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Flawed From the Start: How Investigative Errors Defeat Due Process

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ABSTRACT

Despite constitutional safeguards designed to protect the rights of the accused, India's criminal justice system faces a systemic crisis of wrongful convictions. Recent high-profile exonerations—such as the acquittals of twelve accused in the 2006 Mumbai train blasts and seven in the 2008 Malegaon blast—have thrust these failures back into the public discourse. These cases expose critical procedural lapses, compromised investigative integrity, prosecutorial misconduct, and severe systemic delays that ultimately render justice elusive. This paper examines the multifaceted nature of wrongful convictions, analyzing miscarriages of justice under both general criminal statutes and stringent special legislation. It delves into the structural catalysts behind these failures, specifically evaluating how institutional pressures drive police misconduct and coerced confessions. Finally, the paper addresses the legislative vacuum regarding state accountability, focusing on the unimplemented compensation framework proposed by the Law Commission of India in its 2018 report. The paper concludes by advocating for targeted legislative and institutional reforms to restore due process at the foundational stage of criminal investigations.

Keywords: *Wrongful Convictions, Due Process, Procedural Lapses, Faulty Investigation, Compensation for Wrongfully Convicted.*

I. INTRODUCTION

Consider the trajectory of an individual with an entire life ahead—filled with the passion to build a career, establish a family, and enjoy fundamental personal liberties—only to have those aspirations completely shattered in an instant. To be arbitrarily arrested, wrongfully convicted of a crime one did not commit, publicly branded in a courtroom with vilifying labels such as "rapist" or "murderer," and sentenced to life imprisonment or capital execution represents the ultimate systemic nightmare. In societies that textually value and seek to protect individual liberty, the incarceration or execution of the innocent stands as a catastrophic failure of the rule of law. In societies that value the freedom of their citizens and have done so much to protect that freedom, being convicted of a crime that one did not commit, and being incarcerated with

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criminals and even put to death, represents one of the worst nightmares imaginable.¹

The strength of the criminal justice system is fundamentally tied to its accuracy, its ability to convict the guilty and to clear the innocent. The institutional integrity of any criminal justice system is fundamentally tied to its accuracy, specifically, its capacity to convict the guilty while cleanly exonerating the innocent. Jurisprudentially, the Indian adversarial system is anchored in Herbert Packer's Due Process Model, which prioritizes reliability over mere administrative efficiency.² This is in sharp contrast to the Packer's second model, namely, the Crime Control Model, where the repression of criminal conduct is seen as the most vital function of the process via high rates of conviction. Because India embraces the due process framework, the presumption of innocence remains a cornerstone of its adversarial legal system, requiring the prosecution to prove guilt beyond a reasonable doubt. Consequently, the accused must have access to robust legal defenses throughout the proceedings until guilt is strictly established. The fairness of a legal system is evaluated not merely by its final outcomes, but by the thoroughness, diligence, and procedural rigor of its mechanisms. A just system actively seeks to rectify the inherent power imbalance between the state and the accused, thereby maintaining its institutional legitimacy.³

The phenomenon of wrongful conviction, often termed a miscarriage of justice, represents a profound failure of these principles, pointing fingers towards the criminal justice administration.⁴ It occurs when an innocent person is declared guilty and sentenced to jail. *Duhaime's Law Dictionary* defines wrongful conviction as "the conviction of a person accused of a crime when the outcome of the later inquiry demonstrates that the original conviction was erroneous."⁵ Once the system acquits a person, declaring innocence is innocent for all; similarly, once a person is convicted for an offence are considered guilty for the entire life. This is because criminal law comes with a label, stigma. But what if such a decision is wrong or taken arbitrarily, and what if a death sentence is passed against such an innocent? Will it be reversible?⁶ A mistake by the system, which is there to ensure justice, can ruin the entire life of

¹ *Ibid.*

² Herbert L. Packer, "Two Models of the Criminal Process" 113(1) *University of Pennsylvania Law Review* 1-68 (1964).

³ *Ibid.*

⁴ Priyanshee, "Wrongful Conviction: The Tale of Victimisation" 2(2) *Indian Journal of Integrated Research in Law* 1-18, available at:

<https://ijirl.com/wp-content/uploads/2022/03/WRONGFUL-CONVICTION-THE-TALE-OF-VICTIMIZATION.pdf> (last visited on Nov. 12, 2025).

⁵ The *Duhaime's Law Dictionary*.

⁶ The violation of human rights is the restriction on the freedom of movement or of one's thoughts or to one's privacy to which humans are legally entitled. One of the significant human right violations is arbitrary arrest and detention of someone by the state or government authorities. In such kinds of human right violation, the wrong is solely done on the part of state as state does nothing to prevent or protect the happening of such Mishap.

an innocent, which not only restrains the liberty and privacy of such a person, but also makes his family subject to humiliation and criticism in society. The Universal Declaration of Human Rights, 1948⁷, enumerates the concept of wrongful conviction as a direct infringement of the human rights of an individual.⁸ The consequences are not only at the individual or his family, but also it whole community, which has to bear the brunt of wrongful conviction. James Frank⁹ highlights three primary concerns about wrongful convictions. *First*, the concern for individual justice, the belief that all law-abiding people should be free of oppression from the criminal justice system, makes wrongful conviction repugnant to the citizens. *Secondly*, concern for public safety, when a wrongfully accused individual is convicted of a crime, necessary to understand that he is being convicted in place of the person who committed the offence. Therefore, for every wrongful convicted, there is a corresponding real accused who has not been brought to justice and who may be continuing to commit a crime in the community. *Third*, wrongful conviction is a concern to many people because it undermines public confidence in the criminal justice system and citizens alike in the ability of the criminal justice system to identify criminals and achieve justice.

Therefore, the initial question pondered whether the phenomenon of wrongful conviction in reality occurs or not; however, recent revelations concerning the past several decades have shown that such a phenomenon does occur. Now the question of concern is how frequently the phenomenon occurs and why it occurs. In the absence of a domestic registry of wrongful convictions in India, the Project 39A in its important work on the death penalty. It's compiled data between 2016 and 2023, recording 222 death penalty cases where the high courts have acquitted the accused, and another 27 cases where the high courts have acquitted the accused.¹⁰ As number reflects that the phenomenon, which was unrealistic for society, is on the rise, and scientifically speaking, we don't know how many people sitting in our prisons who are factually innocent.¹¹

Coming to the next question, why wrongful conviction? Wrongful conviction can occur in two ways: *first*, the person convicted is factually innocent of the charges, and *second*, there were

⁷ The Universal Declaration of Human Rights, 1948.

⁸ *Supra* note 5.

⁹ Rober J. Ramsey and James Frank, "Wrongful Conviction Perceptions of Criminal Justice Professionals Regarding the Frequency of Wrongful Conviction and the Extent of System Errors" 53(3) *Crime and Delinquency* 436-470 (2007), *available at*: <https://journals.sagepub.com/doi/10.1177/0011128706286554> (last visited on Nov. 12, 2025).

¹⁰ "Death Penalty in India, Annual Statistics Report 2023" (Project 39A, National Law University, Delhi), *available at*: <https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/65c4dc6e358e487887b16487/1741284579076/Annual+Statistics+2023+-+Digital+Copy.pdf> (last visited on Nov. 10, 2025).

¹¹ *Ibid*.

procedural errors that violated the convicted person's rights.¹² The innocent person who is behind bars is a "SCAPEGOAT" in the criminal justice system. The "SCAPEGOAT" is punished due to the faulty judicial process. That fault may be from the side of the police, or prosecutor, or the court itself.¹³ This paper examines the profound impact of procedural errors in criminal investigation, which can violate the rights of individuals and lead to wrongful convictions for the crimes they did not commit. The paper analysis is structured in two parts, addressing distinct contexts of wrongful convictions.

