

# PUNISHING THE INNOCENT: ANALYSIS OF WRONGFUL CONVICTIONS IN INDIA

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## ABSTRACT

In the words of William Blackstone, "it is better that ten guilty persons escape than that one innocent suffer"[1]. One of the critical problems our country faces regarding the criminal justice system is the increased rate of wrongful convictions. As a result, more innocent people are incarcerated today compared to any other time in history. A comparison between the PSI reports of 2015 and 2019 shows that the population of prisoners under trial has increased by 1.8% over the last four years.[2] There is no criminal justice system in the world that is infallible. On top of all that, it has been observed that Indian courts are overburdened, resulting in long delays and unjustified situations for the parties involved. Access to justice also appears to be a distant reality for those who are marginalized or economically unstable. A victim of a wrongful conviction has to travel a shoddy journey from the police station to the courts, which violates their fundamental human rights several times a day. The question that stands before us is whether the government can reinstall all the lost years from the life of a victim wrongfully convicted. The government's failure to comply with natural justice principles and unjust, unlawful convictions present unique difficulties that must be addressed and analyzed. The paper describes the victim's perspective due to wrongful convictions and the criminal justice system's inability to deliver appropriate justice. Furthermore, the study examines and reviews the criminal justice system and its shortcomings. Judicial literature outlined in various landmark cases forms a significant part of this paper. Lastly, the study concludes by stressing the need for a uniform compensation legislative framework in India. Therefore, it is necessary to develop a better understanding of wrongful convictions and reduce or eliminate them to protect the innocent and society from ongoing victimization by criminals who remain free while innocent people are sent to prisons or even sentenced to death.

**Keywords:** *Criminal Justice System; Criminals; Judiciary; Victim; Fundamental Rights.*

## INTRODUCTION

India is a self-governing union governed by the rule of law, and it is governed by the Indian Constitution, which the people of this country have assumed. The rule of law demonstrates that the law is comprehensive and secure, as evidenced by legal authorizations that are constantly available and respond to people's wants and issues in a reasonable and unbiased manner. The financial assets and judicial system, which should track the practice of swift and fair justice, are utilized to measure a country's growth progress. Individuals have a set of fundamental rights guaranteed by our Constitution, which are fundamental human rights. The voyage for exactness is the institution of fairness delivery apparatus which seeks to encourage and safeguard the rule of law[3]. Wrongful conviction occurs when people who are innocent are found guilty in our legal system, notably in criminal instances. Defendants are coerced or compelled to plead guilty to a crime they did not commit in order to avoid the death penalty or life in prison. It also refers to when a jury convicts someone despite a good defense and when a court overturns a conviction, regardless of whether the defendant's factual guilt was obtained in violation of his constitutional rights. An injustice or miscarriage of justice occurs when an innocent person spends years in prison or on death row as a result of a wrongful conviction. This injustice occurs on a daily basis in Indian courts, raising serious issues about the criminal justice system's accuracy and impartiality. The administration of the criminal justice system continues to evolve in response to changing economic and social situations. It is the primary responsibility of the legal body to maintain the balance, criminal law that is concerned with social protection and encourages standards of conduct to be marked by everyone, and on the other hand, individual liberty, security, and firmness in the society or community[4]. The adjectival matching component of substantive criminal law is traditionally abstracted as criminal procedure. [5] It outlines the roles and legal norms for the application and enforcement of criminal law. The operational and formal portion of criminal law that dictates how the criminal justice system should be made effective and practicable is known as criminal procedural law. This important part of criminal law operates in every country because it is necessary for maintaining the rule of law by enforcing constitutional promises.

In the Indian context, records from the National Judicial Data Grid show that there are around 27.4 million criminal cases pending in the country's district courts [6]. 25 percent of these instances have been ongoing for more than 5 years [7]. This means that one out of every four criminal cases in India is languishing at the session court level for more than five years.

Furthermore, according to the National Crime Records Bureau's annual statistics report 'Prison Statistics India,' as of December 31, 2019, there were 3, 30,487 (69.05 %) under-trial detainees and 1, 44,125 (30.11 %) convicts in Indian prisons[8]. Due to the disproportionate pendency of cases at the session's court level, a large number of under-trial detainees in India may be imprisoned for 5 or more years, according to these data. This opens the door to unjustly detaining innocent people awaiting trial for long periods of time. Apart from being mistakenly imprisoned, some people may be wrongfully convicted by one or more courts, only to be exonerated by a higher court, while others may be wrongfully arrested and detained by the police. As a result, individuals who are wrongly persecuted, jailed, or convicted are basically innocent people who have suffered as a result of the state's illegitimate behaviour; a state that has stripped them of their dignity, personal liberty, and rights. As a result, the state must have a legal obligation to compensate these innocent people for their various social, economic, and legal suffering caused by unfair prosecutions, incarcerations, and convictions (to the degree that money can compensate).

