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**WRONGFUL CONVICTIONS: HOW CAN STATE UNDO THE HARM?**

**ABSTRACT**

*This paper discusses the extent of Wrongful Conviction. It focuses on how the state can repair the damage caused by the wrongful conviction. It also discusses the frequency of wrongful convictions, the causes of them, and criminal justice reforms to reduce or decrease the number of wrongful convictions. As we all know, our country, India, has struggled with the issue of conviction throughout its history. It is not just a problem in our country, but it is a problem in many other countries as well. As per data and studies, several people are wrongly convicted in prisons and suffer from severe trauma, psychological problems, anxiety disorder, stress, and other issues that are not present in the case of the guilty prisoners.*

*Hence, it is the primary responsibility of the legal entity to maintain the equilibrium, criminal law that concerns societal protection and recommends rules of behaviour to be marked by all and on the other hand the liberty of the specific, security, and firmness in the society or community. The adjectival matching part to substantive criminal law is traditionally abstracted as criminal process.*

**DEFINITION OF THE WRONGFUL CONVICTION**

At its most basic level, a 'wrongful conviction' is a man's condemnation and sentencing for a wrongdoing he did not commit. The word can also be applied to blunders made in the opposite direction, such as exemption mistakes and usual situations. In some cases, an erroneous conviction is not overturned for a long time, or until after the innocent person has been executed, exonerated, or murdered.

Or in layman language, We define wrongful conviction for the purposes of this document as a case in which the available data suggests that the defendant was innocent of any wrongdoing of the capital offence for which he or she was convicted. We use a restrictive interpretation of the word to minimise any confusion over wording; as a result, we eliminate examples in which the defendant committed the offence but was legally incapable of knowing. However, the legal meaning of wrongful conviction could be far wider, including unfair trials and miscarriages of justice even when there is some proof that the prisoner committed crimes.

“False conviction” is a considerably better term. The term "miscarriages of justice" is frequently used to refer to factually incorrect convictions, but it can also refer to claimed unjust acquittals and immunity from prosecution, as well as faulty convictions. As a result, the term "wrongful conviction" encompasses a broad variety of criminal-justice procedures and institutions, including prosecution, defence, rhetorical science, and assessment. The repercussions of erroneous convictions and paying exonerees are also discussed.

### **INDIAN STANDPOINT:**

As far as India is concerned, The Hon'ble Supreme Court of India came out with several theories in D.K. Basu, raised awareness of natural justice principles in the criminal justice system. They were included in eleven techniques that must be followed by a police officer when a suspected person is apprehended. The Honorable Supreme Court determined that these tactics will protect suspects' interests by reducing unnecessary arrests and detentions. The court also remarked that because the number of judges in our country is insufficient, the investigation group and the police department made the mistake of failing to carry out their requirements with necessary stability. There have been various good adjustments in the conduct of police officers and government officials in leading inquiries and managing justice as a result of the Honorable Supreme Court's prompt intervention in several cases. The Supreme Court stated that the problem of "custodial brutality" and police power misappropriation is not limited to India. However, it is a major issue that has obscured the majority of the world's criminal justice structure. Because the problem is increasingly international and widespread in every country, it has become a major source of concern on a global scale. In Article 5 of the 1984 Universal Declaration of Human Rights, which guarantees the security and protection of certain fundamental human rights, it is stated that "no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment." Regardless of the devout declaration, the wrongdoing continues unabated; however, every civilised country expresses concern and works to have it removed. It is an unexpectedly threat on human self-esteem, causing the victim's self-confidence and pride to be psychologically damaged. In reply, the court considered it to be in an extreme position to issue some authenticating strategies to be followed in all examples of arrest or detention until appropriate laws are enacted for the same as defensive measures:

- The police officer who executes the arrest and is in charge of the captive's investigative process should have detailed, clearly visible identification proof as well

as name tags with descriptions written on them. A record must be kept with the names, titles, and badge numbers of the police officers conducting the investigation.