The first part of the paper focuses on wrongful convictions under general laws, such as rape, murder, etc., where the principle of fair trial is of paramount importance. However, despite the rigorous standards, investigative errors, such as the mishandling of evidence, improper forensic investigation, and the implantation of false evidence, have led to the conviction of innocent individuals. Further analysing wrongful convictions in special criminal laws related cases, where investigative loopholes and deviations from the general standard of criminal law principle (as the anti-terrorism empowers the investigating person more power, due to the seriousness of the offence) exacerbate the risk of unjust outcomes of wrongful conviction.

The second part of the paper focuses on the crucial issue of remedial justice for victims of wrongful convictions. Highlighting a critical gap in the Indian legal system, particularly the statutory provision about remedy and compensation for the victims of wrongful convictions. Making the redressal not a legal right but a matter of judicial discretion, leaving various victims of wrongful convictions unremedied. This part also delves into foreign jurisdictions' best practices and recommendations of various reports and commissions, suggesting possible reforms which can be made in our present system.

By examining these two dimensions, the paper aims to underscore the systematic flaws in the investigation process leading to wrongful convictions. Further, the paper will highlight the consequences of wrongful conviction on the accused, the victim, and society at large, and the urgent reforms required to ensure that the principles of justice, fairness, and due process are upheld.

II. WRONGFUL CONVICTIONS DUE TO FAULTY INVESTIGATION

"It is better that ten guilty persons escape than that one innocent suffer."

¹² Smith Earl and Hattery Angela J., "Race, Wrongful Conviction and Exoneration" 15(1) *Journal of African American Studies* 74-94 (2011).

¹³ Waiphot Kulachai, "Miscarriage of Justice in Thailand" 16(1) *Journal of Multidisciplinary in Social Sciences* 1-12 (2020).

The moment a criminal case is reported, the state machinery comes into action, as crime is considered a wrong against the state. The state, with its full force, takes upon itself to avenge the crime committed against the victim by booking the guilty and producing them before the courts, which are presided over by neutral and impartial judges who decide the guilt and award adequate punishment as per the law.¹⁴ Objectives of such punishment are several; however, two main objectives are *firstly* creating deterrence in society and *secondly* to ensure the safety their safety. The first role in this process is that of the investigation agency, i.e., the police, which collects evidence by conducting proper investigation and arrests the accus.¹⁵ The adequacy of a police investigation is crucial, as it not only assures whether police will discover the true culprit of a crime, but also whether police will mistakenly believe they have discovered the true culprit of a crime. Investigation of crime is far from routine work, especially in contesting cases or in situation which involve skilful and sophisticated offenders. It comprises of various steps starting with proceeding to the spot for inspection, ascertainment of the facts and circumstance of the case, then discovering new facts, and afterward, attempt to arrest the accused offender, collection of relevant and admissible evidence related to the commission of the offence.¹⁶ The courts in a number of cases have observed that the investigation in the criminal justice system must be devoid of any objectionable aspects or any weaknesses that could legitimately give rise to a doubt that the investigation was unfair and it was motivated by some ulterior motives. It is the responsibility of the investigating officer to ensure that there was no scope of misconduct, fabrication, forgery, or falsification. He should not build a cock and bull story through a flawed investigation. His role is not to strengthen the prosecution's case, with evidence that could lead to a conviction, but to uncover the genuine and unadulterated truth for justice.¹⁷ A fair and accurate investigation is essential. Articles 20 and 21 of the Constitution guarantee a fair trial, which includes a fair inquiry. The role of police is of utmost important for protecting life and liberty of citizens and article 20 ensure fair trials and presumption of innocence. One of a police officer's primary responsibilities is to investigate crimes. Finding the truth and apprehending the true culprit should be the goals of every inquiry.

So, apart from ensuring that the offender does not go unpunished, it is also a duty to ensure that no innocent person is being tortured and convicted. The Supreme Court, in cases like *D.K. Basu*

¹⁴ Jyoti Dogra Sood, "Confirmation Bias- The Pitfalls" 61(3) *Journal of the Indian Law Institute* 376-390 (2019).

¹⁵ *Ibid.*

¹⁶ Muhammad Sulyman Akbar, Sheer Abbas, *et.al.*, "Defective Investigation: A Hidden Barrier to Effective Prosecution of Criminal Cases" 3(4) *Pakistan Journal of Law, Analysis and Wisdom* (2024).

¹⁷ *Babubhai v. The State of Gujarat*, 2010 AIR SCW 5126.

v. *State of West Bengal*¹⁸, *Arnesh Kumar v. State of Bihar*¹⁹, and *Joginder Kumar v. State of U.P.*²⁰, has directed police officers regarding arrest and investigation. So that the police do not misuse their power. In *Ajay Kumar v. State of UP*²¹

“Fair and proper investigation is the primary duty of the investigating officer.

In every civilized society, the police force is invested with powers of investigation of a crime to secure punishment for the criminal and it is in the interest of the society that the investigating agency must act honestly and fairly and not resort to fabricating false evidence or creating false clues only with a view to secure a conviction because such acts shake the confidence of the common man not only in the investigating agency but in the ultimate analysis in the system of dispensation of criminal justice. The proper result must be obtained by recourse to proper means, otherwise, it would be an invitation to anarchy.

It is equally important that interested or influential persons are not able to misdirect or hijack the investigation, so as to throttle a fair investigation resulting in the offenders escaping a punitive course of law. These are important facets of the rule of law. Breach of rule of law amounts to negation of equality under Article 14 of the Constitution of India.”

However, despite all this, the defective investigation is also a reality, and inadequate police investigations, where police fail to take reasonable investigatory steps, are one of the leading causes of wrongful convictions. It suffers from various shortcomings, including improper collection and handling of evidence, reliance on coerced confessions, lack of thoroughness, reliance on unvalidated or overstated forensic evidence, and investigative tunnel vision etc.

There are a number of cases where a potentially guilty person walks freely, or an innocent person stands accused, because of how the crime was investigated.

*State of Gujarat v. Kishanbhai*²² is an unfortunate example of such cases where the investigating officer and the prosecution had committed a glaring lapse. A heart-wrenching case of rape and murder of a 6-year-old girl. The accused was allegedly last seen with the child and later pledged her anklets for Rs. 1000. Despite this, the Supreme Court acquitted the accused and highlighted

¹⁸*D.K. Basu v. State of West Bengal*, 1997 AIR SCW 233.

¹⁹*Arnesh Kumar v. State of Bihar*, 2014 AIR SCW 3930.

²⁰*Joginder Kumar v. State of U.P.*, 1994 SCC (4) 260.

²¹*Ajay Kumar v. State of UP*.

²²*State of Gujarat v. Kishanbhai*, (2014) 5 SCC 108.

the in-investigation glaring lapses committed in the investigation because of which a heartless and merciless criminal, who has extreme heinous crime, has gone scot free and a person who was wrongfully prosecuted and his suffering is unfathomable. The Supreme Court highlighted a number of incidents of faults committed by the investigating agency. For instance, even after having accused in custody investigating officer did not held medical examination of the accused within 24 hours if this would have been done then the it would have revealed with guilt of the accused or possibly his innocence. The thumb impression on the pledge receipt was not matched with the accused. No DNA profiling was conducted despite the bloodstained clothes. No test Identification Parade was conducted. When the medical officer performed a post-mortem examination on the deceased, they discovered a green dupatta smeared with blood. This was a conspicuous omission on the part of the prosecution, and none of the prosecution's witnesses referred to the fact that the victim was wearing a green dupatta. This raises a doubt about the prosecution's case. Even the certificate given by the medical officer relating to the medical examination of the accused was not produced by the prosecution. Because of all this, a 19-year-old innocent person spent around 10 years of productive life in jail.