### **EFFECTS OF WRONGFUL CONVICTIONS**

When a person is falsely accused, imprisoned, and convicted, it leaves a permanent mark on their lives. Reintegration into society following release or acquittal is incredibly difficult due to the loss of valuable and irreversible time and years of one's life, as well as the psychological and economic obstacles that the victim faces. In a study conducted on the psychological impact of wrongful imprisonment by Professor John Wilson of Cleveland State University, it was discovered that most exonerates encounter multiple and distinct psychological disorders following their incarceration and these disorders appear to evolve along a continuum as time drags on [9]. Upon arrest, the initial emotional reactions are shock, fear, disavowal, and disbelief[10]. There is a sense of unreality about the situation[11]. Further, the sense of injustice develops in the victim which leads to a deep psychological impact and leaves a permanent psychological injury[12]. The feeling of loss of freedom, abandonment by humanity and god, loss of identity and dignity, shame, fear, rage, etc. lead to a traumatic experience for the victim; thus, leading to the development of Post-traumatic stress disorder (PTSD), anxiety, depression, obsessive-compulsions, phobias, and paranoia as adaptations to the wrongful conviction, incarceration, and prosecution[13]. Apart from psychological effects, there may be other varied

effects on the person like damage to health, loss of income or earnings, loss of property, costs of legal fees, and other consequential expenses resulting from the wrongful prosecution, loss of family life, loss of opportunities (of education, of possibilities of livelihood, future earning abilities, skills), stigmatization and harm to reputation, psychological and emotional harm caused to the accused's family[14].

One may even look at real-life examples of persons who have suffered unnecessary pain as a result of the government's wrongdoings. One such example is of Political activist Anjum Zamarud Habib (from Kashmir), who, in her book 'Prisoner No. 100: An Account of My Nights and Days in an Indian Prison[15]', gives an account of her tormenting experience of being imprisoned for 5 years before being released by the Delhi High Court[16]. Her statement 'I am a free person today but the wounds and scars that jail has inflicted on me are not only difficult, but impossible to heal' [17] gives an insight into the seriousness and permanence of the detrimental after-effects of wrongful prosecution, incarceration, and convictions. Furthermore, the incident involving Assam's Madhubala Mondal, who was wrongfully detained for three years in Assam as a result of "mistaken" identity [18] by the police, is just another horrific example of the detrimental impact of illegal detention and imprisonment on the victim, as well as the subversion of victims' life and liberty as a result of wrongful prosecution, jail, and convictions. With no income, lodging, conveyance, comfort, or advertising, and with a negative identity record that, despite innocence, is rarely cleaned, the charge of being accused lingers even after the pardon [19]. Given all of the negative effects of the state's wrongdoings, it is all the more important for the state to right the wrongs it has committed and assist the victim in reintegrating into society. In such instances, the state's compensation becomes even more important.

## **WRONGFUL CONVICTION IN INDIA**

The Indian Constitution establishes a remedy for unlawful prosecution, imprisonment, or conviction. Such improper conduct by the state can be viewed as a breach of fundamental rights under Article 21[20] (protection of the right to life and liberty) and Article 22[21]. (Protection against arbitrary arrests and illegal detention etc.). Victims of such violations of fundamental human rights may seek compensation from the Supreme Court and the High Courts under Articles 32[22] and 226[23] of the Constitution, respectively, by submitting a writ petition.

Such restitution, however, is not officially addressed in the constitution. Furthermore, when India joined the International Covenant on Civil and Political Rights (1966) in June 1978, the Indian government issued a proclamation stating that 'Under the Indian legal system, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State'[24].

Nonetheless, the Supreme Court has created compensating jurisprudence via multiple previous cases, and compensation has therefore been recognised as a public law remedy for constitutional rights violations, such as arbitrary incarceration and detention. **Rudal Sah v. State of Bihar**[25] was the pivotal case that established the precedent of granting compensation through the exercise of writ jurisdiction in circumstances of unlawful incarceration. In this case, the petitioner was wrongfully incarcerated for 14 years, and the Supreme Court, while giving the petitioner Rs. 30,000 in compensation for violations of Articles 21 and 22 of the Constitution, found that- '*One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation.*'[26]

