

**TITLE OF THE ARTICLE :-**

**WRONGFUL CONVICTIONS : INNOCENT LIVES AT RISK**

**NAME-** Anisha Jaiswal

**DESIGNATION-** The NorthCap University, Fourth Year,

BBALLB(h)

**CONTACT NO.-** 9811928908

**EMAIL ADDRESS-** Anisha.jaiswal1003@gmail.com

## **WRONGFUL CONVICTIONS : INNOCENT LIVES AT RISK**

### **ABSTRACT**

A wrongful conviction is a extreme injustice that is seen in these days when an actually innocent person spends years in prison or on death penalty and their innocence never came in reality."Failure of justice" or we can say in other words that "a miscarriage of justice" it creates when a person is "not guilty" of the offence and still punished or convicted for the wrong which he didn't even committed. This research paper is investigated with the introduction on wrongful convictions or judgments which made innocent person's life at risk. After that reasons or causes why wrongful convictions take place which seems one of the greatest tragedies in the Criminal Justice System in the conviction of a person for the crime which he / she didn't even commit. then we will see the factors contributing convictions in capital cases where innocent death row inmates release even more disturbing when compared to the number of capital convictions. In this we will see the fault of the science or experts or including police misconduct and insufficient defense lawyers or Council. After that the research paper will investigate the importance of Investigation or DNA evidence and difficulty of obtaining that evidence. It also includes the prevention of wrongful convictions death penalty reform coma improved DNA testing and investigation of evidences also The Innocence Protection Act, 2004.

## INTRODUCTION

### ***“THERE COMES A TIME WHEN YOU HAVE NOT ANY CHOICE AND YOU BECAME GUILTY”***

This inspirational quote means that only you know what is right in your heart and deep down your mind and soul knows what is right or wrong you have done and only you can figure this out. There is only one life gifted by God and there comes a time when you are no longer to dream something different from this world. Sometimes at a point of life a person's position is not safe neither anybody is back on you so you have no choice to choose anything which is good to you but you have to choose that option only which the world tells you, when you you didn't committed any offence or wrong to anybody your innocence will never shown up because of this cruel world.

Historically, In 1913, Edwin Borchard's article opened the eyes of American observers to the scourge of wrongful convictions by describing European approaches to righting the wrongs of erroneous convictions.<sup>1</sup> Later In early 1930s, Wrongful conviction, as a major concern, was recognized initially in the United States. Yet errors continue to occur at an alarming rate in the capital punishment system-over one hundred death row inmates have been released pursuant to evidence of actual innocence since 1973.<sup>2</sup>

A conviction can be e classified into two reasons which can be proved as wrongful:-

1. The person to whom the charges are convicted is actually innocent in nature. In countries like China and United States, the abuse by police and their misconduct has accelerated the convictions of innocent individuals.<sup>3</sup>

---

<sup>1</sup> Borchard, supra note 3

<sup>2</sup> Innocence and the Death Penalty, DPIC (Death Penalty Info. Ctr., Washington, D.C., Jan. 24, 2003), at <http://www.deathpenaltyinfo.org/innoc.html> (last visited Feb. 27, 2003).

<sup>3</sup>[HTTP://WWW.FOXNEWS.COM/WORLD/2013/11/27/CHINA-TRIES-TO-CURBMISCARRIAGES-JUSTICE-AS-ANGER-OVER-TORTURE-OTHER-ABUSES.HTML](http://WWW.FOXNEWS.COM/WORLD/2013/11/27/CHINA-TRIES-TO-CURBMISCARRIAGES-JUSTICE-AS-ANGER-OVER-TORTURE-OTHER-ABUSES.HTML)

2. There can be procedural misconduct or errors that violated the convicted person's rights. For example, in Japan, the major factor leading to wrongful conviction is —prosecution's failure to disclose exculpatory evidence.<sup>4</sup> Whereas in our country, India, the reason can be chiefly attributed to prosecutorial misconduct, especially in high profile cases.

According to the term "wrongful conviction" here we analyze the combination of two aspects that is

**Wrongful** here means where the conviction seems to be Biased, prejudiced or or not according to the constitutional validity. And the recording of the confessions or statements from the convicted person identification of witnesses for collection of evidence and investigations also the right of the Council laws are not followed properly.

**Conviction** here means the adjudication of a case is done wrongly from the trial court or first appellate Court till post adjudication. as wrong conviction can be identified only from the final appellate Court ruling that later decides about the “Wrongfulness of the conviction of a person” on various factors.