In a similar horrifying case, a child of tender age six was brutally assaulted and killed. The Supreme Court acquitted the accused of the case *Prakash Nishad v. State of Maharashtra*²³, in which the rape of a six-year-old girl. The accused *Prakash Kewat* was convicted and sentenced to death by the trial court, and the High Court upheld the same. During the appeal before the Supreme Court, the apex court acquitted the accused based on irregularities in the investigation process. The Supreme Court noted the police's failure to conduct a medical examination of the accused to collect evidence in sexual offense cases. It was further observed that biological samples, essential for DNA analysis, were not gathered during the investigation. The Court highlighted significant delays in submitting DNA samples, raising concerns about potential tampering of forensic evidence, which undermined the reliability of the DNA reports. Additionally, the Court dismissed the police's claim of recovering bloodstained clothes based on the accused's statement, as evidence showed that the police had previously searched the location without success. None of the police officials complied with the formalities of keeping the sample safe and secure. There was only one document indicating the appellant had been medically examined; that document also did not reveal a sample of the body being drawn. The doctor who conducted the examination did not step into the witness box to testify to the correctness of the contents.

²³ *Prakash Nishad v. State of Maharashtra*, 2023 INSC 561.

In both the above cases, the crimes committed against the innocent children are undisputed. It is clear from the law that it is the duty of investigating authorities not only to protect the citizens of the country, but also to ensure fair and proper investigations into crimes affecting society. It's not only a legal duty but also a moral duty to take all possible steps to bring the doer of such acts to the book. The police ought to have, even more than usual, taken steps, precautions, and decisions to safeguard the fact-finding and investigation exercise. Because of the poor quality of police investigation and the evidence used in the conviction, as one had "yawning gaps", because innocent person spent years on death row before being acquitted by the Supreme Court.

In 2019, the court overturned its own verdict in *Ankush Maruti Shinde & Ors. v. State of Maharashtra*²⁴, clearing six accused of murder, including one juvenile, which is again a clear case of miscarriage of justice that destroyed 16 years of the men's and their families. They were found guilty of killing five members of the same family in a hut, including two women. One of the dead women was raped. They informed police that "seven to eight" men carrying knives, sickles, and sticks entered the hut, which has no electricity, and were speaking in Hindi. They demanded money and took away the ornaments and departed. But they came back with weapons and assaulted the house members. The two women were tied and beaten and one of them was taken out and allegedly raped. All five were dead except for the two member who survived. The day after the murder the police took a photo album of local criminals from their records and showed it to the women who had survived the attack and became a prime eyewitness. She identified four men from the album who were local criminal. The police and prosecution suppressed this evidence and did not pick up the four men. Instead, three week later, they picked up the Shindes. They were given electric shocks and beatings and forced to sign confession. In a bizarre twist which eventually sealed their fates, the women eyewitness during the test identification parade identified the Shindes as the murderers. The court ignored a number of evidence which proved them innocent, such as prints found in the hut, and outside did not match them, the blood and DNA samples were never presented before the court by the prosecution. As per the eyewitnesses, the accused persons spoke in Hindi, but the Shindes spoke in Marathi. Except for the TIP, there was nothing to corroborate the assertion of the witnesses. There always arises a concerning question: why did the court not go into the minute details when the lives of six men were at stake?

The Supreme Court in 2022 acquitted five death row prisoners across three criminal appeal

²⁴ *Ankush Maruti Shinde & Ors. v. State of Maharashtra*, (2019) 15 SCC 470.

cases, two involving rape and murder, and the third involving multiple murders. Across the three cases, the court noted that even though these cases involved serious offences carrying maximum punishment, the abysmal nature of the investigation was carried out.²⁵ Just imagine the day, if such flawed investigations become the norm, the police, an institution meant to protect society, could instead be perceived as a threat. Poor investigation marked by shoddy evidence, coerced confessions, or neglect of due process erodes public trust in the criminal justice system. Sending a message that the system is unreliable, potentially allowing the guilty to escape justice while innocent individuals suffer the brunt of wrongful convictions.

In case *Rajesh v. State of Madhya Pradesh*²⁶, where the two accused were convicted and sentenced to death by the trial court for kidnapping and murdering a fifteen-year-old boy. The high court of Madhya Pradesh upheld their conviction and confirmed their death sentence. When the appeal was filed before the apex court, it acquitted the accused of all charges, rejecting the recovery evidence. The court also found that the police had manipulated the investigation, disregarded evidence procedures, and has glossed over important leads, making their version of events extremely inconsistent. While criticising the quality of police investigation, the Supreme Court remarked that it was necessary to devise a consistent and dependable code of investigation for the police. The police officer recorded the confession without even arresting one of the accused persons, in fact they were not in the “custody of the police” at the time of confession. This gives rise to vital question on the legal sanctity of the procedure adopted by the police and in the values to be attached to the seizures made by them on the strength of such so called confession also comes into question.²⁷ There were shockingly lapses and the slipshod investigation on the part of the police. It is on record that when the investigating officer undertook the first search of the accused’s house, nothing was found. However, a later search, with the aid of one of the witnesses (whose statements were found to be self-contradictory) led to the seizure of two mobile phones from a trunk in one of the rooms of the accused’s house. As to why these phones were not found in first search is not explained. According to the SIM card details, the number were given to someone named Bhuraji, s/o Deepu. Hence, the mobile number from which ransom calls were made was in the name of someone else, and his address was available with the police. Despite these, the police did not even attempt to contact or examine him. No attempt was made by investigating officers to

²⁵ *Supra* note 11.

²⁶ *Rajesh v. State of Madhya Pradesh*, (2023) 9 SCC 306.

²⁷ As section 23(2) of the BSA clearly states that a person concerned must be “accused of an offence” and be in the “custody of a police officer”. He or she must give information leading to the discovery of a fact, so much of that information, whether it amounts to a confession or not, that relates distinctly to the fact discovered, may be proved against him.

establish the link between the accused and the mobile number, without which argument of prosecution that a ransom call was made from accused mobile phone becomes useless. The apex court expressed its concern, mentioning:

“The manner in which police investigations are conducted is of critical importance to the functioning of the Criminal Justice System. Not only serious miscarriage of justice will result if the collection of evidence is vitiated by error or malpractice, but successful prosecution of the guilty depends on a thorough and careful search for truth and the collection of evidence which is both admissible and probative. In undertaking this search, it is the duty of the police to investigate fairly and thoroughly and collect all evidence, whether for or against the suspect. Protection of the society being the paramount consideration, the laws, procedures and police practices must be such as to ensure that the guilty are apprehended and punished with utmost dispatch and in the process the innocent are not harassed.”²⁸

In the present case, the court also highlighted concerns about how the trial court and high court evaluate the evidence. Even though there were innumerable weak links and loopholes in the prosecution’s case, the trial court as well as the high court were not only inclined to accept the same at face value but went to the extent of imposing and sustaining capital punishment on the accused, without stating the reason who the case put forth qualifies as the “rarest of rare cases” warranting such drastic punishment.

Above, we saw cases of wrongful conviction due to flawed, shabby investigation, resulting in the conviction of an innocent person for an offence such as rape, murder, etc. Similarly, there are a large number of recognised wrongful convictions in India involving in special law offences. The Anti- Terrorism Act in India provides exceptions to the standard principles and procedures governing the admissibility of confessions, which are designed to equip law enforcement with tools to effectively investigate and prosecute such serious offences. The reasoning is rooted in the belief that scale and gravity of terrorism necessitate extraordinary measures to protect the public.²⁹

The Indian legal and moral framework is deeply influenced by the philosophy of Mahatma Gandhi, which emphasizes that “means are more important than the ends”. This principle underscores the importance of fairness, due process, and protection of individual rights, even

²⁸ *Supra* note 11.