- At the time of detainment, the concerned police officers should have a note of arrest ready. The note should include the time and date of the arrest, as well as the signature of the person arrested. The note should be signed and attested to by at least one testimony. This observer could be a relative of the captive or any sound member of the community where the detention is taking place.
- After a person is imprisoned or restricted by a police officer and taken into their authorised custody, such as a police station, investigation section, or any other centre, he or she has the basic right to notify any of his or her friends, family members, or relatives about his or her capture and the location where such person has been kept.
- If the captive's relatives, family members, or friends do not arise in the same location, the police officer must notify them within 8 to 12 hours of the arrest. The period of arrest, the location of arrest, and the location where the captive has been preserved in police custody shall be notified to them.
- The person detained has the right to notify a friend, relative, or family member as soon as he is taken into custody by officials.
- A paper shall be kept at the place of custody, where every detention made should be recorded accordingly, including details such as the identity of the person who has been communicated about the seize of the detainee and the name along with the title of the police units who is in charge of the arrestee's custody.
- On the arrestee's request, an inspection of the person detained's body should be performed to determine if he has any wounds or bumps. If such damage exists, it must be recorded in a register. A Scrutinynote must be signed by both the police officer who made the detention and the person who was detained.
- During his or her incarceration in police detention, the person detained has the right to have himself or herself medically examined by a qualified doctor every 48 hours.
- All of the above-mentioned documents and notes must be signed by all police officers involved in a specific arrest, and a copy must be given to the law office so that it can be kept on file.
- The individual detained has the right to access with a lawyer and to meet with the lawyer during the investigative process, but not throughout much of the examination.

### **REASONS OF WRONGFUL CONVICTIONS:**

- A lack of seriousness and efficacy in tracking and training leads to uncertainties, which lead to gaps in the examination and enclosing of the charge sheet.
- Destructive and embezzlement of evidence by the person entangled in the case, or in a few cases, the examination officer is found guilty of tinkering with the evidence.
- Complicating and creating ambiguity in the storey, as well as false individuals, makes the examination more prone to debacle.
- Wrong or fake admission taken under pressure and by the police examination officer.

- Dishonesty and political intrusion is also another prominent malpractice that led to wrongful conviction.
- Caste prejudices against people who are also unlawfully detained.
- Incapability of the eyewitness to identify the person responsible for the crime.
- Error of not paying enough attention by the police branch to the person with expert knowledge in a case.
- Incorrect or contaminated evidence
- False and manipulated scientific evidence

### **OBJECTIVE OF THE RESEARCH:**

- To identify the issues responsible for wrongful convictions by studying carefully selected Supreme Court decisions.
- To comprehend the issues and difficulties encountered by the exonerees during the trial phase at the lower court level.
- To develop a position on the exonerees' rights, recompense, and reintegration in light of the ill-treatment they endured.
- To create a criminal justice framework for preventing wrongful convictions and indicating specific mechanisms for exonerees' rights, recompense, and reintegration as a result of abuse suffered.

### **HOW CAN STATE UNDO THE HARM?**

If any right were to be sieved through the mesh of a democratic society that believes in the rule of law, it would be something very basic, really fundamental – the “Right to a Fair Hearing.” It is not only a lawful right, but also a clearly human right that every human possesses simply by virtue of being born as a human being. The right is critical in order to prevent people from being wrongfully punished for actions they never perpetrated.

### **PUBLIC LAW REMEDY**

In cases of miscarriage of justice due to wrongful convictions, public law remedy has its roots in India's constitution. Wrongful convictions violate India's Constitution's articles 21 (right to life and personal liberty) and 22 (protection against arbitrary arrests and illegal detention). In such cases, the aggrieved party may file a complaint with the Supreme Court or a High Court under Articles 32 and 226 of the Constitution, respectively.

Previously, maintaining law and order was regarded as a sovereign function. As a result, there was no compensation for the person who was wrongfully detained or imprisoned. However, in the Menaka Gandhi decision, the Supreme Court gave article 21.A dynamic interpretation was that the courts started to consider awarding compensation in cases of undue detention and bodily harm.

The Supreme Court awarded compensation to the petitioner who was wrongfully incarcerated for 14 years after his acquittal in the case of Rudal Shah v. State of Bihar. In the case of Devki Nandan v State of Bihar, the Supreme Court ruled that anyone who has been illegally deprived of his or her life or personal liberty can claim compensation from the Supreme Court for a violation of his or her fundamental right under Article 21.

In the landmark judgment it was stated that, the need to recompense victims was underlined. The damage, malice, or invasion caused by an illegal arrest and detention, according to the court, cannot simply be "washed away or wished away" by releasing the individual who was arrested or imprisoned. However, the court did not explain how the compensation to be given was determined.<sup>1</sup>

Though it has progressed as a judicial principle that the Supreme Court and the High Courts have the authority to order the State to pay compensation to the injured party as well as act as a warning to the wrongdoer in cases of wrongful incarceration, prosecution involving infringement or deprivation of a fundamental right, abuse of process of law, harassment, and so on, there is no set framework. Compensation for violations of fundamental rights in the aforementioned instances is a public law remedy, but the Indian Constitution makes no explicit provision for compensation.

