



COMPENSATION FOR WRONGFUL CONVICTIONS IN INDIA: A COMPARATIVE AND NORMATIVE PERSPECTIVE

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ABSTRACT

Wrongful convictions constitute the biggest and most severe failure of the justice system. That deprives the dignity, liberty, livelihood, and social identity of the individuals who are found to be innocent. Correcting judicial errors is not enough, as they don't provide any remedy for the harm suffered during that wrongful conviction. The lost years, reputation, psychological, and economic loss cannot be restored. And compensation emerges as a restorative justice acknowledging state responsibility for their failure of the miscarriage of justice. Despite the constitutional guarantees under Article 21 and the international obligation of India under Article 14(6) of the ICCPR, there is no statutory framework governing compensation for wrongful convictions, but compensation is developed through judicial decisions; however, this approach remains discretionary and limited to exceptional cases. This article critically examines the legal, institutional, and policy scope of compensation for wrongful convictions in India with a comparative analysis drawn from foreign nationals. Role of the statutory proposal, such as the Protection of Rights of Wrongful Convicts Bill, 2019. Policy recommendations and the Law Commission of India and the National Human Rights Commission reports that emphasised the need for a compensation mechanism. Existing research studies remain largely descriptive and focus on case law development and human rights principles; this article identifies the critical gap of analytical examination of why India failed to enact a statutory law on compensation despite the recommendations and judicial recognition. Acknowledges the systematic failure and excess reliance on judicial decisions rather than legislative reforms. This article adopts a doctrinal methodology for interpreting and examining the legal framework and constitutional jurisprudence, and is extended by comparative and normative analysis to analyse and compare the selected foreign nations to identify and evaluate the

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adequacy of proposing a normative statutory framework in India, arguing that compensation for wrongful convictions is a right.

Keywords: Wrongful Convictions, Compensation for Miscarriage of Justice, Article 21 of the Indian Constitution, ICCPR Article 14(6), Restorative Justice.

INTRODUCTION

The criminal justice system is designed to protect society by identifying the offenders and punishing them while safeguarding the innocents; however, the system is not immune to error. Wrongful conviction means the conviction and punishment of individuals who are later found to be innocent, and this represents the gravest failure of the criminal justice system. Such errors are beyond legal error; they result in deprivation of liberty, psychological trauma, economic loss, and irreversible damage to an individual's life.¹

Globally, wrongful convictions are recognised as a systematic failure and a rising issue from reasons such as prosecutorial misconduct, flawed investigation, inadequate legal representation and institutional bias and in response, several jurisdictions have adopted a legal framework to recognise rights, compensation and rehabilitation for the wrongfully convicted persons.² Through Article 14(6) of the International Covenant on Civil and Political Rights (ICCPR), the International human rights law recognised it. Article 14(6) obligates States to compensate persons who have suffered because of a miscarriage of justice.³ And India, being a signatory to ICCPR, has not established compensation for wrongful convictions, despite constitutional guarantees under Article 21 ensuring the right to life and personal liberty.⁴ And compensation remains as an exceptional remedy to rare cases involving gross abuse of power or illegality.⁵

The Indian legal system continues to treat wrongful convictions as exceptional irregularities rather than institutional failures that require a response. Few judicial decisions in India have

¹ Brandon L Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* (Harvard University Press 2011) 1–5.

² Kent Roach, 'Wrongful Convictions: Adversarial and Inquisitorial Themes' (2015) 35 *Oxford Journal of Legal Studies* 387.

³ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14(6).

⁴ *Maneka Gandhi v Union of India* (1978) 1 SCC 248 (SC).

⁵ *Rudal Shah v State of Bihar* (1983) 4 SCC 141 (SC).

established that compensation can be awarded as a public law remedy for violation of fundamental rights, but that doesn't recognise it as an adequate remedy.⁶

The absence of legal framework in India governing the compensation for wrongful convictions creates multiple layers of injustices, firstly the wrongfully convicted individuals have the burden to initiate a civil or constitutional proceeding to seek the compensation, secondly this happens after the years when they financially and emotionally depleted already, thirdly the individuals may feel unequal, arbitrariness from the judicial decision comparing with similar situations. Fourthly, the institutional acknowledgement lacks and allows the State to avoid accountability for their systemic failures in investigation, prosecution, and adjudication.⁷

Although policy discussions and recommendations exist, the legislative inaction continues, a lack of political willingness in acknowledging the institutional failure, a lack of empirical data on wrongful convictions, and excessive dependence on judicial decisions create inconsistencies, and as a result, compensation becomes a moral right rather than a legal right.⁸

LITERATURE REVIEW

The academic discourse on wrongful convictions and compensation has several stands in doctrinal analysis of domestic jurisprudence, comparative analysis on compensation regimes, socio-legal examination on causes of wrongful convictions, but they remain a absence of analytical scholarship that integrates a constitutional theory and international human rights obligations. This article seeks to fill the gap.