²⁹ *Supra* note 11.

when addressing severe threats like terrorism.³⁰ The exception under the anti-terrorism act, while pragmatic, raises ethical and legal concerns about the potential for abuse and erosion of the personal liberty of any person. Therefore, it becomes essential that the investigating officer must not do anything which allows its misuse and abuse and ensure that no innocent person has the feeling of sufferance only because “My name is Khan, but I am not a terrorist”.³¹ Legal scholar Jinee Lokaneeta, in her book *The Truth Machines*, has examined how Indian police investigations in terror cases often start with a pre-formed theory and work backward, using coercion, unreliable witnesses, and pseudo-scientific tools like narco-analysis to fabricate evidence. Confessions obtained in this way, though they may be dressed up as voluntary, often compromise constitutional protections such as Article 20(3), which protects against self-incrimination.³² The Indian judiciary has consistently recognised the seriousness of terrorism as a societal threat. However, it has also emphasized that the gravity of this “evil” does not justify unchecked violations of personal liberty. Despite all this, there are a large number of recognised wrongful convictions in India involving terrorism cases.

In one of the infamous cases, *Adambhai Sulemanbhai Ajmeri v. State of Gujarat*³³, which emerged from a horrible act of terrorism in which thirty people were killed and more than 80 were injured in an attack on a Hindu temple (Askshardham Temple). The police implicated six innocent people, who were awarded death sentences and life imprisonment. The convictions were upheld by the High Court even though the confessions were taken in police custody. The High Court neglected that the letters used to frame the accused were in perfect condition, partly on the questionable basis that “the truth is stranger than fiction”. Moreover, the high court rejected medical evidence that the accused had been subject to police abuse while in custody. Police framed false evidence against them by implanting a false letter and connecting all of them to a terrorist organisation. The apex court, while acquitting them after they suffered 12 years of imprisonment, voiced distress at the investigative agencies’ lack of expertise. For carrying out an inquiry of this seriousness, which concerns the country’s security and integrity. Rather than apprehending the actual offender, the police apprehended innocent individuals and levied severe penalties.

This case again is a stark reminder of how political pressure and the desire for quick closure can derail the course of justice. In this case, one can see the willingness of the Supreme Court

³⁰ Kent Roach, “Wrongful Convictions, Wrongful Convictions, Wrongful Prosecutions and Wrongful Detentions in India” 35(1) *National Law School of India Review* 250-300 (2023), available at: <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1842&context=nlsir> (last visited on Nov. 12, 2025).

³¹ *Ibid.*

³² The Constitution of India, art. 20(3).

³³ *Adambhai Sulemanbhai Ajmeri v. State of Gujarat*, (2014) 7 SCC 716.

to be very critical of the police and even to issue directions to them. The court concluded its judgment by stating:

Before parting with the judgment, we intend to express our anguish about the incompetence with which the investigating agencies conducted the investigation of the case of such a grievous nature, involving the integrity and security of the Nation. 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.

The court's comments recognised the seriousness of terrorism in India. At the same time, the court stressed that the seriousness of terrorism is a reason for police, prosecutors, and courts to ensure that they do not convict the wrong person.

Other than the above well-known case of terrorism wrongful convictions, there are many others. The Supreme Court acquitted three accused of a terrorism offence after 23 years in prison. They were convicted of planning blasts in five trains in 1993, which killed two passengers and injured another eight. In which they revealed the torture they faced and were made to sign a fabricated confession.³⁴ Mohammad Amir Khan was charged in 20 cases for terror crimes and waging war against the nation. He was also charged with masterminding 17 low-intensity bomb blasts that occurred in Delhi and neighbouring states between December 1996 and December 1997. In the deeply touching book, which Mohammad Amir Khan wrote with Nandita Haksar titled "*Framed as a Terrorist*", he describes how when he was 20 years old, on a late winter evening in February 1998, he was picked up by plainclothes policemen, and driven to a torture chamber. He counted his most harrowing experiences of the days and nights of the most brutal torture. He was stripped naked, his legs stretched to extremes, boxed, kicked, subject to electric shocks, anti-Muslim abuse and threats to frame his parents. He finally succumbed and agreed to sign numerous blank sheets and diaries. As a result, he was charged in 19 cases of terror crimes. He spent 14 years in prison for no reason, violating his rights. All the police officers and cops were involved in any manner in framing a wrongful terror charge.³⁵ The Delhi High Court overturned his conviction after 14 years in 2016, concluding that the statements of the co-accused were not

³⁴ India Man Struggles with Freedom 23 Years After 'Wrong' Conviction, *BBC News* (June 10, 2016), available at: <https://www.bbc.com/news/world-asia-india-36431935> (last visited on Nov. 10, 2025).

³⁵ "NHRC To Govt: Give Rs 5 Lakh Relief to Mohammed Amir Khan Acquitted of Terror Charges", available at: <https://www.legalservicesindia.com/law/article/1979/5/NHRC-To-Govt-Give-Rs-5-Lakh-Relief-To-Mohammed-Amir-Khan-Acquitted-Of-Terror-Charges?id=1979&u=5> (last visited on Nov. 10, 2025).

sufficiently corroborated.³⁶

Wrongful Convictions in the Past Year

In *Ramkirat Munilal Goud v. State of Maharashtra*³⁷, the accused was convicted of rape and murder of a minor and sentenced to death in 2019, spending 12 years in prison, six of them on death row. The Supreme Court in the present case found that the evidence against the accused was fabricated by the Police, suppressed forensic reports, and created false witnesses because a sensational case was not being solved, resulting from a “flawed and tainted investigation”. While acquitting the accused, the Supreme Court expressed concern about the flawed investigation and its consequences

“By the time the Petitioner was released, he had spent 12 years in prison, 6 of which were on death row. The Petitioner has suffered a grave and severe violation of his fundamental rights guaranteed under Article 21 of the Constitution, on account of being falsely accused of heinous offences, illegally arrested, being made the subject of an illegal and tainted investigation, unfair prosecution, and suffering 12 years of wrongful incarceration, for which the Petitioner ought to be appropriately compensated by the Respondent State as it has completely destroyed the Petitioner's life, his reputation and his family, with the latter reduced to abject penury and destitution, with the sole earner languishing in jail on false charges”³⁸

*Kattavellai @ Devakar v. State of Tamil Nadu*³⁹ stands as a profound indictment of systematic failures in criminal investigation. The case, which saw the acquittal of a man on death row for a horrific 2011 double-murder and rape of a young couple, did more than just correct a miscarriage of justice for an individual; it catalyzed a nationwide reform of how scientific evidence, specifically DNA evidence, is handled, preserved, and presented in court. The Supreme Court, in its meticulous examination, found that the entire chain of circumstantial evidence was riddled with fatal flaws. The most critical failure centered on the handling of DNA evidence, which the Court ultimately deemed “unusable” and unreliable. The Court expressed concern, stating, Surprisingly and shockingly, the postmortem of the deceased person was conducted at the spot of the crime without due regard to the possibility of contamination,

³⁶ *Supra* note 31; *Mohd. Amir Khan v. State*, 2006 SCC OnLine Del 866 [11].

³⁷ *Ramkirat Munilal Goud v. State of Maharashtra*, 2025 INSC 702.

³⁸ Amisha Shrivastava, “After Acquittal in Death Penalty Cases, 3 Men Seek Compensation for Wrongful Incarceration; Supreme Court Seeks Assistance of AG & SG” *LiveLaw* (Oct. 28, 2025), available at: <https://www.livelaw.in/top-stories/after-acquittal-in-death-penalty-cases-3-men-see-compensation-for-wrongful-incarceration-supreme-court-seeks-assistance-of-ag-sg-308056> (last visited on Nov. 10, 2025).