The term wrongful conviction has been initiated from the problem of violation of human rights of Convicted persons in western countries particularly in the UK and U.S.A. This definition of wrongful conviction does not include the person who has committed an offence or any act and “mens rea”<sup>5</sup> of any crime but whose conviction found to be against constitutional or procedural rights in a manner which is not deemed harmless wrong by appellate Courts.

### **CRIMINAL JUSTICE SYSTEM**

Criminal procedure is conventionally conceptualized as the adjectival counterpart to substantive criminal law. The criminal justice system consists of three major institutions- law enforcement agencies, courts and corrections. Each one of these components of the system are responsible collectively to safeguard the society, maintain law and order and also to maintain the rising incidence of crime. Investigating authorities the police also plays a vital role for controlling

---

<sup>4</sup> KAZUKO ITO, WRONGFUL CONVICTIONS AND RECENT CRIMINAL JUSTICE REFORM IN JAPAN, 80 U. CIN. L. REV. (2012) AVAILABLE AT: [H P://SCHOLARSHIP.LAW.UC.EDU/UCLR/ VOL80/ISS4/10](http://SCHOLARSHIP.LAW.UC.EDU/UCLR/VOL80/ISS4/10)

<sup>5</sup> Mens Rea refers to criminal intent. The literal translation from Latin is "guilty mind."

crime and maintaining law and order. The prosecutions and defence counsel are also integral part of this sub-system. The main responsibility for judging the suspect offender by determining their Innocence or guilt.

Most of the time in criminal justice systems have some meaning to quash a wrong conviction, but this is often difficult to achieve. In many of the instances wrong convictions are not overturned like for several decades or till the innocent person has been released from custody or have been executed , or has been dead. A criminal justice system should be fair to all people : wealth, race, and social status should not affect the administration of justice. This American constitutional history is replete with cases addressing this promise. For example, Gideon v. Wainwright established the right to counsel, regardless of ability to pay.<sup>6</sup> Decisions like these breathe life into the principle that no one shall be denied life or liberty without due process of law and that all persons are entitled to the equal protection of the law.

Wrongful convictions do occur even if the criminal justice system has plenty of safeguard designed to avoid wrongful convictions and the majority of the convictions are correct, but some of them are wrong which need to be changed. The fundamental principle which says no justice system can operate fairly unless it is accurately determined the person is guilty or innocent. The accuracy of the criminal justice system has been put into question from recent years by its revelations.

Recent advances in DNA technology and other forensic sciences, along with hard work by lawyers and non-lawyers alike, have focused attention on the danger and reality of convicting an innocent person.<sup>7</sup>

### **CAUSES OF WRONGFUL CONVICTIONS**

One of the greatest mishappening in the justice system in which Convection takes place where the person has not committed any offence related to the case. The resources of this justice system are often attacked against poor defendants. The failure made by an attorney to investigate , call

---

<sup>6</sup> Gideon v. Wainwright, 372 U.S. 335 (1963).

<sup>7</sup> Scheck, Neufeld, and Dwyer, Actual Innocence: Five Days to Execution, and Other Dispatches From the Wrongly Convicted (New York, NY: Doubleday, 2000; New York, NY: Signet, 2001) (hereafter, "Actual Innocence").

witnesses or prepare for trial has led to the conviction of innocent people. It is very difficult to recognize the root causes of these tragic events where wrongful conviction takes place.

- **MISIDENTIFICATION OF EYEWITNESS**

Eyewitness's error is only the main greatest cause of wrongful convictions nationwide. Mostly one of the biggest contributors to eyewitness's misidentifications is the way in which the investigator presents the perpetrator to the witness. At the time the investigator prepares a lineup, whether it be in a 6-pack or otherwise, just knowing who the suspect is can be the problem.

**Reasons of high rate of errors-**

- (1) All subjected witnesses are full of high stress or anxiety
- (2) Humans don't have enough capability to record all the memories like a video recorder so there memory tends to reconstruct incidents
- (3) All witnesses not really focus on identity of the perpetrator, but often focus on weapons
- (4) Police or prosecutorial agencies mostly use suggestive eyewitness identification
- (5) cross-racial eyewitness identifications are known to be incredibly suspected.

An in-court eyewitness identification of a perpetrator is incredibly powerful to a jury. In fact, with the exception of DNA evidence, nothing can be more damning for a defendant than a witness telling the jury that the defendant was at the scene and participated in the crime. But sometimes, a witness's identification can be mistaken.

- **WRONG CONFESSIONS OR ADMISSIONS**

A wrong confession is made by that person who admits that crime which the person didn't committed or not responsible for that crime. False confessions can be induced through coercion or by the mental disorder<sup>8</sup> or incompetency of the accused.

