

## Remedies for Wrongful Convictions in India

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**Abstract:** India recognises that wrongful imprisonment is among the worst forms of injustice. The author provides an analysis of the factors that contribute to this injustice in India, including the nature of our judicial system and the evolution of the legislation on this topic as a result of several cases. It draws attention to the injustices of our court system and the misery of those who were wrongfully convicted. At the conclusion of the article, the author warns us about the urgent need for judicial adjustments and reiterates the importance of the State protecting people's rights. Possible remedies under public law, private law, and criminal law were also discussed. Eyewitness confusion is the leading cause of wrongful convictions, followed by faulty forensics, false confessions, official misconduct, the use of informants, and ineffective defence. These factors contribute to an alarmingly high rate of wrongfully convicted individuals. The author of this paper discusses India's legal recourse for erroneous convictions.

**Keywords** – Wrongful conviction, Administration of justice, Indian Constitution, Public Law, Private Law, Criminal Law

### Introduction

The judicial system in India does not provide any recourse for falsely accused individuals. However, the same may be requested via the High Courts' writ authority under Article 226, or through the Supreme Court's writ jurisdiction under Article 32. This article focuses on the techniques the state adopts, depending on the context, to avoid a miscarriage of justice. Two percent to ten percent of prisoners doing time for wrongful convictions in American jails really are innocent. According to the National Registry of Exonerations' 2019 annual report on false convictions, the rate of incorrect convictions is between 2% and 10%. Though the *Fiat Justitia ruat coelum* concept serves as the cornerstone of our justice system in India, many innocent people are wrongfully convicted and prosecuted every year. The problem of why so many innocent persons are wrongly imprisoned and so many criminal people are exonerated highlights concerns of unfairness and imbalance in the judicial system. Tactics that may be seen as a sort of justice have altered the grounds of erroneous conviction and procedures connected to criminal justice in one way or another.

False convictions are harmful to society as a whole and to the integrity of the justice system, hence they must be stopped. Thus, innocent people will gain and national peace and harmony will be maintained if the State utilises these techniques to address the problem of wrongful conviction. These wrongful convictions may trigger a cascade of further problems since they include persons who did not commit the crime. Where will the line be drawn between the wicked and the innocent?

A false conviction occurs in the Indian legal system when an innocent person is found guilty of a crime they did not commit. In addition, until the accused's guilt has been proven, no penalty will be meted out. They're completely at odds with one another. Do people return to their previous ways of life after being wrongly incarcerated for no reason and serving out their sentence? Not at all; not at all. Once someone is incarcerated, society labels them as criminals regardless of their guilt or innocence, which creates difficulties in their everyday life. It is impossible to change someone's reputation or undo the time they spent behind bars.

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Since India employs an inquisitorial system, the burden of proof is with the government to show that the accused is really guilty. Sometimes, in the name of justice, the wrong person ends up on the receiving end of the sentence.

There should be no harm done to any innocents, even if hundreds of murderers are let free, as the ancient adage goes. Yet, sadly, because of a lack of accessible and efficient alternatives, individuals are compelled to suffer in jail for lengthy periods of time, highlighting the shortcomings of India's criminal justice system.

Convicted wrongfully people face professional, emotional, and social repercussions. Any time spent behind bars is unpleasant, but for someone who was wrongfully convicted of a crime, the process of reentry into society after serving time may be far more traumatic. The United States leads the world in the amount of study dedicated to the topic of wrongful convictions. More than 2100 persons were wrongfully convicted and then exonerated between 1989 and 2017, according to the figures.

The practise of false conviction results in a miscarriage of justice, and the law should prohibit it using various remedies to guarantee that justice is administered fairly and reasonably, as was decided in the case of Babloo Chauhan v. N.C.T. Delhi.

Miscarriage of justice was found to have happened in the case of Ayodhya Dube & Ors. V. Sumar Singh due to the court's and prosecution's inability to properly evaluate key pieces of evidence, to take a judicial approach, and to apply the appropriate thought.