³⁹ *Kattavellai @ Devakar v. State of Tamil Nadu*, CRIMINAL APPEAL NO. 1672 OF 2019

the effect of such examination being conducted in the open, etc. Moreover, an unexplained delay of over 41 days in sending the vaginal swabs collected from the victim's post-mortem to the Forensic Science Laboratory (FSL). Storing sensitive biological samples for such an extended period without proper protocol significantly increases the risk of contamination or degradation. The Court said, "The worrying feature here is that the conviction had no legs to stand on whatsoever and yet the appellant-convict has been in custody for years".⁴⁰

In *State of Maharashtra v. Kamal Ansari*⁴¹, a 19-year-old case, sophisticated bombs ripped through seven local trains in Mumbai within 11 minutes, taking the lives of around 189 people and injuring many others. In less than three months, the Anti-Terrorism Squad of the Maharashtra police arrested 13 individuals and claimed to have cracked the case. Invoking stringent anti-terrorism laws against all, from the Unlawful Activities (Prevention) Act to the Maharashtra Control of Organised Crime Act, investigators claimed the accused had confessed to their crimes. They all subsequently tried and were sentenced to life imprisonment and death by the Session Court. However, after years, the Bombay High Court acquitted all 12 accused.⁴² The High Court highlighted holes in the submission, noting the utter failure to establish the offence beyond a reasonable doubt against the accused, and highlighted critical procedural lapses in the investigation. Justice Anil S Kior was with a disquieting assessment of the case:

Punishing the actual perpetrator of the crime is a concrete and essential step towards curbing criminal activities, upholding of rule of law, and ensuring the safety and security of citizens. But creating a false appearance of having solved a case by presenting that the accused have been brought to justice gives a misleading sense of resolution. This deceptive closure undermines public trust and falsely reassures society, while in reality, the true threats remain at large.⁴³

The High Court ruling points to a series of lapses in the investigation, from picking and choosing eyewitnesses, reliance on maps allegedly recovered from the accused, and how the confessional statement was obtained. The court raised concerns about the genuineness of the confessions. Even though different DCPs recorded the confessions, evidence showed that the

⁴⁰ Ashish Tripathi, "Supreme Court Acquits Man on Death Row, Issues Nationwide Guidelines on DNA Evidence Handling" *Deccan Herald*, July 15, 2025, available at: <https://www.deccanherald.com/india/supreme-court-acquits-man-on-death-row-issues-nationwide-guidelines-on-dna-evidence-handling-3631704> (last visited on Nov. 10, 2025).

⁴¹ *State of Maharashtra v. Kamal Ansari*.

⁴² Editorial, "Justice Denied" *The Indian Express* (July 22, 2025).

⁴³ Editorial, "19 Years After Mumbai Train Attack, There Is No Closure — Only Unanswered Questions" *The Indian Express* (July 22, 2025), available at: <https://indianexpress.com/article/opinion/editorials/19-years-after-mumbai-train-attack-there-is-no-closure-only-unanswered-questions-10140962/> (last visited on Nov. 10, 2025).

questions asked, answers provided, and even the ellipses in the statements were identical. Even if, for a moment, it is presumed that a format of questions was used by them for convenience, having identical answers verbatim is highly improbable, unless copied or a format was provided. Moreover, the signing of confession was under duress, notes contain serious allegations of custodial torture and which was further corroborated by the medical evidence of doctors, which sufficiently hinted towards the possibility of torture.⁴⁴ The Court invoked *Navjot Sandhu v. State*, emphasizing that even the appearance of coercion is sufficient to discard a confession. The court further expressed concern for not conducting a valid Test Identification Parade (TIP), because of which the court had to rely on in-court dock identification, which happened more than four years after the blast.

Just ten days after the Bombay High Court acquittal judgment in *State v. Pragya Singh Thakur & Ors.*⁴⁵, after 17 years of attending court hearings, acquitted all seven accused in the 2008 Malegaon bomb blast case. The verdict in the case, as in the Mumbai blast case, has put in the dock the conduct of investigation agencies and prosecution, and the systematic delays that often render justice. The court cited the differing theories of the Anti-Terrorism Squad (ATS) and the National Investigation Agency (NIA), the weak testimonies of witnesses forcibly “obtained” by the ATS sleuths, and the failure of the prosecution to bring on record cogent and “confidence-inspiring” evidence.⁴⁶ The ATS filed a chargesheet after collecting evidence, including phone taps, witness statements, and video recordings of meetings where the alleged conspiracy was said to have been hatched. All these were declared by the court since the agency failed to fulfil the statutory requirement to prove the authenticity and reliability of electronic evidence. Justice A.K. Lahoti said:

“I am fully aware of the degree of agony, frustration and trauma caused to the society at large and, more particularly, to the families of the victims by the fact that a heinous crime of this nature has gone unpunished. However, the law does not permit courts to convict an accused solely on the basis of moral conviction or suspicion. No doubt, terrorism has no religion because no religion in the world preaches violence. The court of law is not supposed to proceed on popular or

⁴⁴ Omkar Gokhale, “How Mumbai Train Blasts Case Fell: Court Flags Torture Signs, Identical Statements, Dodgy Witnesses” *The Indian Express* (July 22, 2025), available at: <https://indianexpress.com/article/explained/how-mumbai-train-blasts-case-fell-court-flags-torture-signs-identical-statements-dodgy-witnesses-10141025/> (last visited Nov. 12, 2025).

⁴⁵ *State v. Pragya Singh Thakur & Ors.*

⁴⁶ Narsi Benwal, “Malegaon Blasts: Special Court Rejects Argument That ATS Wanted to Implicate RSS Chief Mohan Bhagwat” *Live Law* (Aug. 03, 2025), available at: <https://www.livelaw.in/top-stories/malegaon-blasts-special-court-rejects-argument-that-ats-wanted-to-implicate-rss-chief-mohan-bhagwat-299746> (last visited on Nov. 10, 2025).

predominant public perceptions about the matter,” he began the ruling with this statement.⁴⁷

III. THE CAUSAL NEXUS: FACTORS CONTRIBUTING TO WRONGFUL CONVICTION

Based on the above cases, the pervasive issue of wrongful convictions in India can be traced to a complex interplay of investigative, procedural, and systematic failures. These contributing factors, often operating in a mutually reinforcing cycle, undermine the very principles of fairness and justice.

One of the most significant contributors to wrongful convictions is the use of *police misconduct* and the reliance on *coerced confessions*. The Indian police force has a documented history of adopting practices involving custodial torture and violations of human rights to secure confessions, which is evident in cases of terrorism, like the *Adam Bhai Sulemanbhai Ajmeri* case. This is further driven by a *lack of proper forensics, evidence collection, and a lack of modern investigative technique*, which can be seen in the heinous offences of rape and murder, like in the *Kishan bhai* case and *Prakash Nishad* case, where girls of tender age were brutally assaulted and killed. However, instead of tracing the real culprit, the investigation officer framed the innocents by collecting wrong evidence and not conducting medical examinations properly, and sampling of DNA etc. The court repeatedly expressed its concern by highlighting a significant delay or faulty forensic analysis and potential tampering of evidence. Which further exacerbated by a lack of adequate facilities and insufficient training of law enforcement personnel. Similar concerns were raised by the court in *Kattavellai v. State of Tamil Nadu*, in which the court subsequently issued nationwide guidelines for handling DNA evidence and mandated strict protocol to ensure the integrity of DNA samples.

Improperly Conducted Test Identification Parade itself defeats the purpose of conducting such a parade. The purpose of the test identification parade is not to identify the already identified person.⁴⁸ However, the way it is being conducted in certain cases is where our justice delivery fails. As seen in the *Ankush Maruti Sindhe* Case, innocent members of tribal groups were identified by witnesses, and on that basis, all were convicted, ignoring the fact that there was little light for witnesses to observe the offender. The court also expressed concern about the lack of full disclosure that a witness had identified people as perpetrators who were not the accused. Such incidents of non-disclosure also amount to a frequent cause of wrongful

⁴⁷ Sumit Singh, “Why All Accused in the Malegaon Blast Case Were Acquitted: Court Tears into Probe, says ‘Mere Guesswork Isn’t Enough’; Families Cry Injustice” *Two Circle Net*, Aug. 05, 2025, available at: <https://twocircles.net/2025aug05/452429.html> (last visited Nov. 10, 2025).

⁴⁸ *Durga v. State of M.P.*, 2018 SCC OnLine MP 1519.

convictions.