### **PRIVATE LAW REMEDY**

A civil claim against the state for monetary damages is the private law remedy for erroneous acts of state authorities. Damages for tortious acts of public servants – particularly negligence by a public worker in the course of employment – have a public law remedy.

In one of the case<sup>2</sup>, the subject of the state's tortious liability was considered. The Supreme Court ruled in this case that the State was vicariously accountable for the hasty and negligent actions of a State official car driver who killed a pedestrian. However, in the case of Kasturi Lal Ralia Ram Jain v. State of U.P., where a suit was filed against the State of Uttar Pradesh seeking damages for gold ornaments lost due to the negligence of police officials, the Supreme Court applied the principle of sovereign immunity, stating that the government was not liable to pay damages because the government was not liable to pay damages because the police officers were performing a sovereign function.

In one the case<sup>3</sup>, it was stated that where criminal proceedings were brought against an accused for the purpose of tormenting him, the Court found the State liable to pay damages to the accused for his malicious prosecution by State workers.

Despite the existence of these alternative remedies, it has been noticed that in cases of illegal detention, unjust incarceration, and police/other investigative agency misconduct, the public

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<sup>1</sup> *Bhim Singh, MLA vs. State of J&K and others*

<sup>2</sup> *State of Rajasthan v. Vidyawati Mst.*

<sup>3</sup> *State of Bihar v. Rameshwar Prasad Baidya & Anr.*



law remedy under Articles 32 and 226 has been used more frequently than the civil law remedy. One of the reasons is that the aforementioned actions also involve violations of basic rights, for which this is the Constitutional remedy, which is also faster than regular civil proceedings. Furthermore, courts have stressed the public law remedy as a means of holding the government accountable for the activities of its officials.

## **CRIMINAL LAW REMEDY**

The applicable criminal law provisions focus on the other end of the miscarriage of justice, i.e. wrongdoers - the concerned public authorities, in terms of the remedy for false prosecution, detention on account of police and prosecutorial misconduct. These rules, which are found in the Indian Penal Code (IPC) and the Criminal Procedure Code (CrPC), define the substantive and procedural parameters of the actions that can be taken against wrongdoers.

### **1. INDIAN PENAL CODE'1860**

The IPC's Chapter IX, "Of Offences by or Relating to Public Workers," deals with offences that can be committed by public servants as well as offences that are related to them but not committed by them. The offence of obstructing the administration of justice is defined in Chapter XI, titled "Of false evidence and offence against public justice." The parts in these chapters jointly list offences that may involve police, investigative agencies, or prosecutorial misconduct in the course of an investigation, prosecution, trial, or other criminal action.

#### **• OF OFFENCES RELATING TO PUBLIC SERVANT**

Sections 166, 166A, and 167 are the primary sections that need to be addressed under this topic. Section 166 deals with public servants who disregard the law with the aim to injure others. To commit an offence under this section, the offender must be a public servant, (ii) there must be a legal direction that the public servant was bound to obey, (iii) the public servant must have knowingly disobeyed such direction, and (iv) the public servant must have intended to cause or knew it was likely to cause injury to a person by such insubordination.

The act of a public official creating an erroneous document with the aim to injure someone is covered by Section 167. To be charged under section 167, the public servant must also have known or suspected that he was incorrectly framing or translating the document, and that he did so with the intent or knowledge that he was likely to cause injury as a result.

"Public servant violating lawful direction" is the title of Section 166A. This section defines three types of derelictions of duty by a public servant that constitute an offence: public servant (a) knowingly disobeys any direction of law prohibiting him from requiring attendance at any place of any person for the purpose of investigation into an offence or any other matter; (b) knowingly disobeys, to the prejudice of any person, any direction of law

prohibiting him from requiring attendance at any place of any person for the purpose of investigation into any offence or any other matter. The punishment provided is minimum of 6 months rigorous imprisonment and maximum of 2 years, and fine.