Since the concept is shrouded in mystery, many people in India don't know what life is like behind bars. Inmates' basic human dignity may be threatened if they are denied access to necessities like adequate personal hygiene facilities. Those who are wrongfully convicted, on the other hand, have difficulties and may even lose trust in the legal system. India has not yet devised a suitable strategy to rectify the situation of unfairly accused citizens. Defendants in numerous high-profile cases in India have been found guilty at first, only to later be found not guilty. Here are a few examples:

A 59-year-old Assamese woman named Madhubala Mondal was wrongfully incarcerated for three years without a trial or a conviction. She allegedly wasn't who the police assumed she was. What this mostly shows is that the Indian criminal justice system needs greater accountability.

Six individuals involved in the Akshardham terror case filed a joint claim for compensation for their unlawful detention, but the Supreme Court denied it. After almost a decade in court, the same judge finally declared them innocent.

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Police personnel fabricated evidence leading to the conviction of the accused in *State v. Saqib Rehman and Others*, according to a court ruling. There were no consequences for any party involved in this event, either the claimant or the police officers.

*Hussainara Khatun and Others v. Home Assistant State of Bihar* is a petition for a writ of habeas corpus filed with the Supreme Court that paints a dismal picture of undertrials in Bihar. The Supreme Court has ruled that access to a speedy trial is fundamental to the fair administration of justice in any given country.

### FACTORS THAT LEAD TO WRONGFUL CONVICTIONS

Evidence suggests that there are several causes of incorrect convictions.

- To a greater extent, the rules and laws favour the defendant if he is younger.
- If the wrongly convicted individual has a criminal record that gives the court reason to be wary about reversing the verdict.
- The prosecution's case is weaker whenever the prosecution withholds material that might be helpful to the defence.
- When they are lying and using a non-eyewitness, which, depending on the circumstances, may not need much proof.
- Witness misidentification, even when unintentional, may result in a false conviction.
- When the forensic evidence is distorted at trial.
- When the defence side or the defence as a whole is so poor that it can't provide enough evidence to counter the opposing side.
- To what extent this applies, however, depends on the specifics of the case at hand, especially if the defendant plans to present a family member as a witness.
- Depending on the individuals involved and the specifics of the situation, the weaker side may emerge victorious due to government malfeasance.

### Remedies available under Law

Numerous case comments, judgements, and law commission studies debate wrongful conviction, but no act or legislation provides explicit or relevant law on the subject. Despite this, there are no reparations systems or legal procedures that reliably achieve fair judgements and penalise just the perpetrator.

Existing court-based remedies exist for cases of alleged miscarriage of justice. Here are some legal options for redress::

- Public Law Remedy
- Private Law Remedy
- Criminal Law Remedy

### Remedies Available Under Public Law

If a person is wrongfully convicted in India, they are entitled to the public remedy guaranteed by the country's constitution. False conviction violates the rights to life and personal freedom guaranteed by

Articles 21 and 22, as well as the prohibitions against arbitrary incarceration and arrest, in the Indian Constitution. Both the High Court and the Supreme Court of India are available to anybody who feels they have been wronged, under Articles 226 and 32 of the Indian Constitution.

The Supreme Court of India has interpreted Article 21 of the Indian Constitution broadly and dynamically to keep the peace as a function of the sovereign, as no compensation had ever been given to a person who had suffered a loss due to a wrongful conviction before the *Maneka Gandhi v. Union of India* case.

*Bhim Singh, MLA v. State of J&K and Others* is another case where the court recognised the need of victim compensation but was unable to determine an appropriate amount.

As a result of the Supreme Court's decision to exonerate the defendant in *Rudal Shah v. State of Bihar*, the victim, who had been unlawfully incarcerated for 14 years, has been awarded damages.

When a person is wrongfully convicted of a crime—for example, for violating a person's right to due process or freedom from cruel and unusual punishment—the Supreme Court and High Courts may issue restitution orders against the State to compensate the victim and punish the perpetrator. On the other hand, there is no fixed formula for calculating such a sum.

### **Remedies available under Private Law**

If a public servant does something wrong, the state will pay the victim monetary damages under private law.

According to the verdict in *State of Bihar v. Rameshwar Prasad Baidya & Anr.*, the state is responsible for the malicious prosecution conducted by state employees, and the state must compensate the accused for the harassment he endured throughout the criminal proceedings.

The Supreme Court ruled in *Kasturi Lal Ralia Ram Jain v. State of U.P.* that a victim who incurred losses or damages due to the carelessness of state officials or police officers may not file action against such individuals under the concept of sovereign immunity. Those in authority would be exempt from having to cover the costs of the losses since they had been incurred while acting in their official capacities.