False Eyewitness Testimony again becomes one of the factors for the wrongful conviction. Eyewitness testimony can be highly fallible due to factors like coercion, intimidation, and the inherent unreliability of human memory. Eyewitness identification error is one of the primary contributors to wrongful convictions. In fact, according to the Innocence Project, it was a contributing cause in approximately 70% of convictions overturned through DNA testing.⁴⁹ The recent acquittal of all seven accused in the 2008 Malegaon blast case provides a stark illustration of this issue. The court cited the failure to provide cogent and reliable evidence by the Anti-Terrorism Squad. Instances of coerced confession during interrogation are not uncommon in India. Individuals, particularly from marginalised communities, are being picked up and forced to confess, as they are easy to label.⁵⁰

Other than the above factors, which are directly or indirectly connected to the investigation. *Media Pressure* can also contribute to wrongful convictions. By creating a false presumption of guilt in the public's mind, influencing judicial process, and pressuring the law enforcement agencies, including the investigating team, to arrest a suspect to satisfy the public.⁵¹

IV. UNREMEDIED WRONGFUL CONVICTION

Wrongful conviction is a human rights violation and is also recognised at the international level as a miscarriage of justice. The International Covenant on Civil and Political Rights, 1966⁵² (hereinafter referred to as ICCPR) is one of the key international documents on miscarriage of justice. It discusses the obligation of the state in cases of miscarriage of justice resulting in wrongful conviction. Article 14(6)⁵³ of the ICCPR requires the state to compensate the person who has suffered punishment on account of wrongful conviction, provided that the conviction was final, and was later reversed or pardoned on grounds of miscarriage of justice, that is new fact proving that the accused was factually innocent. Article 9(5)⁵⁴ of the ICCPR states that anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation. Article 14 of the International Covenant on Civil and Political Rights (ICCPR) explains the state's obligation in cases of miscarriage of justice. The UN Human Rights

⁴⁹[https://www.innocencecanada.com/causes-of-wrongful-convictions/#:~:text=Police%20also%20face%20many%20pressures,victim\)%20within%20the%20immediate%20area.](https://www.innocencecanada.com/causes-of-wrongful-convictions/#:~:text=Police%20also%20face%20many%20pressures,victim)%20within%20the%20immediate%20area.) (last visited on Nov. 10, 2025).

⁵⁰ Muskhan Sahni, "Punishing the Innocent: An Insight into Wrongly Convicted Individuals", 6(2) *International Journal for Multidisciplinary Research* 1-36 (2024), available at: <https://www.ijfmr.com/papers/2024/2/19040.pdf> (last visited on Nov. 10, 2025).

⁵¹ C. Ronald Huff, "Wrongful Conviction: Causes and Public Policy Issues" 18 *Criminal Justice* 15 (2003).

⁵² The International Covenant on Civil and Political Rights, 1966.

⁵³ *Id.* at art. 14(6).

⁵⁴ *Id.*, art. 9(5).

Committee discussed this obligation and stated that states parties must enact legislation ensuring that compensation as required by this provision can, in fact, be paid and that the payment is made within a reasonable period of time.

As far as India is concerned, there is no specific and exclusive legislation for wrongful prosecution. Under section 273 and section 399 of BNSS, the Court can grant compensation to a person against whom an accusation was made without a ground, or an arrest was made without any ground. However, under these provisions, the compensation should come from the person who made the complaint or who caused the arrest. The duty of paying the compensation is vested in the complainant, and there is no obligation on the state to pay the same.⁵⁵ The only relief is the jurisprudence of compensation for wrongful detention, prosecution, and conviction developed by the Supreme Court through various judgments. The Indian Constitution provides a public law remedy for miscarriages of justice resulting from unlawful prosecution, detention, or conviction. In these situations, the Supreme Court and High Court's writ jurisdiction is invoked under Article 32⁵⁶ and 226⁵⁷ of the Constitution, respectively, due to the violation of fundamental rights under Article 21⁵⁸ and 22⁵⁹, which includes paying compensation to the victim who may have unjustly suffered detention or bodily harm at the hands of a state employee.

Traditionally, arrests and detentions were categorised as sovereign functions. This meant that anyone subjected to unjustified detention or incarceration by the government could not receive financial compensation, and the courts could only overturn an arrest or detention if it violated the law. This, however, changed with the *Maneka Gandhi*⁶⁰ judgement, where the Supreme Court provided a fresh perspective on the idea of personal liberty and a dynamic reading of Article 21. One of the important offshoots of the foregoing was that the court started to consider awarding compensation in case of undue detention and bodily harm.

The *Rudal Shah v. State of Bihar*⁶¹ is the first case that sets a precedent. In this case, the petitioner, who had been imprisoned for more than 14 years following his acquittal, filed a habeas corpus petition under Article 32 of the Constitution, requesting his release on the

⁵⁵ Manju Elsa Isac, "Violates Fundamental Rights: Kerala HC Says 'High Time' For Setting Up Legal Framework to Compensate Victims of Wrongful Prosecution" *Live Law*, Apr. 22, 2025, available at: <https://livelaw-ili.refread.com/high-court/kerala-high-court/kerala-high-court-wrongful-convictions-compensation-289983> (last visited on Nov. 12, 2025).

⁵⁶ The Constitution of India, art. 32.

⁵⁷ *Id.*, art. 226.

⁵⁸ *Id.*, art. 21.

⁵⁹ *Id.*, art. 22.

⁶⁰ AIR 1978 SC 597.

⁶¹ *Rudal Shah v. State of Bihar*, 1983 SCR (3) 508.

grounds that his imprisonment in jail was illegal. He also requested compensation for his unlawful detention. The Court held that detention of a prisoner after acquittal was wholly unjustified. Article 32 confers power on the SC to issue writs for the enforcement of any of the fundamental rights of Part 3. The right to life and liberty guaranteed by Article 21 would be violated if judges could only issue orders for the release of people from unauthorised detention. By requiring the person who violates this right to pay compensation, Article 21 serves as a preventive measure against similar violations. Refusal to pass an order of compensation will be doing mere lip service to his fundamental right to liberty, which the state government has so grossly violated. The Supreme Court in *Bhim Singh v. State of J&K*⁶² held that wrongdoing, malice, or invasion of an unlawful arrest and detention cannot simply be erased by releasing the individual who was unlawfully detained or arrested. The court observed in *Neelabati Behra v. State of Orissa*⁶³, that the Supreme Court or High Court in writ proceedings can direct the state to pay compensation for violation of a fundamental right, and this was a remedy under public law. The court declared compensation for illegal detention. In *Chairman Railway Board v. Chandrima Das*⁶⁴ held Supreme Court extended the right to compensation to non-citizens under Article 21.

Recently, in *Mahabir v. State of Haryana*⁶⁵, the Supreme Court held that in cases where a person has been wrongfully implicated and tried in a criminal prosecution without following formalities, the constitutional courts have the power to award compensation. In *Baburajan v. State of Kerala*, the petitioners were wrongly convicted of murder, but later acquitted by the High Court. The Kerala High Court ordered compensation for the damages suffered by the victims due to the wrongful prosecution and conviction.⁶⁶

Although it has developed into a judicial principle that the Supreme Court and the High Court have the authority to order the state to pay compensation to the aggrieved party to remedy the wrong done to him, as well as to serve as a deterrent for the wrongdoer, there is no set framework within which the right to compensation or the quantum of compensation can be determined. These cases include wrongful imprisonment, prosecutions involving infringement or deprivation of a fundamental right, abuse of the legal system, harassment, etc. The decision of award compensation, what amount of compensation, and what will be the mode of providing compensation remain at the discretion of the courts. Moreover, instead of relief being granted

⁶² *Bhim Singh v. State of J&K*, (1985) 4 SCC 677, AIR 1986 SC 494.

⁶³ *Neelabati Behra v. State of Orissa*, AIR 1993 SC 1960.

