tries to frame the reasons why the suspect may have committed the crime at first false and how they don't ever remember them committing it.
- After the suspect commit that they are guilty, he or she makes up facts related to the same.

c) **COMPLIANT FALSE CONFESSIONS:**

In this, if the police use stress, pressure on the suspect and if they badly want to avoid the painful interrogation, they may accept whether they are guilty or not. The suspect may also believe that they will be given less harsh punishment or they will be released if they will confess the crime.

4. *INSUFFICIENT DEFENSE:*

Insufficient defense can also be a reason for wrongful convictions. Convictions are more likely to happen when there will be no proper legal representation for the accused. This is a legal right present to all to have a legal representative and to be heard equally before passing the judgment.

5. *OFFICIAL MISCONDUCT:*

Some wrongful convictions are caused by authentic mistakes. But in many cases, the people or authorities who are very much responsible for granting justice and hanging the accused neglect their duties and instead focus on securing convictions.

PSYCHOLOGICAL IMPACTS OF BEING WRONGFULLY ACCUSED OF CRIMINAL OFFENCES.

Being wrongfully convicted for a crime one never committed not only demolish their societal image but also plays a major role in degrading their mental health. Not only there, but also the accused's family. Concern about cases of wrongful conviction is rapidly increasing everywhere. Some wrongfully convicted people have already spent half of their life in conviction and were released after many years but what about the mental torture they have been through. The psychological results of wrongful accusations appear to affect the lives of those accused seriously, even after exoneration or overturning of convictions. The plan of action for improving public perception of wrongful convictions should be explored, and specific mental-health systems should be established to support those who are wrongfully accused.⁶

There is an abundance of literary work dealing with the psychological impacts on criminals' post-conviction. Nonetheless, there are a few handfuls of theories dealing with the psychological trauma of a wrongfully convicted person who was later shown to be innocent most probably because finding truly innocent individuals' post-conviction is burdensome. Not to mention, it is not unreasonable to assume there is a supernumerary layer of resentment, frustration, confusion, anger, and dissonance involved when the individual knows they were wrongfully accused. There are these agitated feelings for all those sufferings that later on work as a seed of mental illness.

Unprivileged for years of family and friends and the ability to establish oneself professionally, the nightmare does not end upon release and gets worst overtime over the years if not provided with professional help. Although there is disagreement about the frequency of wrongful accusations and convictions,² a recent study estimated that wrongful convictions occur in 6% of

⁶ Psychological impact of being wrongfully accused of criminal offences: A systematic literature review, available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7838333/> (Visited on August 29, 2021).

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criminal convictions leading to imprisonment.³ Other research estimates that up to 15.4% of all convictions are wrongful.⁴ There has been a recent increase in exonerations, related to technological developments (e.g. more sophisticated forms of DNA technology) and political developments.⁵ A wealth of literature has brought into question the accuracy of eyewitness identification,^{6–8} the potential suggestibility of children, adolescents, and vulnerable adults, which can lead to false accusations and false confessions,^{9,10} and the use of coercive interrogation causing false confessions under duress.¹¹ It has also been demonstrated that it is racial and class bias involved in wrongfully accusing people of crime and that these biases can influence decisions of guilt.⁷

Data were extracted from 20 relevant papers, and a thematic investigation was conducted on the data. Eight main themes were identified:

- ❖ loss of identity
- ❖ stigma
- ❖ psychological and physical health
- ❖ relationships with others
- ❖ attitudes towards the justice system
- ❖ impact on finances and employment
- ❖ traumatic experiences in custody
- ❖ Adjustment difficulties.

According to research a wrongful accused goes through many stages after exoneration as well. The torture doesn't end for them there only.

➤ SHOCK, PANIC, AND WITHDRAWAL:

⁷Psychological impact of being wrongfully accused of criminal offences: A systematic literature review, *available at*: <https://journals.sagepub.com/doi/pdf/10.1177/0025802420949069> (Visited on August 29,2021).