Following that, in **Bhim Singh, MLA v. State of J & K & Ors**[27], the Supreme Court awarded a sum of Rs. 50,000/- as compensation for the unlawful detention of an MLA who was intentionally prevented from attending a session of the Legislative Assembly by arresting him and illegally detaining him in police custody, thus violating his constitutional rights under Article 21 and Article 22(2). The court stated that - '*When a person comes to us with the complaint that he has been arrested and imprisoned with mischievous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free. Inappropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation.*'[28]

Former ISRO scientist Nambi Narayanan was given compensation of 50 lakhs in the recent case of S. Nambi Narayanan versus Siby Mathews & Others Etc. [29], 24 years after he was wrongfully held on grounds of disclosing state secrets to a spy network. In various judgments, the Supreme Court has attempted to narrow the scope of circumstances covered by the remedy of paying compensation for violations of Article 21.

The petitioner in *Sube Singh v. the State of Haryana* [30] alleged illegal detention, custodial torture, and harassment of his family member; however, the supreme court in this case did not award any compensation due to the lack of clear and incontrovertible evidence, and established the proposition that compensation is not to be awarded in all cases of Article 21 violations.

Nisarudin (then 19 years old) was arrested by the police authorities in October 1993 for bombing an educational institution. He was 'sentenced to life' by the Terrorist and Disruptive Act (TADA) court in Ajmer on Feb. 28, 2005, only to be later exonerated by the Supreme Court on May 11, 2016, on the ground of inadmissibility of confession given by him in police custody [31]. Due to the combined carelessness of the judiciary and the government, the guy lost '23 years' of his life. He received no remuneration from the court. He became poor, and his financial situation made it impossible for him to file a claim for compensation.

The Supreme Court acquitted the accused defendants who had been imprisoned for over ten years in the case of *Adambhai Sulemenbhai Ajmeri & Ors. v. State of Gujarat* [32] 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.' [33] The Supreme court further noted that the '*Instead of booking the real culprits responsible for taking so many precious lives, the police caught innocent people and got imposed the grievous charges against them which resulted in their conviction and subsequent sentencing.*' [34] However, the Court did not award any compensation to the victims in this case. Further, the victims filed a separate appeal in the Supreme Court demanding compensation from the state for their wrongful incarceration. However, the Supreme Court rejected the appeal for compensation on the grounds that acquittal by a court did not automatically entitle those acquitted to compensation and if compensation is to be awarded for acquittal, it will set a '*dangerous precedent.*' [35]

As a result, while the Supreme Court has taken significant efforts and made significant progress in developing compensatory jurisprudence to offer recompense to victims of unjust prosecution, detention, and convictions, this remedy is not available to everyone. It is a remedy determined and decided on a case-to-case basis depending on the facts of each case, the disposition of the court hearing the case, etc. which, in turn, makes this remedy arbitrary, episodic and indeterminate. [36]

## **PUBLIC LAW REMEDY**

The public remedy guaranteed by the Indian Constitution in the case of erroneous conviction is available in the event of a miscarriage of justice. The right to life and personal liberty is guaranteed by Article 21 of the Indian Constitution, while Article 22 protects against arbitrary arrests and illegal incarceration, both of which are violated by the practice of false conviction. In this case, the aggrieved party may file a complaint with the High Court under Article 226 of the Supreme Court under Article 32 of the Indian Constitution. *Rudal Shah v. State of Bihar*, *Khatri v. State of Bihar*, *Boma Chara Oraon v. State of Bihar* were all decided by the Supreme Court. In *Bhim Singh, MLA v. State of J&K & Ors.*, and *SAHELI, A Women's Resources Center & Ors. v. Commissioner of Police Delhi*, the state was found accountable for the atrocities and given compensation. The most important case in recent years is *Nilabati Behera v. State of Orissa*, in which the court decided that compensation awarded in writ proceedings constituted a remedy under public law, based on the concept of strict accountability for violations of basic rights. In *Ram Lakhan Singh v. State Government of Uttar Pradesh* [37], the Supreme Court decided that unfair prosecution is an infringement of an individual's basic right. It's a violation of the legal system. As a result, in such a circumstance, the courts have the authority to require the State to pay compensation to the injured individual in order to rehabilitate him and establish a deterrent example.

Despite the fact that the Supreme Courts and High Courts have resolved several cases, there is no clear framework for establishing the merits of a right to compensation or the amount of compensation to be paid. The Indian Constitution does not clearly allow for compensation as a form of public recourse for violations of basic rights. The courts have developed this paradigm. It's a remedy that's assessed on a case-by-case basis, so it's very reliant on the facts and circumstances of each instance. As a result, this cure might be haphazard, intermittent, and indefinite.