In the article "Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework", presented by Singh and Singh discuss the constitutional provisions, comparative legal principles from different jurisdictions such as the United Kingdom, the United States, and Canada. This article identifies the discretion of the Indian judiciary in compensation, lacking statutory obligations, and argues for legislative reform aligned with the Law Commission of India's recommendations.⁹

⁶ Nilabati Behera v State of Orissa (1993) 2 SCC 746 (SC).

⁷ Law Commission of India, Report No 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (2018) paras 1.5–1.12.

⁸ Law Commission of India, Report No 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (2018) paras 8.1-8.7.

⁹ Law Commission of India, Report No 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (2018) paras 8.1–8.7.

However, this article stops evaluating the reasons for legislative inertia or proposing a statutory design tailored for the Indian constitutional structure, leaving a space for normative analysis.¹⁰

In the article “Inadequate and Unjust Compensation Scheme in False Prosecution Case in India”, presented by Wilson and Wadje explored the inadequacy of the compensation scheme in case of false prosecution in India. This article emphasises the procedural reforms for a broader change in the justice system, such as a review mechanism and improved evidentiary standards. However, this article primarily identifies the problem but lacks a comprehensive discussion on how the compensation mechanism should be framed in India.¹¹

In the legal commentary “Wrongful convictions in India need for a legal framework for compensation and rehabilitation”, accessed through the platform Legal Service India, highlighted the flaws in India’s approach to wrongful convictions and lack of a uniform statutory framework for compensating the wrongfully convicted, with a comparative analysis with different jurisdictions that have adopted structured laws yet remained descriptive.¹²

In the Book Human Rights in Criminal Proceedings, in chapter 15 “The Right to Compensation for Wrongful Conviction” by Stefan Trechsel, published in Oxford Academic, provides a context explaining the miscarriage of justice and how human rights conceptualise the compensation under the instruments like the European Convention on Human Rights (ECHR)¹³ and the American Convention on Human Rights. This research presupposes the benefit of compensation within the global human rights norms. However, there is less engagement in existing Indian scholarship with how these international guarantees, such as Article 14(6) of the ICCPR,¹⁴ into domestic legal obligation and procedural requirements.¹⁵

In the article, “Wrongful Convictions, Wrongful Prosecutions and Wrongful Detentions in India”, Roach recognised the nature of wrongful convictions and observed that many miscarriages of justice remain unremedied due to systemic issues in evidence assessment and

¹⁰ A Singh and R Singh, ‘Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework’ (2020) 6(2) Indian Law Review 145.

¹¹ A Wilson and S Wadje, ‘Inadequate and Unjust Compensation Scheme in False Prosecution Case in India’ (2019) 4 Journal of Constitutional Law and Jurisprudence 67.

¹² ‘Wrongful Convictions in India: Need for a Legal Framework for Compensation and Rehabilitation’ (Legal Service India) <www.legalserviceindia.com> accessed 15 January 2026.

¹³ European Convention on Human Rights, art 3; art 5(5).

¹⁴ International Covenant on Civil and Political Rights 1966, art 14(6).

¹⁵ Stefan Trechsel, ‘The Right to Compensation for Wrongful Conviction’ in Stefan Trechsel, Human Rights in Criminal Proceedings (OUP 2005) ch 15.

criminal procedure. However, this article identifies gaps in Indian judicial recognition but leaves a space for normative analysis.¹⁶

Taken together, this literature highlights three main gaps that the present article aims to address: Firstly, a lack of institutional analysis explaining why India has failed to legislate a statutory compensation regime despite the international obligations and judicial recognition. Secondly, a normative guidance on how such a regime should be developed within the Indian constitutional context. Thirdly, a comparative analysis of the existing frameworks that are suitable and adaptable for the Indian context. And a critical analysis of the Protection of Rights of Wrongful Convicts Bill,¹⁷ 2019, and international human rights obligations under the ICCPR.