The constitutional remedy is superior to the private remedy for restoring rights since it may be implemented more quickly than the civil suit processes. Articles 32 and 226 provide for this remedy.

### **Remedies available under Criminal Law**

While other criminal statutes may have provided relief in the event of an unfair trial, an incorrect conviction, or wrongful imprisonment, this law is concerned only with the possibility of a miscarriage of justice. The Indian Penal Code (IPC) and the Criminal Procedure Code (1973) include relevant provisions, outlining the substantive and procedural legislation for the activities of the criminal or those initiating legal action against them, respectively.

### **Indian Penal Code,1860**

Chapters IX and XI of the IPC address the presentation of false evidence and crimes against public justice, as well as offences related to public employees but not committed by them. A list of crimes that may result in misbehaviour by police, investigative agencies, and prosecutors during investigations, etc. Is compiled from the parts of these chapters.

Of Offences relating to Public Servant

Sections 166, 166A, and 167 all apply to this discussion.

- Section 166, which addresses public servants who break the law and harm others.
- Making a false document that ends in hurting someone is covered under Section 167.
- The three types of lawlessness committed by public officials that are addressed in Section 166 A
- The deliberate production of a false or wrong record by a public officer with the aim to cause damage or harm to any person is a crime under Section 218 of IPC,1860.
- Corruption in the production of a report by a public worker in a legal process is addressed under Section 219 of the Indian Penal Code, 1860.
- Section 220, Indian Penal Code, 1860 makes it an offence if the imprisonment of a person is illegal.

False Evidence and Offences against Public Justice

From Section 191 through Section 195 of the IPC, we learn about the consequences of providing fabricated or otherwise false evidence in a legal procedure, as well as providing an inaccurate opinion on any subject that might have an impact on the outcome of that proceeding. The punishment for the aforementioned crimes committed to get a conviction for a crime carrying the death penalty or a sentence of life in prison is also discussed.

- With relation to a false conviction and the possibility of a miscarriage of justice, Section 211 of the Indian Penal Code, 1860 is also crucial.

Code of Criminal Procedure

- Sections 129–131 of the Criminal Procedure Code of 1973 address the regulation of unauthorised assemblies that are suspected of having resulted in a disturbance.
- The provisions of Sections 132 and 197 of the Criminal Procedure Code of 1973 serve to protect judges and public workers against frivolous lawsuits filed in response to their acts in the performance of their official duties.
- According to Section 116, a police officer who is accused of committing a crime while on duty is not subject to criminal prosecution without prior approval from either the Central or State Government.
- The compensation due to a person who was wrongfully arrested is addressed in Section 358.

### **Conclusion**

Misconduct in the court system leading to wrongful convictions is a serious problem that requires immediate attention. The innocent being wrongfully convicted is not a coincidence nor a tragedy; rather, It occurs when one party to a dispute fails to see the significance of a particular set of facts or

circumstances, either intentionally or unintentionally. As a result, public trust in the judicial system suffers, and the legitimacy of our criminal justice system is called into question when good individuals go to jail and bad ones go free. Consequently, the state must implement the necessary measures to solve the issue. Many easy changes may be made to increase the reliability of evidence in our courts, provide suitable eyewitnesses, employ the correct manner of identification and questioning when required, and so on, all of which would help reduce the number of tragic cases of false conviction.

One possible conclusion is that governmental involvement in problem-solving is crucial. This scenario necessitates judicial changes in accordance with the 227<sup>th</sup> Report of the Indian Law Commission. India can take a page out of other countries' books and figure out how to deal with wrongful convictions, either by ensuring that they never happen or by compensating those who do in the same way that other countries do. The State's first priority should be the establishment of a legislative procedure that is fair and produces a remedy that is open, uniform, effective, cheap, and prompt in compensating victims for the harm done to them by an unfair trial and conviction. Prominent proposals include expanding access to DNA testing after a person's conviction, limiting the use of prisoner informants as witnesses, and finally bringing corrupt prosecutors and police responsible (who nearly always face no consequences for taking the lives of their Black and Brown people). Researchers have shown that wrongful convictions have a detrimental economic effect on the whole criminal justice system. Instead of paying attention to and disregarding potentially exculpatory evidence or enlisting an eyewitness to corroborate their story, they do neither.

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