## **PRIVATE LAW REMEDY**

In the case of private law, the monetary damages are given to the victim by the state when an act that is not appropriate is committed by the state officials. In the case of *State of Bihar v. Rameshwar Prasad Baidya & Anr*, it was held that the state will be liable for the malicious

prosecution done by the state employees and should pay the damages to the accused of harassing him during the criminal proceedings.[38]

In *Kasturi Lal Ralia Ram Jain v. State of U.P.*, Supreme Court held that when a suit is filed against the state officials or police officers for the damages and loss faced by the victim due to their negligence then the principle of Sovereign immunity will apply which means the government officials will not be held liable to pay the compensation because they were performing the sovereign function.[39] The constitutional remedy, which is a remedy under Articles 32 and 226 to restore their rights, is superior to the private remedy because the constitutional remedy is faster than the civil suit processes, which take less time.

### CRIMINAL LAW REMEDY

The offences committed by public servants are dealt with under Chapter IX of the IPC. It also covers offences that aren't committed by public workers but are related to them. In addition, Chapter XI discusses false evidence and crimes against public justice, as well as obstruction of justice. In addition, any instances of interference with the investigation, prosecution, trial, or other criminal procedures by the investigative agency, such as police officers and prosecution, are punishable.

In order to get evidence and confessions, police and investigative agencies frequently tamper with evidence and utilize harsh methods. These frequently result in erroneous convictions, and innocent people spend years in prison.

The Delhi High Court in *State v. Mohd. Naushad & Ors*[40], in its order noted that the police showed casualness and callousness and there have been grave lapses by the police authorities and the entire investigation done in an all betraying a slipshod approach. The court held that the police officials must be punished for bad investigation techniques which resulted in a mistake in the presumption of guilt and the entire case going to haywire.

In *Mohd. Jalees Ansari & Ors. v. Central Bureau of Investigation*[41] the accused had been taken into police custody in the year 1994, then booked for a bomb blast in Hyderabad under



the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA), and subsequently for bomb blasts again in 1993. A confession was made to the accused and he was sent to a prison in Ajmer, where he spent the next 23 years during which a TADA court convicted him and gave him life sentence. In 2016, the matter reached the Supreme Court, wherein the court overturned the TADA court's decision, ruling that the confession was not true and taken under duress and being the sole basis of the conviction didn't have legal sanction and was inadmissible. Finally, after 23 long years of wrongful imprisonment, Nissarudin was exonerated of all charges. [42]

## CONCLUSION

The Indian courts have developed rich compensation jurisprudence for victims of unfair prosecution, detention, and convictions via a number of major decisions. However, there are several flaws in the existing system, since the decision to award compensation and the amount of compensation is still left to the discretion of the court. Furthermore, the remedy of compensation puts an ex gratia responsibility on the State to compensate, rather than a legislative requirement.[43]

The Law Commission of India in its 277th report titled 'Wrongful Prosecution (Miscarriage of Justice): Legal Remedies' [44]discussed at length the need for legislation that creates a statutory obligation on the state to compensate the victim for wrongful prosecution, incarceration, and convictions. The wrongful prosecution standard is identified by the report as the appropriate standard to approach the issue of compensation, that is, cases in which the accused was not guilty of the offence but the police and/or prosecution engaged in some form of misconduct in investigating, charging, and/or prosecuting the person.

Although the research is thorough enough to address all aspects of victim compensation in its recommendations, it overlooks the reality that a protracted court struggle has an impact not only on the victim but also on his or her family. In this case, immediate family might include anybody who is blood related to the victim and is severely and negatively impacted by the loss of the victim's firm. Even Though monetary compensation for the victim's immediate family's

suffering appears to be an unfair demand on state resources, non-monetary rewards such as counseling and mental health services should be made available to the victim's family.

To summarize, Indian courts are overburdened with a massive number of criminal cases, making it even more critical for the government to protect the rights of innocent people. Although the state cannot compensate the victim for lost years, family life, opportunities, and so on, it can help the victim reintegrate into society by providing monetary and non-monetary benefits. As a result, before implementing laws on the topic, the Indian legislature must first approve the various proposals provided by the Law Commission of India in its 277th report. Second, the legislative structure must contain provisions for non-monetary incentives to victims of wrongful prosecutions, incarcerations, and convictions. Third, non-governmental organizations must take the lead in aiding victims of such unfair conduct in contacting the appropriate courts and exercising their rights. Only by implementing all of these reforms in the Indian socio-legal framework can we expect a change in the country's existing terrible and horrible situation.

## ENDNOTES

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