CAUSES OF WRONGFUL CONVICTIONS

The reason for wrongful convictions is a cumulative result of systematic failure at different stages of the procedure. In India, mainly it's because of the investigative practices, prosecutorial discretion, evidentiary standards, and structural imbalances. Understanding the causes of wrongful convictions is essential to prevent miscarriage of justice and for the implementation of a statutory framework.

Faulty Investigation and Police Misconduct: Often, the investigation agencies prioritise securing the conviction over uncovering the truth due to the reliance on planted evidence, coerced confessions, and selective investigation. The powers of police with weak accountability often create abuse by way of illegal detention, custodial violence, and fabrication of evidence, particularly in cases involving some marginal communities. Lack of forensic training, political pressure, and performance-based incentives encourage the shortcuts, though the fair investigation is emphasised by way of the right to life and liberty under Article 21.

Inadequate Legal Representation: Access to competent legal representation is a foundation of a fair trial. Many accused, particularly those who are economically poor, are dependent on the overburdened legal aid systems. And this results in delays in counsel appointments, lack of preparation, inadequate cross-examination, and contributes to wrongful convictions. And this

¹⁶ Kent Roach, 'Wrongful Convictions, Wrongful Prosecutions and Wrongful Detentions in India' (2015) 17 National Law School of India Review 1.

¹⁷ Protection of Rights of Wrongful Convicts Bill 2019.

structural imbalance between the defence and prosecution leads to reinforcement of systemic injustice. And the role of prosecutor is limited to the procedural accountability that causes errors to remain uncorrected.

Judicial Delays: Prolonged trials, adjournments, and appellate backlogs result in the accused spending years in custody before acquittal. In several cases, the appellate court overturned the convictions, but after decades. However, due to the absence of post-acquittal remedies, it compounds the injustice.

Lack of Post-Acquittal Review Mechanism: India lacks an institutional framework to reassess wrongful convictions, and once the appellate remedy is exhausted, then the correction of a miscarriage of justice becomes very difficult.

These reasons collectively demonstrate the wrongful convictions as a systematic failure, not just an individual error. And compensation should not be ex gratia or discretionary, but a statutory right that represents the state's responsibility for miscarriage of justice.¹⁸

THE INDIAN LEGAL POSITION ON COMPENSATION FOR WRONGFUL CONVICTIONS

In India, the evolution of the approach of providing compensation for wrongful conviction is primarily done through judicial decisions rather than legislative action. While constitutional courts have recognised compensation as a remedy for the violation of fundamental rights, the absence of a statutory framework has resulted in inconsistency and discretion.

Constitutional Foundations and Judicial Recognition: The Indian Constitution does not explicitly provide compensation for cases of wrongful convictions; however, under Articles 21 and 32, the Supreme Court provides compensation, treating it as a public law remedy for violating the right to life and liberty.

The case of Rudul Sah v. State of Bihar (1983) marked the first case to recognise compensation for illegal detention. The petitioner had been detained for over 14 years before being acquitted. The Supreme Court held that mere release was insufficient and awarded monetary

¹⁸ Law Commission of India, Report No 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (2018) paras 1.1–6.6.

compensation. Therefore, this case established that constitutional courts grant compensation for state-inflicted injustice and laid the foundation for public law compensation in India.¹⁹

In *Bhim Singh v. State of Jammu & Kashmir* (1985), the court granted compensation to a legislator who had been unlawfully detained to prevent him from attending the legislative session. The court emphasised that constitutional rights will be meaningless if the state violates them with impunity. Thus, compensation has been framed as a restraint against abuse of power.²⁰

In the case *Nilabati Behera v. State of Orissa* (1993), the court clarified that compensation awarded in writ proceedings is different from compensation provided in private law and serves to enforce fundamental rights, and the court emphasised that the doctrine of sovereign immunity does not apply to constitutional remedies.²¹

In *State of Gujarat v. Hon'ble High Court of Gujarat* (1998), the Supreme Court warned against the routine or excessive grant of compensation by courts. These guidelines emphasised the judicial awareness of institutional limits and the necessity of statutory intervention for the separation of powers with legislative guidance.²²

Wrongful Conviction Without Compensation: Despite the recognition of constitutional compensation, in *Kashmira Singh v. State of Punjab* (1977), Indian courts have failed to grant relief. In this case, the petitioner spent over two decades in prison before being acquitted. The court confined it to correcting the conviction, and this remains the judicial remedy, exceptional rather than automatic. And compensation depends on judicial discretion, the nature of the writ petition, rather than a recognised right of the wrongfully convicted.