In recent years, the media have reported numerous high-profile cases in which individuals were convicted of and incarcerated for serious crimes they did not commit, only later to be exonerated.<sup>9</sup>

---

<sup>8</sup> Cooley, M., Craig, and Turvey E. Brent. Miscarriages of Justice: Actual Innocence, Forensic Evidence, and the Law. 1st ed. Academic Press, 2014. p116

### **3 REASONS FOR WRONG CONFESSIONS ERROR-**

1. **Voluntary false confessions** arise when innocent people offer self- incriminating admissions without pressure from the Police. ( for protecting someone's guilt)
2. **Compliant false confessions** are subjected to misleading claims about the evidence, become confused, question their own innocence, infer their own guilt, and sometimes confabulate false memories to support that inference.
3. **Internalized false confessions** to escape from all the stress of a harsh interrogation or because they are led to perceive that confession will prove less punishing than continued denial.

Confessions are not always prompted by internal knowledge or actual guilt, but are sometimes motivated by external influences.

- **IMPROPER FORENSIC SCIENCE**

False or misleading forensic evidence was a contributing factor in 24% of all wrongful convictions nationally, according to the National Registry of Exonerations, which tracks both DNA and non-DNA based exonerations.

In the late 1980s, in identifying the guilt and the innocence of a person nationwide DNA analysis has helped in this to find out. While DNA testing was developed through extensive scientific research at top academic centers, many other forensic techniques—such as hair microscopy, bite mark comparisons, firearm tool mark analysis and shoe print comparisons—have never been subjected to rigorous scientific evaluation. In some cases, forensic analysts have fabricated results or engaged in other misconduct.

Mostly in forensic science mainly exercises solely in separate courtroom, with different procedures from other judicial exercises. In addition, the testimony of most forensic examiners isn't monitored to see whether it is inaccurate or exaggerated. And, in some cases where misconduct (as opposed to error) has happened, there is little oversight to prevent or correct it. This unlawful forensic science played a role in approximately 50 percent of wrongful convictions later overturned by DNA testing.

---

<sup>9</sup> Leo R: Re-thinking the study of miscarriages of justice: developing a criminology of wrongful conviction. J Contemp Crim Just 21:201–23, 2005

Faulty forensics also leads to wrongful convictions. Many forensic techniques aren't scientifically validated. These "junk science" techniques include:

1. Hair microscopy
2. Bite mark comparisons
3. Firearm tool mark analysis
4. Shoe print comparisons

Innocent people have been convicted because forensic lab workers made errors in testing, testified inaccurately about their results, or fabricated results.<sup>10</sup>

- **CRIMINAL INFORMANTS / SNITCHES**

Criminal informants / snitches<sup>11</sup> play a vital role in the cause of wrongful convictions phenomenon. Informants do not lead to wrongful convictions as they lie. After all, there is hardly a difference between informants and other sort of witnesses. Rather, what they lie, how and why they lie about, and how government depends upon the informants for the judgment that makes snitching a trouble. Informants lie primarily in exchange for leniency for their own crimes they commit for, although sometimes they lie for money Exchange. Sometimes, Police and prosecutors, in turn, often do not and cannot check these lies because the snitch's information may be all the government has. Police and Prosecutors have to heavily investigate the informants and to make their cases in regard.

As a result, they often lack the objectivity and the information that would permit them to discern when informants are lying.<sup>12</sup> Informants became law enforcement's investigative tool of choice, particularly within the ever-expanding world of drug enforcement. Informants are a part of a thriving marketplace for information. During this market,

---

<sup>10</sup> Brandon L. Garrett & Peter J. Neufeld, "Invalid Forensic Science Testimony & Wrongful Convictions," 95 Virginia L. Rev. 1 (March 2009).

<sup>11</sup> By "snitches" I mean criminals who provide information in exchange for leniency for their own crimes they did or other benefits. The term "informant" therefore does not include law-abiding citizens who provide information to the police or any other official with no benefit to themselves.

<sup>12</sup> Ellen Yaroshefsky, Cooperation with Federal Prosecutors: Experiences of Truth Telling and Embellishment, 68 FORDHAM L. REV. 917, 945 (1999).



snitches trade information with police and prosecutors in exchange for leniency, the dismissal of charges, reduced sentences, or perhaps the avoidance of arrest. It's a highly informal, robust market that's rarely scrutinized by courts or the general public. And it's growing. While data is difficult to come back by, federal statistics indicate that sixty percent of drug defendants cooperate in some fashion. Informants permeate all aspects of enforcement, from investigations to plea-bargaining to trial.