⁶⁴ *Chairman Railway Board v. Chandrima Das*, (2000) 2 SCC 465.

⁶⁵ *Mahabir v. State of Haryana*, (2025) INSC 120.

⁶⁶ *Supra* note. 56.

as a direct and immediate consequence of the court's finding of a fundamental right infringement, to receive the compensation, the individuals have to file a separate writ petition, which further compounds the plight of the wrongful conviction. For instance, in the recent acquittal of three men, in *Ramkirat Munilal Goud v. State of Maharashtra*⁶⁷, although the Supreme Court, in its judgment, clearly stated while acquitting the petitioners that conviction was based on "flawed and tainted investigation and that petitioners has suffered a grave and severe violation of his fundamental rights, for which the petitioner ought to be appropriately compensated by the respondent state as it destroyed the petitioners' lives. Despite this, the petitioner was required to file a separate writ petition.

Due to a lack of fixed provision in the constitution and in legislation, it becomes the discretion of the court while deciding upon compensation in case of *Adambhai Sulemenbhai Ajmeri v. State of Gujarat*⁶⁸, where the accused person spent more than a decade in prison, the SC found fault in the way the inquiry was conducted, leading to the accused person's acquittal, but it did not provide compensation to the falsely convicted. This was despite the fact that the police had captured innocent individuals rather than the true offender. Professor G.S. Bajpai⁶⁹ has argued that the refusal to award compensation for the wrongful convictions in the Akshardham bomb blast case "left many of us confused about the role of the courts." He raises the relevant question of whether the court "abdicated its responsibility of being the custodian of the rights of the most vulnerable, especially those who have been victims of wrongful convictions, irrespective of precedents and provisions."⁷⁰

The court in *Kattavellai v. State of Tamil Nadu*⁷¹, while acquitting a death row convict, expressed the need to enact a law for awarding compensation in cases of wrongful incarceration. The court observes that detaining a person who has been wrongfully convicted for an extended period violates their right to life and personal liberty under Article 21 of the Constitution, thereby entitling them to compensation.⁷²

The United States has been a benchmark as far as the law of compensating victims of wrongful

⁶⁷ *Ramkirat Munilal Goud v. State of Maharashtra*, 2025 INSC 702.

⁶⁸ *Supra* Note 34.

⁶⁹ G.S. Bajpai, "Wrongful Incarceration Default in Payment of Fine Suspension of Sentence" (Centre For Criminology & Victimology and National Law University Delhi, 2017), available at: <https://nludelhi.ac.in/download/publication/2017/On%20Wrongful%20Incarceration%20Default%20in%20Payment%20of%20Fine%20Suspension%20of%20Sentence.pdf> (last visited on Nov. 13, 2025).

⁷⁰ *Supra* note 11.

⁷¹ *Kattavellai v. State of Tamil Nadu*, Criminal Appeal No. 1672 of 2019.

⁷² Yash Mittal, "Law Needed to Compensate Accused Acquitted After Long Incarceration: Supreme Court" *Live Law*, July 16, 2025, available at: <https://livelaw-ili.refread.com/supreme-court/law-needed-to-compensate-accused-acquitted-after-long-incarceration-supreme-court-297720?fromlpLogin=34066.54125682076> (last visited on Nov. 10, 2025).

incarceration is concerned. Currently, 38 states, the District of Columbia, and the federal government have statutory compensation laws providing monetary or non-monetary compensation to people wrongfully convicted.⁷³ In some states, a fixed amount is established depending on the years of imprisonment. A few other states have given the discretion on the question of compensation to the concerned authorities, who decide the amount on a case-by-case basis. Though there are some objective criteria as well, such as the maximum amount to be paid is already decided by the statutory guidelines and directions in a few states. It is being observed that monetary compensation is not sufficient to cure what the innocent individual has to face due to wrongful conviction, as it affects the reputation, reintegration, and loss of means of livelihood. On the basis of this, the state in the US provides compensation in non-monetary form for rehabilitation and reintegration into society.

In the UK, section 133 of the Criminal Justice Act 1988 provides for compensation for a miscarriage of justice. The scope of the term “Miscarriage of Justice” was expanded upon by the United Kingdom Supreme Court in *R v. Secretary of State for Justice*, 2011, where it rejected the argument that only those who could prove their innocence would be entitled to compensation for miscarriage of justice. Miscarriage of justice also covers those cases where fresh evidence negates the reasonable possibility of the accused committing the crime, or if a conviction results from a serious deficiency in the investigation process or conduct of the trial. This provision for compensation is a reproduction of Article 14(6) of the International Covenant on Civil and Political Rights, of which India is also a signatory. The UK compensation scheme, however, is limited to persons who have been convicted; it presumably doesn't cover those individuals who have been wrongfully prosecuted and finally determined to be not guilty.⁷⁴

In the UK and New Zealand, and currently proposed in Canada, the power of pardon by the Executive is supplemented with the creation of an independent executive body that has the power to compel the production of new evidence and then can refer a case back to the court even when all regular appeals have been exhausted.⁷⁵ UK Criminal Cases Review Commission (CCRC), established in 1997 to investigate potential miscarriage of justice. It works independently of the Police, Courts and Government. It possesses special legal powers to conduct independent, proactive investigations necessary to uncover suppressed evidence or

⁷³ *Supra* note 70 at 23.

⁷⁴ S. Sanal Kumar, “Compensation for Wrongful Prosecution, Incarceration and Conviction” *Bar and Bench*, June 04, 2025, available at: <https://www.barandbench.com/columns/compensation-for-wrongful-prosecution-incarceration-and-conviction#:~:text=It%20says%20%22when%20a%20person,a%20reasonable%20period%20of%20time.%22> (last visited on Nov. 15, 2025).

⁷⁵ *Supra* note 31.

institutional misconduct that led to the original error. If the CCRC finds significant new evidence or an issue that affects the safety of the conviction, it refers the case back to the Court of Appeal for a fresh hearing. UK primarily governed by the Criminal Justice Act 1988, which provides provisions related to victim compensation making the law in conformity with the ICCPR. The onus of providing compensation to the victim of wrongful conviction is on the Secretary of State. Moreover, the UK Police Act 1996 deals with the liability of the wrongful acts of a constable. The act places the responsibility on the Chief Officer of the Police for the wrongful acts of the constables under his/her direction. The compensation is given out of the Police fund. Thus, besides the Criminal Justice Act of 1988, this act regulates the authorities at the grassroots level.⁷⁶

The Law Commission of India, in its 277th Report titled “Wrongful Prosecution (Miscarriage of Justice): Legal Remedies”, advocated the establishment of specific legal provisions addressing both procedural and substantive aspects and the need for legislation that creates a statutory obligation of the state to compensate the victims of wrongful conviction. The commission recommended the designation of special courts in each district for adjudicating upon the claims of compensation for wrongful prosecution. A claim for compensation under this clause would be made for any hurt or damage—that is, for the “injury” resulting from unlawful prosecution—caused to any accused person’s body, mind, reputation, or property. Accordingly, recompense will include both monetary and non-monetary awards. So, it will cover both pecuniary and non-pecuniary awards. It contemplates non-pecuniary compensation that could include ‘counselling services, mental health services, vocational or employment skills development, and such other services for loss of family life’. Such non-monetary rehabilitation would respond to ‘stigmatization that is harm to reputation or similar damage’ as well as ‘psychological and emotional harm caused to the accused’. This recognises some of the non-pecuniary damages caused by wrongful imprisonment. It is suggested that the accused person who was harmed should file the compensation claim, as should any agent duly appointed by the accused person; if the accused person passed away after the wrongful prosecution ended, all or any of the deceased person’s heirs or legal representatives should do the same.