Law Commission of India: 277th Report: The Law Commission of India's 277th Report (2018) titled *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies*.²³ Acknowledging that the wrongful prosecution and conviction constitute a serious violation of fundamental rights, this report acknowledged India's obligation under the ICCPR by addressing misconducts of prosecution, false imprisonment, malicious or false investigation,

¹⁹ *Rudul Sah v State of Bihar* (1983) 4 SCC 141.

²⁰ *Bhim Singh v State of Jammu and Kashmir* (1985) 4 SCC 677.

²¹ *Nilabati Behera v State of Orissa* (1993) 2 SCC 746.

²² *State of Gujarat v Hon'ble High Court of Gujarat* (1998) 7 SCC 392

²³ Law Commission of India, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (Law Com No 277, 2018).

etc.²⁴ And recommended that India should make changes in the Criminal Procedural Codes (CrPC), 1973 to incorporate provisions to provide compensation for wrongful prosecution.²⁵

This report proposed the recognition of wrongful prosecution as a separate legal injury, a statutory right for compensation, the establishment of special courts and consideration of factors such as mental trauma and economic loss. However, the parliament's response was indicated as “taken note” of the recommendations, drafted a proposal, but failed to institutionalise compensation as a binding law.

National Human Rights Commission (NHRC) and 1998 Guidelines: The NHRC always advocated for the compensation and rehabilitation of victims of miscarriage of justice. In 1998 guidelines, NHRC emphasised that the state is responsible for providing relief in case of custodial violence, illegal detention, and gross procedural violations. These guidelines are influential but not legally binding, and the recommendations often lead to ex gratia rather than right-based compensation.²⁶

Protection of Rights of Wrongful Convicts Bill, 2019: A private legislative bill was proposed in the year 2019 as a first legislative attempt from a private person to codify compensation for wrongful convictions, but the bill was not introduced, debated in the parliament and remained as a draft, and this highlights the lack of political will to institutionalize the accountability for miscarriage of justice. This bill recommends a statutory right to compensation, district-level compensation courts, time-bound adjudication, and consideration of mental trauma, economic loss, psychological and social harm.²⁷

The policy recommendations, draft legislation, and the discretionary judicial compensation show a fragmented framework that fails to satisfy Article 21 and international obligations under Article 14(6) of the ICCPR.

²⁴ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14(6).

²⁵ Code of Criminal Procedure 1973.

²⁶ National Human Rights Commission, Guidelines on Award of Compensation in Cases of Custodial Deaths (1998).

²⁷ Protection of Rights of Wrongful Convicts Bill 2019 (India) (Private Member's Bill, not enacted).

INTERNATIONAL RECOGNITION OF COMPENSATION FOR WRONGFUL CONVICTIONS: ICCPR AND COMPARATIVE PERSPECTIVES

Wrongful convictions are no longer considered as judicial errors but as violations of fundamental rights that impose obligations on states to provide remedies. International human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR), considers compensation for miscarriage of justice as a legal entitlement rather than any charity, and several jurisdictions have made this obligation into a domestic law through a statutory regime for compensation.

ICCPR and International Human Rights Obligations: Article 14(6) of ICCPR²⁸ states that when a person is convicted in the final decision and due to any miscarriage of justice, then that person shall be compensated according to the law. Unless the person is responsible for hiding the fact. This article has three principles. Firstly, wrongful convictions cause miscarriage of justice. Secondly, compensation is mandatory. Thirdly, states have the obligation to operationalise this by enacting domestic law.²⁹

The United Nations Human Rights Committee, in its General Comment No. 32,³⁰ compensation under Article 14(6) is non-discretionary and must be accessible and effective. This obligation is not limited to monetary compensation but also includes dignity and legal status.^{31,32}

India ratified the ICCPR in 1979 and is therefore bound by its provisions under international law, but as the treaties are not self-executing in India, the Supreme Court has constantly held that international laws may be read into domestic law; however, they are still unimplemented in India.³³

United Kingdom: Judicial Interpretation of “Miscarriage of Justice”: In the UK, compensation for wrongful convictions is governed by statute, which is shaped by judicial

²⁸ ICCPR, art 14(6).

²⁹ Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd edn, N P Engel 2005) 349–52.