### **IMPORTANCE OF INVESTIGATION OR DNA EVIDENCE**

Forensic laboratories have multiplied almost four-fold since the first 1970s because the result of the substance abuse problem, pressure on the police and courts to extend their reliance on more objective sorts of evidence, scientific breakthrough in such fields as DNA testing that uniquely determine the source of biological substances, and a well-liked culture that has embraced forensic science through both fictional and true crime media. In spite of those advancements and growth of forensic science services, little published research exists on the uses and effects of forensic science evidence. Early studies within the 1960s and 1970s indicated physical evidence was available at most crime scenes, but little scientific evidence was collected and had minimal impact on case outcome.

The most detailed studies of the employment of scientific evidence within the investigation and adjudication of cases were funded by NIJ within the 1980s. At the police work level, Peterson et al. (1984) found clearance rates of offenses with evidence scientifically analyzed were about thrice greater than in cases where such evidence wasn't used. A second companion study found scientific evidence to possess a really limited role in decisions to convict a defendant but had its major effect on sentencing; lab reports, generally led to higher rates of incarceration and was the sole sort of evidence to influence the length of the sentence.

More recent studies of DNA evidence by Roman et al. (2008) found solution rates of property crime doubled when DNA evidence was collected, prosecutions doubled, and DNA was way more effective than fingerprints in using evidence databases, and Briody

(2004) found homicide cases with DNA evidence were rather more likely to succeed in court and had a positive effect on juries' decisions to convict.<sup>13</sup>

Scientific laboratory techniques hold the potential of developing information from the physical clues left at the crime scene that may assist in determining what transpired at the scene and who was (and was not) involved.

The occurrence of wrongful convictions in capital cases is too prevalent to be the result of any single isolated factor, especially since there is substantial variation in the administration of the death penalty in the thirty-eight states with capital punishment.<sup>14</sup> Numerous factors have contributed to the high incidence of those erroneous convictions, including faulty forensic science, prosecutorial and police misconduct, racial prejudice, inadequate defense counsel, and mental incompetence. It's also possible, as many of those who advocate the abolition of corporal punishment argue, that the errors are the inevitable by-product of fallible attributes.

One study examined all of the capital convictions and appeals between 1973 and 1995 and found that the general rate of prejudicial error in capital cases was sixty-eight percent. The three commonest errors in capital cases were "extremely incompetent" defense lawyers, prosecutorial misconduct, and faulty jury instructions.

While DNA evidence is often dispositive when it's available, it is only an option within the small number of cases within which significant biological evidence is correctly collected from the crime scene. Even in cases within which DNA analysis is feasible, most inmates, including those in death houses, don't have access to DNA testing. Those inmates who try to procure DNA testing of biological evidence from the crime scene face an imposing set of procedural and substantive hurdles. First, the inmate usually must

---

<sup>13</sup> This document could be a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and don't necessarily reflect the official position or policies of the U.S. Department of Justice.

<sup>14</sup> The twelve states without the death penalty are Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin. The District of Columbia also does not have the death penalty, and Illinois and Maryland have recently enacted death penalty moratoria. See States with the Death Penalty, CNN.COM at <http://www.cnn.com/LAW/trials.and.cases/case.files/0006/map/map.html> (last visited Jan. 5, 2003).

make a Brady motion to check the DNA evidence from the crime scene. Additionally, although some current state statutory proposals could alter the procedure, the heightened standards for obtaining a brand new trial are applied once the inmate seeks to introduce evidence from post conviction DNA testing. An inmate often must prove a constitutional violation at trial to introduce the evidence.

Similarly, courts don't always consider the denial of access to DNA testing to be a violation of constitutional group action guarantees. While DNA evidence is often dispositive when it's available, it is only an option within the small number of cases within which significant biological evidence is correctly collected from the crime scene. Even in cases within which DNA analysis is feasible, most inmates, including those in death houses, don't have access to DNA testing. Those inmates who try to procure DNA testing of biological evidence from the crime scene face an imposing set of procedural and substantive hurdles.