Intentionally preparing a false/incorrect record by a public official with the aim to cause or knowing it to be likely to cause loss or injury to any person is punishable under Section 218 of the IPC. It encompasses faulty preparation or framing with the goal of avoiding legal punishment for a person or avoiding forfeiture or other charge for property. Section 219 of the Indian Penal Code deals with public servants who make false reports in judicial proceedings, among other things. Section 220 of the IPC is invoked when a person is detained on suspicion but with knowledge that it is illegal. If the detention of a person is illegal in and of itself, independent of the officer's legal power to detain, it would be an offence under section 220, IPC.

- **FALSE EVIDENCES AND OFFENCES AGAINST PUBLIC JUSTICE**

Section 191 deals with evidence that is deemed to be false. Misrepresentation of false evidence with the intent that such evidence appear in a judicial hearing and induce an erroneous opinion touching any point material to the outcome of such proceeding is punishable under Section 192 of the IPC. The giving and manufacture of false evidence, including with the aim to procure a conviction for an offence punishable by death or life imprisonment, is punishable under sections 193 to 195 of the IPC.

The next key part in the IPC is 211, which deals with miscarriage of justice resulting in unjust prosecution. It is an offence under this section if a person, with the aim to injure another, either (i) institutes criminal proceedings against that person; or (ii) falsely accuses him of having committed an offence, knowing that such proceedings or allegations have no reasonable or lawful basis. This law, as written, applies to anybody who commits an offence thereunder, whether public or a public worker.

- **CODE OF CRIMINAL PROCEDURE**

Judges and public servants are protected by Sections 132 and 197 of the Criminal Procedure Code against vexatious lawsuits arising from their conduct while executing a public role. While section 132 Cr. PC mandates government sanction for the prosecution of police officers for any act purportedly done under sections 129 to 131 Cr. PC, which deals with controlling an unlawful assembly that is alleged to have caused a breach of peace, section 116

requires that sanction be obtained from the Central or State Government before any criminal proceeding is initiated.

### **HUMAN RIGHTS COMMISSION**

The Human Rights Act of 1993 established the National Human Rights Commission (NHRC) and the State Human Rights Commission (SHRC). They have the authority to conduct investigations on their own initiative or in response to petitions for matters relating to human rights violations such as illegal detention, wrongful investigation, incarceration, and so on. However, the role of the NHRC or SHRC is limited to recommending to the relevant government or authority that victims be compensated or the wrongdoer be prosecuted.

Furthermore, the Act of 1993 expressly states that these recommendations are not binding on the government or any other relevant authority. Also, they don't empower the NHRC or SHRC to give directions to Government or authority in this regard.

### **CONCLUSION**

In any country, wrongful prosecution is a serious issue. Wrongful convictions are a tragedy for everyone involved, not just those who are directly affected. They erode the public's trust in our state's justice system and pose serious public safety concerns: When innocent people are imprisoned, the true criminals continue to commit crimes on the streets. As a result, a state should take the necessary steps to address the problem. A few of them are listed below.

There are simple reforms that can prevent tragedies of wrongful conviction, such as improving the quality of legal representation for the poor and improving the reliability of evidence in our courtrooms.

The procedure for identifying eyewitnesses should also be revised. There is sometimes the possibility of eyewitness misidentification. Only in cases where there is certainty should identification be considered. The witness should be properly recorded and examined by the appropriate authorities.

To reduce false confessions, the interrogation procedure should be conducted only in camera or properly recorded. Innocent people confess for a variety of reasons, including duress, ignorance of the law, and intoxication. Juveniles and people with mental disabilities are



considered vulnerable groups who are more likely to falsely confess. There are also forces that compel innocent accused people to plead guilty. As a result, a government should take measures to address the issue of false confessions.

It has become clear in recent decades that evidence gathered at crime scenes can have a significant impact on determining innocence. The Innocence Project (2013) discovered that 32% of closed cases with claims of innocence over a 10-year period were closed because evidence was lost or destroyed. The number of items that can be used in an individual's conviction or exoneration is growing exponentially as evidence-testing methods become more advanced. As a result, proper and careful evidence handling, tracking, and storage are critical for proving innocence both before and after conviction.

As a result, the state plays an important role in resolving the problem. Judicial reforms based on the 227th report of the Indian Law Commission are urgently needed. Furthermore, India should look to other countries that have passed laws to compensate victims. The primary goal of the state should be to establish a legislative process that provides victims with a transparent, uniform, efficacious, affordable, and timely remedy for the loss and harm caused by wrongful prosecution.

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