³⁰ UN Human Rights Committee, General Comment No 32: Article 14 – Right to Equality Before Courts and Tribunals and to a Fair Trial (2007) UN Doc CCPR/C/GC/32, para 49.

³¹ ICCPR, art 14(6).

³² UN Human Rights Committee, General Comment No 32 (n 5) para 49.

³³ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 2(3).

interpretation. In the leading case *R (Adams) v Secretary of State for Justice* (2011)³⁴ the addressal of miscarriage of justice for statutory compensation takes place.

The UK Supreme Court adopted a principle that only if a newly demonstrated fact demonstrates that the convicted person is innocent is compensation payable, rather than where the conviction is unsafe. And this narrow approach is criticised for excluding those individuals who are convicted by serious procedural failure.

The case is significant because how the statutory compensation regime can be constrained by interpretive standards, and it highlights the clearly defined eligibility criteria to narrow the excessive judicial intervention. And this serves as an example for India that mere statutory recognition is not sufficient without a rights-oriented interpretive framework.³⁵

United States: Statutory Compensation Models: The United States provide one of the most comprehensive examples of a legislative approach for providing compensation for wrongful convictions. The compensation law is primarily governed by State statute, with thirty states governing by specific laws recognising the right to compensation for wrongfully convicted.³⁶

The New York statutory framework is often treated as a progressive framework because it provides compensation for those who are proven innocent due to reversed or vacated grounds. For claiming the compensation, the statute outlines eligibility criteria, evidentiary standards, and procedures and thereby ensures uniformity by reducing arbitrariness.³⁷

Compensation is treated as a legal entitlement rather than a discretionary remedy; that's why the US approach is significant. The courts function within the statutory parameters, and the quantum of compensation is different across different states. And this approach widely contrasts with the Indian ad-hoc approach.

The US approach demonstrates that federal diversity does not exclude statutory recognition of wrongful conviction compensation. And from this, India can take how legislative design can balance and shape the administrative feasibility and state accountability.

³⁴ *R (Adams) v Secretary of State for Justice* [2011] UKSC 18, [2012] 1 AC 48.

³⁵ Criminal Justice Act 1988, s 133.

³⁶ Innocence Project, 'Compensation for the Wrongfully Convicted' <https://innocenceproject.org> accessed 10 January 2026.

³⁷ New York Court of Claims Act 1984, s 8-b.

Canada: Restorative Justice and State Accountability: Canada's approach to wrongful convictions emphasises restorative justice and public accountability. In the case, Reference re: Milgaard,³⁸ the accused spent more than two decades in prison before being exonerated, and the state acknowledged the wrongful conviction through a formal apology for their institutional, legal, and moral failure, and provided monetary compensation and reintegration support.

The Canadian approach is significant for its non-monetary remedy for public acknowledgement, record expungement, and support for social reintegration. And this approach closely aligns with the international human rights standards and underscores the importance of dignity recognition and restoration. For India, this approach clearly illustrates that compensation should be beyond monetary relief and include the long-term addressing of long-term harm.³⁹

Comparative Lessons for India: Firstly, the international recognizes compensation as a legal right rather than discretionary relief and secondly, rather than the judicial remedies, their statutory framework provides transparency and accessibility. Thirdly, the design of the compensation regime must be based on eligibility standards with a right-based approach to avoid exclusionary outcomes. India's current framework relies primarily on constitutional remedies thus fall short of these international standards, and India is placed odd from the international obligations and comparative practices due to the absence of implementation of Article 14(6) of the ICCPR and this gap strengthens the argument of normative enactment of compensation statute that provide monetary relief, reintegration support and mainly the institutional accountability.

INSTITUTIONAL FAILURE, NORMATIVE FRAMEWORK, AND LEGISLATIVE DESIGN FOR COMPENSATION FOR WRONGFUL CONVICTIONS IN INDIA

Institutional Failure to Enact a Statutory Compensation Regime in India: Despite the International obligation and consistent judicial recognition, India has failed to adopt a statutory framework governing compensation for wrongful convictions. This represents not just

³⁸ Reference re Milgaard [1992] 1 SCR 866 (SCC).