First, the inmate usually must make a Brady motion to check the DNA evidence from the crime scene. Additionally, although some current state statutory proposals could alter the procedure, the heightened standards for obtaining a brand new trial are applied once the inmate seeks to introduce evidence from post conviction DNA testing. An inmate often must prove a constitutional violation at trial to introduce the evidence. Similarly, courts do not always consider the denial of access to DNA testing to be a violation of constitutional due process guarantees.<sup>15</sup>

### **THE INNOCENCE PROTECTION ACT, 2004**

According to Michael E. Kleinert, author of the award-winning article, "Improving the standard of Justice: The Innocence Protection Act of 2004", there are a mess of evidentiary mistakes that would result in the wrongful imprisonment or execution of a

---

<sup>15</sup> State v. Scudder, 722 N.E.2d 1054, 1057 (Ohio Ct. App. 1998) (stating that "it is well settled that constitutional issues may not be considered in a post conviction proceeding where they have already been, or could have been, litigated by the defendant on direct appeal"). For This reason, even if courts did consider the denial of DNA testing to be a due process violation, inmates still would be unable to raise that issue in post conviction proceedings if they had not done so on appeal. But see Harvey v. Horan, 285 F.3d 298 (4th Cir. 2002) (providing an example of a recent case holding that inmates do have a constitutional right to DNA testing of evidence that could be used to prove their innocence); see infra note 245 (explaining that the Act, if implemented, would make it a due process violation to deny an inmate the right to DNA testing).

personal. Mistaken identification, inadequate defense counsel, misconduct by the prosecution, defective science, perjurer testimony, and false confessions are just some of the foremost common reasons people are incarcerated for crimes they didn't commit. In keeping with Kleinert, this is often precisely why the accessibility of post-conviction DNA tests must be extended to those who are in prison.

The national is more generally assessing the fairness of the capital punishment and also the usefulness of DNA testing of forensic evidence in criminal investigations and therefore the post conviction context. In October 2000, Senator Patrick Leahy of Vermont introduced the Innocence Protection Act to the Senate ("the Act"). The Act would ensure greater access to competent defense counsel for cellblock inmates, improve inmates' access to post conviction DNA testing, and increase state incentives to preserve DNA evidence. To boost representation of capital defendants, the Act also involves a national commission of prosecutors, lawyers, and judges to develop standards to make sure adequate legal services. It'd shift the authority for appointing defense counsel in capital cases from state judges to an independent authority. Additionally, the Act would supply for the upkeep of this DNA in a very system of linked state and federal DNA databases and would withhold funding from states that don't befits its requirements.

Although both the state and federal systems provide at least some access to DNA testing and maintain various DNA databases, there is currently no integrated system combining the DNA data from both state and federal inmates.<sup>16</sup>

The Justice for All Act of 2004, law No: 108-405, became law on October 30, 2004, and affects the capital punishment by creating a DNA testing program and authorizing grants to states for capital prosecution and capital defense improvement. Specifically, the act:

- Provides rules and procedures for federal inmates applying for DNA testing.

---

<sup>16</sup> See *id.*; see also Gold, *supra* note 201. Earl Washington and Kirk Bloodsworth were both present last June to testify before the Senate Judiciary Committee, which was considering the provisions of the Act which would ensure more competent counsel for capital defendants. *Id.* The men testified about the years they spent wrongfully imprisoned on death row and the role that ineffective assistance of counsel played in their convictions. *Id.*

- Creates the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program and authorizes \$25 million over five years to assist states pay the price of post-conviction DNA testing (Kirk Bloodsworth was the primary cellblock inmate to be exonerated by DNA testing).
- Authorizes grants to states for capital prosecution and capital defense improvement which will be went to train, oversee, and improve the standard of corporal punishment trials, yet as assist families of murder victims.

The intent of the Innocence Protection Act—that is, Title IV of the 2004 Justice for All Act—was to amend Part II of Title 18, Chapter 228A of the us Federal Code, but also to supply rules by providing rules and procedures that capital defendants can follow so as to get a post-conviction DNA test. By adding this provision to the US Code section, proponents of the act sought to create DNA testing more accessible to federal prisoners and permit innocent inmates the chance to challenge their conviction with scientific evidence.

## **CONCLUSION**

The development of DNA testing and its use to exonerate innocent inmates has provided the American public with a brand new glimpse into the workings of the criminal justice system, including its considerable defects. These problems are especially obvious within the administration of the capital punishment, because the increase within the number of innocent individuals released from death house indicates. The frequency of recent DNA exonerations provides persuasive evidence that the American system of corporal punishment is fundamentally flawed.

Setting aside the same old arsenal of ethical, economic, and practical arguments against the execution in and of itself, DNA exonerations reveal that the executing could also be unconstitutional as applied. Considering the quantity of innocents who are wrongfully convicted under the present system, there's a robust argument that the continued application of this method of executing is unconstitutionally cruel and strange.

Preventing future wrongful convictions within the U.S. requires confronting the matter from either side. To keep with the twin functions of the American criminal justice system-protecting the innocent and convicting the guilty-a comprehensive plan of reform must be both preventive and compensatory. Only by working both to decrease the danger of executing the innocent and to revive to innocence those that were wrongfully convicted will the scheme regain its legitimacy.