In 2019, a private member’s Bill was introduced in India’s Lok Sabha, “The Protection of Rights of Wrongful Convicts Bill, 2019 by MP Dr. Premjibhai Solanki. Aimed to address a long-

⁷⁶ Udai Yashvir Singh and Smita Singh, “Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework” *International Journal of Law Management & Humanities* (2021), available at: <https://ijlmh.com/wp-content/uploads/Right-to-Compensation-for-Wrongful-Prosecution-Incarceration-and-Conviction-A-Necessity-of-the-Contemporary-Indian-Socio-Legal-Framework.pdf> (last visited on Nov. 12, 2025).

standing vacuum in Indian Law, but it was not passed by either house. The bill proposed the creation of a “Board for Wrongful Conviction”. This Board would have been the dedicated authority for hearing petitions from claimants and declaring a person to be “actually innocent” and eligible for compensation. Further, it provided a specific and broad definition of “wrongful incarceration or wrongful conviction”, which included instances where a person was later acquitted because they were innocent, the judgment was reversed, evidence was dismissed, or the prosecution acted without good faith. It explicitly created the right for a wrongfully convicted person to claim damages and compensation from the State to restore their dignity, including both monetary and non-monetary damages.⁷⁷

V. CONCLUSION AND SUGGESTIONS

The rule of law and the constitutional protections of life and liberty are seriously threatened by the wrongful conviction crisis in India. The report's analysis demonstrates that the problem is not an anomaly but rather stems from systemic problems, ranging from institutional pressures from special legislation and investigative misconduct to the significant legal gap surrounding restitution. The low conviction rate and high number of undertrials show that the legal system is a punitive tool for many people, a kind of de facto punishment meted out long before a verdict is rendered. The way that treatments are now provided is inconsistent and reactive. Even though important rulings have created a constitutional foundation for compensation, the absence of a clear legislative framework makes redress a difficult and unpredictable process that only a few wealthy people can afford. In addition to acquitting the innocent, justice must also restore their livelihood and dignity through a systematic, standardized process of rehabilitation and recompense. Only then can justice be really transformative.

There is an inverse relationship between the number of wrongful convictions and confidence in the criminal justice system. Therefore, reducing the number of wrongful convictions is a need of the time. Further every case of wrongful conviction, the actual offender remains free, which is an injustice to the victim and chances of victimizing additional citizens.

India is an adversarial system and follows a due process model. Herbert Packer has prioritised quality assurance. He pointed out that complete and unfettered access to the appellate phase of the process is necessary for the due process model to maintain its dynamic nature. The ability of a convicted criminal to appeal should not be restricted. Appellants should not be forced to adhere rigidly to the requirement that the errors of which they complain must have been disputed below. People should not be permitted to watch mistakes go unchallenged at the trial level. An

⁷⁷ The Protection of Rights of Wrongful Convicts Bill, 2019, (Bill No. 108 of 2019).

accused person's rights should be protected from obvious errors, which the appellate court should be allowed to detect. India requires a national, independent authority, modelled after the UK's CCRC, with specific legal powers to investigate potential miscarriages of justice once appellate remedies are exhausted, focusing on new evidence and systemic misconduct. The Law Commission, in its 277th Report, also suggested the establishment of special courts in every jurisdiction to ensure that victims get prompt and effective justice. Such Special Courts will use a summary procedure in accordance with order XXXVII of the Civil Procedural Code, 1908.

Preventing wrongful imprisonment requires the application of the rights to legal aid and representation. Legal representatives help individuals understand the implications of statements made during investigations and the potential consequences of their actions. Without proper legal guidance, an accused person might inadvertently provide information that leads to self-incrimination, even if innocent. The Supreme Court has stressed that legal aid must be provided not only at trial and appeal but at the pre-trial stage. Article 39A was added to India's constitution in 1976 to make legal aid a right. Despite all this, there have been estimates that only about 1% of all cases in India receive legal aid. The implementation of rights to legal aid and legal representation is important in preventing wrongful convictions.

The investigating agency plays a key role in maintaining law and order in a society. In India, the crime rate has increased by 28% over the last decade, and the nature of crimes is also becoming more complex (e.g., with the emergence of various kinds of cybercrimes and economic fraud). Conviction rates (convictions secured per 100 cases), however have been fairly low. In 2015, the conviction rate for crimes recorded under the Indian Penal Code, 1860 was 47%.⁷⁸ The Law Commission has observed that one of the reasons behind this is the poor quality of investigations. Crime investigation requires specialized skills and training, as well as sufficient time, resources, and adequate forensic capabilities and infrastructure. Detailed case studies of false convictions should be presented as part of this training, with an emphasis on witness, police, and prosecution errors, official misconduct, and the legal system's inability to identify mistakes made during the trial and on appeal. Law enforcement officials or prosecutors knowingly alter, conceal, fabricate, or distort evidence; commit perjury; intimidate or bias witnesses or suggest information to them to strengthen cases against defendants; knowingly enter into plea bargain agreements in bad faith, ignoring the existence of potentially exculpatory or mitigating evidence, or any such act which leads to wrongful conviction. To ensure that such power is only used for legitimate purposes, various countries have adopted safeguards such as

⁷⁸ Police Reforms in India, *available at*: <https://prsindia.org/policy/analytical-reports/police-reforms-india> (last visited on Nov. 12, 2025).

making police accountable to the political executive and creating independent oversight authorities.

One of the reasons for shabby investigation is accountability of the police to the political executive, which makes them compromise their operational freedom. The Second Administrative Reforms Commission (2007) has noted that this control has been abused in the past by the political executive to unduly influence police personnel, and have them serve personal or political interests. This interferes with professional decision-making by the police (e.g., regarding how to respond to law-and-order situations or how to conduct investigations), resulting in biased performance of duties. The Second Administrative Reforms Commission has recommended that this power be limited to promoting professional efficiency and ensuring that the police are acting in accordance with the law.⁷⁹

Law enforcement officers, prosecutors and their staff, and judges should all receive basic and advanced training that covers wrongful conviction, including its causes, consequences for society and the criminal justice system, and preventative measures. In cases where the eyewitness identification is the sole evidence, and there is no corroborating evidence. The judge should hear it in a special pretrial session, and all information should be considered to determine the reliability of eyewitness identification in each case. The court should always permit the use of qualified expert witnesses. Further, no identification procedure should be conducted in the absence of the accused's counsel.

The Malimath Committee (2003)⁸⁰ recommended strengthening the justice system through increased reliance on forensic evidence. Although several reforms have been incorporated in *Bhartiya Nagarik Sukrasha Sanhita, 2023* intended to increase the scientific rigor and credibility of evidence used in criminal cases. For instance, a major procedural improvement can be seen by mandating for forensic investigation for all offences punishable with seven years of imprisonment or more. Furthermore, it mandates the audio-video recording of all searches and seizures at the crime scene during forensic investigation, ensuring the integrity of evidence and providing courts with an open account of the evidence-gathering procedure, thereby discouraging tampering. However, despite all such reforms, a primary concern is the practical implementation of BNSS mandates.

A statutory framework for providing compensation to the victim and his/her family is a dire

⁷⁹ *Ibid.*

⁸⁰ Government of India, "Committee on Reforms of Criminal Justice System" (Ministry of Home Affairs, 2003), available at: https://www.mha.gov.in/sites/default/files/2022-08/criminal_justice_system%5B1%5D.pdf (last visited on Nov. 14, 2025).

need of the Indian socio-legal scenario, as although the state cannot return the lost years, family life, opportunities, etc to the victim, it still can help the victim to reintegrate back into society by providing pecuniary and non-pecuniary assistance for the same. The legislature must implement the Law Commission Recommendations with immediate effect and enact a statute with respect to the same.

So, there is a need for the state to take adequate measures by improving its investigation techniques and providing training to the police and prosecution who are all involved in the process. Courts should be more conscious while dealing with the cases and must apply its mind judicially. Compensation must be given to sufferers to rebuild their lives. However, compensation must be secondary; the first aim of the state must be to ensure that innocent individuals are not unjustly incarcerated.