³⁹ Kent Roach, 'Wrongful Convictions: Adversarial and Inquisitorial Themes' (2015) 35 Windsor YB Access Just 1, 15–18.

legislative inaction, but it reflects deeper institutional and structural constraints in the legal system.⁴⁰

Firstly, the compensation for wrongful convictions in India is treated as an exceptional judicial remedy under Articles 21 & 32 of the Constitution, treating it as a relief under public law compensation for violation of fundamental rights, rather than it should be treated as a systematic legal right.⁴¹

Secondly, there exists a fragmentation between the judiciary, executive, and legislature, where the judiciary acknowledges the violation of rights but refrains from issuing a structural mandate, the executive fails to implement administrative safeguards or a compensation mechanism, and the legislature continues to rely on judicial discretion rather than enacting a law.⁴²

Thirdly, once the statutory enactment is done, the court will be flooded with claims, which creates an implicit deterrent, thus politicians avoid it for fear of legal chaos. And this process requires a massive administrative architecture with proper eligibility standards, assessment mechanisms, and budgetary allocations. And the most insightful part is the lack of empirical data, as India doesn't track how many people are wrongfully convicted, as a result, it creates a blank check for the lawmakers.⁴³

Finally, in India, the criminal justice system is narrow and prioritises convictions rather than a post-conviction review mechanism, and the lack of these review bodies or review commissions weakens the institutional accountability, and wrongful convictions appear as irregularities rather than systematic failures that require legislative correction.⁴⁴

Comparative Frameworks Suitable for the Indian Context: The US model provides a legislative clarity through the federal and state laws and statutes such as in New York explicitly define the eligibility scheme, procedural timeline, amount of compensation and India can adopt

⁴⁰ International Covenant on Civil and Political Rights 1966, art 14(6); Rudul Sah v State of Bihar (1983) 4 SCC 141; Nilabati Behera v State of Orissa (1993) 2 SCC 746.

⁴¹ Bhim Singh v State of Jammu and Kashmir (1985) 4 SCC 677; Nilabati Behera v State of Orissa (1993) 2 SCC 746.

⁴² Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018) paras 1.6–1.10

⁴³ Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018) paras 2.3–2.6.

⁴⁴ Abhinav Sekhri, 'Wrongful Convictions and the Indian Criminal Justice System' (2016) 8 NUJS L Rev 1.

this as statutory certainty to move from Ad-hoc judicial discretion that is unpredictable towards statutory certainty with a standard rule to redress the legal right.⁴⁵

The UK law grants compensation, but only new fact or newly discovered fact shows the miscarriage of justice beyond the reasonable doubt and the term “miscarriage of justice” is not clearly defined and this narrow interpretation shows that the person must prove factual innocence and if they can’t prove the state denies the compensation and the Case of R (Adams) is example for it. From this, India should avoid the restrictive interpretation where the victim should not be required to prove his innocence, and India should focus on systematic errors, such as because the conviction was "wrongful", so that compensation can be automatic.⁴⁶

The Canadian approach from the Milgaard case focuses on restorative justice by public apology, professional reintegration, and psychological counselling, along with monetary relief. And this approach aligns with Article 21 right to life and dignity, where, with the non-monetary measure, the individual can reclaim a place in society.⁴⁷ A hybrid model that combines these approaches will be suitable for India.⁴⁸

Critical Analysis of the Protection of Rights of Wrongful Convicts Bill, 2019: The Protection of Rights of Wrongful Convicts Bill (2019) is a half-step forward because it is the first time parliament acknowledged the need to address wrongful conviction, but it had some substantive and structural limitations.⁴⁹

Firstly, the narrow definition of “wrongful convict”, like the UK reform in the Adams case, requires the individual to prove factual innocence.⁵⁰ Secondly, it lacked regarding quantum of compensation, eligibility criteria, assessment mechanism, procedural timeline, and the absence of an independent review authority like a tribunal; instead, it leaves too much power to the executive in decision-making.⁵¹ Thirdly, the violation of the ICCPR obligation where Article 14(6) mandates compensation for wrongful conviction as a mandatory right due to the

⁴⁵ New York Court of Claims Act 1945, s 8-b; Adele Bernhard, ‘When Justice Fails: Indemnification for Unjust Conviction’ (1999) 6 U Chi L Sch Roundtable 73.

⁴⁶ R (Adams) v Secretary of State for Justice [2011] UKSC 18, [2012] 1 AC 48.

⁴⁷ Reference re Milgaard [2008] 1 SCR 223; Kent Roach, ‘Wrongful Convictions: Adversarial and Inquisitorial Themes’ (2015) 70 UT Law Rev 1.