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Originally it's normal for a wrongful conviction victim to be shocked, to get regular panic attacks after their exoneration. Some may remain in this state of paralysis right throughout the investigation and possible trial.⁸

➤ LOSS OF SELF CONFIDENCE AND FEAR:

Some may feel that they have lost their face in society because of the conviction. The fear of how to face society anymore. They start feeling abundant in society. Some may feel anxious, hyper vigilant, and even paranoid in public places, believing that they are being judged by others.

➤ POST-TRAUMATIC STRESS DISORDER AND LONG-LASTING TRAUMA:

Many face post-traumatic disorder symptoms with panic attacks, flashbacks, nightmares, etc. even if the victim is exonerated the damage will be long-lasting for some of them.

➤ DEPRESSION AND GUILTY FEELINGS:

They get suicidal thoughts, those unwanted feelings, and that guilty feeling about what wrong have they done to someone for getting treated like this.

➤ FAMILIES EXPERIENCE PAIN AND STIGMA:

Several questioning and research reported 'secondary traumatization' in the close families of those wrongfully accused. Families also had to pact with the stigma and shame involved which results in being socially rejected, blamed, labeled, and stereotyped by others in the community, and could even lead to antisocial or criminal behavior in the children of the wrongfully accused.

REMEDIES AVAILABLE

India is lacking behind when it comes to the remedies available for miscarriage of justice. There are no compensation schemes or clear-cut provisions available in the statutes that can provide the victims some remedy or seek redressal.

⁸The suffering of the wrongfully accused, available at: <https://factuk.org/the-suffering-of-the-wrongfully-accused/> (Visited on August 29, 2021).

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There are several judgments, commentaries, and reports on this issue but no clear and fixed provision is available in the law. However, three groups of remedies are court-based concerning miscarriage of justice:

PUBLIC LAW REMEDY

This remedy originated from the Constitution of India. Chapter 3 of the Constitution talks about the fundamental rights which under Article 21 provides the Right to life and liberty and under Article 22 protects against arbitrary and illegal arrests.

It provides the remedy for the violation of these rights through writ jurisdiction of Supreme Court under Article 32 and High Court under Article 226 of the India Constitution that includes granting compensation to the victim.

There is no set network for determining the amount of compensation. It depends on the facts and circumstances of each case.⁹ This remedy for violation of fundamental rights is not mentioned in the constitution of India, it is a concept evolved by the courts.

PRIVATE LAW REMEDY

The private law remedy is available against state officials. Under the concept, the state is made liable for the wrongful acts done by it or its agents by filing a civil suit against the state and its officials for monetary damages.

Article 300 of the Constitution states that the Indian government can be sued in its name.

CRIMINAL LAW REMEDY

The Indian Penal Code in its Chapter IX deals with the offenses committed by Public servants. It also includes and deals with offenses that are not done by public servants but relate to them.

Chapter XI of the code talks about false evidence and offense against public justice and delineates the obstruction of justice. It also punishes any instance related to tampering with the investigation, evidence, trial, or any other proceedings carried out by the investigating agencies such as police officers or the prosecution.

CONCLUSION

Not only an individual and his family but also a society as a whole suffers through the negative effect of wrongful conviction. Being wrongfully convicted for a crime one never committed not only demolish their societal image but also plays a major role in degrading their mental health. Not only there, but also the accused's family. Being wrongfully convicted for a crime one never committed not only demolish their societal image but also plays a major role in degrading their mental health. Not only there, but also the accused's family.

It is very much important to keep a strict check on the tactics and measures used during the interrogation. No person should be convicted for a crime they have never committed. While an individual may be released free but they still have to face the repercussions such as civil suits as well as the prison time already served by them.

Police or interrogation teams should be made to include the recording of interrogation and a certain limit should be put on the techniques used by the interrogation team. Compensation statutes should be in place to the victims for the sufferings they faced due to the wrongful convictions. Decreasing the chances of wrongful conviction it is very much important to create certain policies and regulatory bodies responsible for the same.