⁴⁸ Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018) para 6.1.

⁴⁹ The Protection of Rights of Wrongful Convicts Bill 2019, Bill No 185 of 2019.

⁵⁰ The Protection of Rights of Wrongful Convicts Bill 2019, cl 2(f); R (Adams) v Secretary of State for Justice [2011] UKSC 18.

⁵¹ Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018) paras 5.7–5.12.

miscarriage of justice. And it mostly focuses on monetary issues and does not mandate clearing the criminal records, ignoring the fact that a wrongful convict loses a place in society and lacks a restorative approach, ignoring the human element.⁵²

However, the 2019 bill views compensation as a discretionary benefit. This shows that though the bill reflects progress, it shows a disinclination of the state to accept accountability for the miscarriage of justice.⁵³

NORMATIVE GUIDANCE FOR A COMPENSATION REGIME WITHIN THE INDIAN CONSTITUTIONAL FRAMEWORK

The normative guidance for a compensation regime is to be grounded in the constitutional principles of Article 14, 21, and 39A. The foundation must be governed by Article 21 as the wrongful imprisonment violates the right to life and personal liberty, and even if the formal legal procedure is followed, therefore, compensation must not be discretionary but should be a constitutional obligation of the state to restore the liberty and dignity.⁵⁴

The current ad-hoc system violates Article 14 by providing different remedies at the judicial discretion, which requires a uniform statutory framework that provides statutory certainty with clear and pre-defined eligibility criteria, an assessment mechanism, a procedural timeline, and the absence of an independent review authority. This removes the arbitrariness and ensures victims receive equal, codified, predictable treatment.⁵⁵

The mandate of Article 39A is for access to justice and legal aid, and in this aspect, it supports a statutory framework that provides accessible, affordable, and procedurally fair justice with a restorative approach, with no burden on the victim to prove their innocence.⁵⁶ With a fundamental constitutional oversight of the Indian judiciary, India can establish a just, predictable, and Humane framework that accepts state accountability and focuses on harm suffered with a right-based rather than fault-based approach.

⁵² International Covenant on Civil and Political Rights 1966, art 14(6); Human Rights Committee, General Comment No 32 (2007) para 49.

⁵³ Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018) para 4.4.

⁵⁴ Maneka Gandhi v Union of India (1978) 1 SCC 248; Nilabati Behera v State of Orissa (1993) 2 SCC 746.

⁵⁵ E P Royappa v State of Tamil Nadu (1974) 4 SCC 3.

⁵⁶ Constitution of India 1950, art 39A; Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

India's institutional failure to compensate for wrongful convictions reflects systematic, normative, and legislative failings. Comparative experiences with constitutional principles provide a clear framework, and the enactment of the regime is not just necessary but constitutionally and internationally mandated.⁵⁷

CONCLUSION

The wrongful convictions represent the serious failure of the legal system that strikes at the core of individuals' rights, liberty, and dignity in the rule of law. This article demonstrates that though Indian courts acknowledged the right to provide compensation for wrongful convictions through constitutional remedies, this remains fragmented and inconsistent due to no statutory provisions and is largely dependent on judicial discretion. And compensation remains as an exceptional relief rather than a legal right.

The analysis underlines the causes of wrongful convictions in India ranging from investigation and police misconduct, inadequate legal representation, and judicial delays, expressing that miscarriage of justice is not an isolated irregularity but a structural failure. The Indian approach stands in contrast with the international obligations, such as international human rights standards, particularly Article 14(6) of the ICCPR, which mandate compensation as a legal right.

The comparative analysis of jurisdictions such as the United Kingdom, the United States, and Canada demonstrates the need for a statutory framework that likewise provides clarity, consistency, and accessibility with reinforcement of state accountability. These frameworks not only highlight the role of the statutory framework with eligibility standards, institutional accountability, and a right-based approach, but also India's failure to enact a law even after the recommendations of the Law Commission of India and the introduction of the Protection of Rights of Wrongful Convicts Bill, 2019, that underscores the gap between policy acknowledgement and legal implementation.

This article argues that to bridge the gap, institutionalisation of the compensation must require a statutory framework that is grounded in constitutional principles and aligned with

⁵⁷ International Covenant on Civil and Political Rights 1966, art 14(6); Law Commission of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Com No 277, 2018).

international obligations and only in such a way to restore justice to the wrongfully convicted and reaffirm the public faith in the criminal justice system.